

**1. INCORRECT REDUCTION CLAIM TITLE**

City of Downey, Municipal Storm Water and Urban Runoff  
Discharges Program

**2. CLAIMANT INFORMATION**

City of Downey  
Name of Local Agency or School District  
Anil Gandhi  
Claimant Contact  
Finance Director  
Title  
11111 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. CLAIMANT REPRESENTATIVE INFORMATION**

Claimant designates the following person to act as its sole representative in this incorrect reduction claim. All correspondence and communications regarding this claim shall be forwarded to this representative. Any change in representation must be authorized by the claimant in writing, and sent to the Commission on State Mandates.

Howard Gest  
Claimant Representative Name  
Partner  
Title  
Burhenn & Gest LLP  
Organization  
624 S. Grand Avenue, Suite 2200  
Street Address  
Los Angeles, CA 90017  
City, State, Zip  
213-629-8787  
Telephone Number  
213-624-1376  
Fax Number  
hgest@burhenngest.com  
E-Mail Address

For CSM Use Only  
Filing Date:  
**RECEIVED**  
June 30, 2020  
Commission on  
State Mandates  
IRC #: 19-0304-I-04

**4. IDENTIFICATION OF STATUTES OR EXECUTIVE ORDERS**

Please specify the subject statute or executive order that claimant alleges is not being fully reimbursed pursuant to the adopted parameters and guidelines.  
Municipal Storm Water & Urban Runoff Discharges Prog. Los Angeles, Regional Water Quality Control Board, Order No. 02-182, Permit CAS004001. Part 4F5c3.

**5. AMOUNT OF INCORRECT REDUCTION**

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

Fiscal Year	Amount of Reduction
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>

**6. NOTICE OF INTENT TO CONSOLIDATE**

Please check the box below if there is intent to consolidate this claim.

Yes, this claim is being filed with the intent to consolidate on behalf of other claimants.

Sections 7 through 11 are attached as follows:

- 7. Written Detailed Narrative: pages 1 to .
- 8. Documentary Evidence and Declarations: Exhibit A,B,C ✓
- 9. Claiming Instructions: Exhibit C .
- 10. Final State Audit Report or Other Written Notice of Adjustment: Exhibit D .
- 11. Reimbursement Claims: Exhibit E .

**12. CLAIM CERTIFICATION**

*Read, sign, and date this section and insert at the end of the incorrect reduction claim submission.\**

This claim alleges an incorrect reduction of a reimbursement claim filed with the State Controller's Office pursuant to Government Code section 17561. This incorrect reduction claim is filed pursuant to Government Code section 17551, subdivision (d). I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this incorrect reduction claim submission is true and complete to the best of my own knowledge or information or belief.

Anil Gandhi  
Print or Type Name of Authorized Local Agency  
or School District Official

Finance Director  
Print or Type Title

Anil Gandhi  
Signature of Authorized Local Agency or  
School District Official

6/21/20  
Date

*\* If the declarant for this Claim Certification is different from the Claimant contact identified in section 2 of the incorrect reduction claim form, please provide the declarant's address, telephone number, fax number, and e-mail address below.*

# **SECTION 7**

## **WRITTEN DETAILED NARRATIVE**

SECTION 7 WRITTEN DETAILED NARRATIVE

SECTION 7

WRITTEN DETAILED NARRATIVE

**I. INTRODUCTION**

This Incorrect Reduction Claim (“IRC”) is brought by the City of Downey (“City”) in connection with claims for reimbursement made by the City for Fiscal Years 2002-03, 2003-04, 2004-05 and 2005-06. The claims requested reimbursement for monies spent by the City in compliance with Part 4F5c3 of California Regional Water Quality Control Board, Los Angeles Region Order No. 01-182, Permit CAS004001 (“2001 Stormwater Permit”). On July 31, 2009, the Commission on State Mandates (“Commission”) determined that this provision constituted an unfunded state mandate for which a subvention of funds was required.

In this IRC, the City seeks review of an audit by the State Controller’s Office (“SCO”) in which the SCO found that the City was not entitled to \$186,921.00 of the amount claimed. In a final audit dated June 30, 2017, the SCO found that this amount should have been offset from the claims because the City used \$186,921 from a local sales and use tax, Proposition A, to fund this mandate.

The SCO erred in this audit finding and the City is entitled to the full reimbursement of the \$186,921 that the SCO seeks to disallow because the attempted offset (1) is in violation of article XIII B, section 6 of the California Constitution; (2) is not consistent with the Parameters and Guidelines adopted in this case; and (3) is otherwise arbitrary and capricious in that it constitutes an unlawful retroactive application of the Parameters and Guidelines. The City is not seeking review of other portions of the SCO’s audit.

**II. BACKGROUND**

**A. Part 4F5c3: The Trash Receptacle Obligations**

On July 31, 2009, the Commission adopted a final Statement of Decision holding that Part 4F5c3 of the 2001 Stormwater Permit constituted an unfunded state mandate as to which a subvention of funds was required. *Municipal Storm Water and Urban Runoff Discharges*, Case Nos. 03-TC-04, 03-TC-19, 03-TC-20, 03-TC-21. This part required permittees, including the City, to do the following:

Permittees not subject to a trash TMDL [total maximum daily load] shall [¶]. . [¶] Place trash receptacles at all transit stops within its jurisdiction that have shelters no later than August 1, 2002, and at all other transit stops within its jurisdiction no later than February 3, 2003. All trash receptacles shall be maintained as necessary.

Parameters and Guidelines, Los Angeles Regional Quality Control Board Order No. 01-182 Permit CAS04001 Part 4F5c3 (“Ps and Gs”) at 1, attached hereto as part of Exhibit C in Section 9 as part of the SCO’s Claiming Instructions.

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### **B. The Parameters and Guidelines**

After adoption of the Statement of Decision, pursuant to Govt. Code § 17557 claimants County of Los Angeles and various cities, including the City, prepared a draft set of Parameters and Guidelines to guide the process of reimbursement. The Commission adopted the final Ps and Gs on March 24, 2011.

The Ps and Gs established two categories of reimbursable activities. The first category, set forth in Section IV.A of the Ps and Gs, established criteria for the reimbursement of one-time costs required by Part 4F5c3 to “Install Trash Receptacles (one-time per transit stop, reimbursed using actual costs). Ps and Gs at 4. Such costs included identifying locations for trash receptacles, selecting and evaluating the receptacle and pad type, preparing contracts and specifications, advertising for and awarding bids, purchasing or constructing pads and receptacles and, as necessary, moving receptacles. *Ibid.*

The second category of reimbursable activities, set forth in Section IV.B of the Ps and Gs, were ongoing costs to “Maintain Trash Receptacles and Pads (on-going reimbursed using the reasonable reimbursement methodology).” Ps and Gs at 4. These costs were to be reimbursed based on the number of trash pickups (limited to three per week) times a unit cost, which would cover costs related to the collection and disposal of trash, the inspection of receptacles and pads for wear, cleaning and other maintenance needs, the painting, cleaning and repairing of receptacles, replacement of liners, and replacement of individual damaged or missing receptacles and pads. *Ibid.*

The Ps and Gs directed the SCO to issue claiming instructions and provided further in Section VIII that:

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.

Ps and Gs at 7 (emphasis added). In its two comment letters filed on drafts of the Ps and Gs, the SCO did not comment on the language in Section VIII. *See* Comment Letter of SCO dated July 23, 2010, and Comment Letter of SCO dated February 18, 2011, attached to the Section 8 Declaration of David W. Burhenn as Exhibits 1 and 2.

### **C. Claiming Instructions and City Submission of Reimbursement Claims**

The SCO prepared Claiming Instructions dated May 31, 2011 (attached in Section 9 as Exhibit C). The Claiming Instructions required that initial reimbursement claims were to be filed on or before September 28, 2011. Claiming Instructions at 2.

The City timely filed Claims for Payments with the SCO for the costs of complying with Part 4F5c3 of the 2001 Stormwater Permit (Section 11, Exhibit E). As set forth in the claim documentation in Exhibit E, the City claimed, *inter alia*, \$72,262 for Fiscal Year (“FY”) 2002-03;

## SECTION 7 WRITTEN DETAILED NARRATIVE

\$52,922 for FY 2003-04; \$83,765 for FY 2004-05; and \$83,765 for FY 2005-06. No funds have yet been paid to the City. SCO, City of Downey Audit Report (“Final Audit”), June 30, 2017, at 1 (Section 10, Exhibit D).

### **D. The SCO Audit**

On June 30, 2017, the SCO issued its Final Audit of the reimbursement claims made by the City with respect to Part 4F5c3 of the 2001 Stormwater Permit. The Final Audit made two findings, of which Finding 2 is pertinent here. Final Audit at 11.<sup>1</sup> Finding 2 states that the City “did not offset any revenues or reimbursements on its claims forms for the audit period. We found that the city should have offset \$186,921 for the audit period.” Final Audit at 11. In particular, the SCO alleged that the City did not report offsets of \$48,381 in FY 2002-03, \$16,877 in FY 2003-04, \$79,780 in FY 2004-05 and \$41,883 in FY 2005-06. Final Audit at 12. The Final Audit cover letter stated that the SCO would pay the allowed amount, \$63,911, “contingent upon available appropriations.” Final Audit Cover Letter.

The SCO based its finding that offsets were required on the fact that certain funds used for Part 4F5c3 requirements were provided to the City through Los Angeles County Proposition A, a local ½ cent sales and use tax adopted by the voters in 1980 to provide monies for public transit activities. Final Audit at 12-13; Proposition A, set forth in the Los Angeles County Metropolitan Transportation Authority Administrative Code attached hereto in Section 8 as Exhibit A.

The Proposition A ordinance provides that 25 percent of the sales and use taxes collected under the proposition are designated as Local Return Program Funds to be used by the cities and County of Los Angeles for transit, paratransit and transportation systems management. Los Angeles County Metropolitan Transportation Authority Administrative Code, Section 3-05-050 A. 2 and C. See also, Metro, Guidelines, Proposition A and Proposition C Local Return (“Local Return Guidelines”), Section I.A at p. 1, attached hereto in Section 8 as Exhibit B.

Proposition A Local Return funds are to be used to benefit public transit. Among the types of public transit projects eligible for funding are “Bus Stop Improvements and Maintenance,” including the installation, replacement and/or maintenance of concrete landings, bus run-outs, benches, shelters, trash receptacles and curb cuts. Local Return Guidelines, Section II.A.2 at 7.

The Local Return Guidelines provide that Proposition A Local Return funds may be used to advance a project, with the funds subsequently being returned to the Proposition A account when the municipality receives reimbursement: “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. The reimbursement must

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<sup>1</sup> In Finding 1 of the Final Audit, the SCO found that, because the company that contracted with the City to provide waste disposal services agreed not to charge the City for the cost of emptying and disposing of waste from the trash receptacles (but not including maintenance of trash receptacles), the City had not incurred “increased costs” under Section IV.B of the Ps and Gs. Final Audit at 8-9. Although the City disagrees that it was not entitled to obtain reimbursement for the maintenance of installed trash receptacles, the City is not contesting this finding in this IRC.

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be returned to the appropriate Proposition A or Proposition C LR fund.” Local Return Guidelines at Section IV.C.10, p. 30.

The Final Audit concluded that, because the City used \$17,699 of Proposition A Local Return funds to purchase and install 50 transit stop trash receptacles in FY 2002-03 and used \$169,222 in Proposition A Local Return funds for ongoing maintenance of such receptacles in FY 2002-03 through 2005-06, these amounts (totaling \$186,921) should be offset from the City’s recovery. Final Audit at 12-13. The SCO justified its position by stating that, “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 SCO further cited Section VIII of the Ps and Gs which requires that “reimbursement for this mandate received from any federal, state or non-local source shall be identified and deducted from this claim.” Final Audit at 13.

### III. STANDARD OF REVIEW

Government Code § 17551(d) requires the Commission to hear and decide a claim that the Controller has incorrectly reduced payments to the local agency or school district. If the Commission determines that a reimbursement claim has been incorrectly reduced, section 1185.9 of the Commission’s regulations requires the Commission to send the decision to the SCO and request that the costs in the claim be reinstated. *E.g.*, Final Statement of Decision, *Integrated Waste Management*, 15-0007-I-12 (July 27, 2018) at 22.

In reviewing the SCO’s audit decisions, the Commission must determine “whether they were arbitrary, capricious, or entirely lacking in evidentiary support. This standard is similar to the standard used by the courts when reviewing an alleged abuse of discretion of a state agency.” *Ibid.* With respect to questions of law, “including interpretation of the parameters and guidelines,” the Commission applies a de novo review, “without consideration of legal conclusions made by the Controller in the course of an audit.” *Ibid.*

Here, the SCO erred in the Final Audit by concluding that the City was required to offset \$186,921 from its claims for reimbursement for compliance with Part 4F5c3 of the Permit. First, the attempted offset is in violation of article XIII B, section 6 of the California Constitution. Second, the offset is not consistent with Ps and Gs adopted in this case. These are issues of law. Third, applying the Ps and Gs in this manner constituted an unlawful retroactive application of the Ps and Gs. This also is an issue of law or an issue of mixed law and fact. As to all three issues, the SCO’s action was arbitrary, capricious, and lacking in evidentiary support.

### IV. THE SCO’S OFFSET OF A LOCAL SALES AND USE TAX AGAINST THE CITY’S CLAIMS IS UNCONSTITUTIONAL

Article XIII B, section 6(a) of the California Constitution provides in pertinent part:

Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local

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government for the cost of the program or increased level of service

....

As the California Supreme Court set forth in *County of Fresno v. State of California* (1991) 53 Cal.3d 482, article XIII B, section 6 was added to the Constitution through the adoption of Proposition 4, an initiative measure. Article XIII B places limitations on the ability of both state and local governments to appropriate funds for expenditures. *Id.* at 486.

Article XIII B was a complement to article XIII A, which was added to the Constitution through adoption of Proposition 13 the year before. *Id.* “Articles XIII A and XIII B work in tandem, together restricting California governments’ power both to levy and to spend [taxes] for public purposes.” *Id.*, quoting *City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 59, n. 1.

As the Supreme Court further set forth in *County of Fresno*, article XIII B, section 6 is meant to protect taxes received by local governments. “Specifically, it was designed to protect the tax revenues of local governments from state mandates that would require expenditure of such revenues.” *Id.* at 487. In *County of Fresno*, the Supreme Court upheld the facial constitutionality of Government Code § 17556(d), which directs the Commission on State Mandates to find the absence of costs mandated by the state where a local agency or school district has the authority to levy service charges, fees or assessments sufficient to pay for the mandated program or increased level of service. The Supreme Court held that Government Code § 17556(d) was constitutional because article XIII B, section 6 requires reimbursement only for those expenses that are funded from taxes. *County of Fresno*, 53 Cal.3d at 487.

Here, the SCO disallowed \$186,921 of the City’s claim on the grounds that the City had used funds from Proposition A, a local sales and use tax. The SCO based its reasoning on the grounds that the Proposition A tax is a supplementary sales tax whose use is restricted. Final Audit at 17.

The SCO’s offset was unconstitutional. Article XIII B, section 6 requires the State to provide a subvention of fund whenever a state agency mandates a new program or higher level of service. The Supreme Court in *County of Fresno* made clear that this section is designed “to protect the tax revenues of local governments from state mandates that would require expenditure of such revenues.” 53 Cal.3d at 487.

Article XIII B, section 6 does not distinguish between general and “restricted” taxes. Neither did the Supreme Court in deciding *County of Fresno*. No case has ever made that distinction. The SCO is seeking to write into article XIII B, section 6 a limitation that does not exist.

There is good reason why no such distinction exists. There is no difference between a city using local sales tax monies to install trash receptacles, receiving a subvention of funds, and then using those funds for other general purposes, and using Proposition A local sales tax revenues to install trash receptacles, receiving a subvention of funds, and then using those funds for other public transit purposes. In both cases the State has mandated the expenditure of funds for a



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program the State believes should be implemented in lieu of other programs the City may believe should have priority.

The intent of Article XIII B, section 6 is to protect local agencies' tax revenues from state mandates that would require expenditure of such revenues. This purpose is present whether a city spends unrestricted tax revenue or restricted tax revenue. The State is still requiring the expenditure of local tax revenue for programs that the State deems necessary, shifting the financial responsibility for those programs onto local agencies, and precluding their use of those funds for the city's priorities.

In Finding 2 of its Final Audit, the SCO has added a new requirement that is not founded on the Constitution. The SCO's offset of sale and use tax revenue from Proposition A is unconstitutional and should be disallowed by the Commission.

### **V. THE COMMISSION ADHERED TO THE PURPOSE AND INTENT OF ARTICLE III B, SECTION 6 WHEN IT ADOPTED THE PARAMETERS AND GUIDELINES; THE SCO DID NOT**

Section VIII of the Ps and Gs addresses offsetting revenues and reimbursements. Pursuant to Section VIII:

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.

Ps and Gs at 7.

In adopting Section VIII, the Commission acted consistent with the purpose and intent of article XIII B, section 6. Section VIII provides that offsetting revenue from the same program shall be deducted, as required by Government Code § 17556(e). It also provides that reimbursement for this mandate "received from any federal, state, or *non-local* source shall be identified and deducted from this claim." (Emphasis added.) As set forth above, section 6 was included in article XIII B in recognition that article XIII A severely restricted the taxing powers of local governments, and was intended to preclude the state from shifting financial responsibility for carrying out governmental functions onto local agencies that were ill equipped to handle the task. *County of Fresno*, 53 Cal. 3d at 487. The Commission, in adopting Section VIII of the Ps and Gs, was consistent with this purpose and intent; it did not require that funds from local sales and use tax revenue, unrestricted or restricted, should also be deducted. To do so would have been to shift the operational and financial responsibility for implementation of a state-mandated governmental program and reduce the local sales tax revenue that would otherwise have been available to a city.

In contrast, the SCO's rationale in offsetting the use of Proposition A local sales and use tax revenue is inconsistent with the purpose and intent of article XIII B, section 6. Under the SCO's approach, the State could mandate a program, shift the financial burden of that program on to a local agency, and require the local agency to use its funds for the State's mandated program

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instead of other priorities, simply because the local sales tax used for that purpose was restricted in some way. That result is not consistent with either the purpose or intent of article XIII B, section 6, the protection of local tax revenue.

### **VI. THE SCO'S OFFSET OF PROPOSITION A FUNDS IS INCONSISTENT WITH THE PARAMETERS AND GUIDELINES**

As set forth above, Section VIII of the Ps and Gs provides that "reimbursement for this mandate received from any federal, state or non-local source shall be identified and deducted from this claim." The Proposition A funds at issue in this IRC do not fall within this provision.

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

Second, as a local tax, Proposition A funds are not a "non-local source." Proposition A is a local sales tax imposed on local citizens. The SCO does not dispute this. Although the SCO had the opportunity to comment on the Ps and Gs before they were adopted, the SCO chose not to comment on or seek any modification of Section VIII reimbursement terms. (See Letters dated July 23, 2010 and February 18, 2011, attached to the Burhenn Declaration as Exhibits 1 and 2.) Proposition A funds do not fall within the terms of Section VIII.

Instead, the SCO seeks to justify its action on the grounds that, because the City was authorized to use Proposition A funds to install and maintain trash receptacles, the City did not have to rely on general funds to pay for these activities. Final Audit at 13. The SCO also argued that a "special, supplementary sales tax" is different for purposes of article XIII B, section 6 from an unrestricted sales tax. Final Audit at 17.

As set forth above, however, neither article XIII B, section 6 nor the Ps and Gs make these distinctions. The SCO is seeking to write in requirements that are not present in either the Constitution or the Ps and Gs that the SCO is bound to apply. The implementation of such requirements would result the City being mandated to expend local tax revenue on the State-mandated trash receptacle obligations rather than on other transit programs of the City's choice. This is precisely what article XIII B, section 6 is meant to prevent.

Moreover, it was entirely proper for the City to use Proposition A sales and use tax revenue to initially fund the installation and maintenance of the trash receptacles. The trash receptacles qualified for this use. See Local Return Guidelines at 7. The City could use these funds for the trash receptacles and then, should the City obtain a subvention of funds, use the funds for other transit projects. As discussed above, the Local Return Guidelines 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."

The SCO argues that the Proposition A funds could only be used as an advance against the receipt of federal, state, or local grants or private funds and that a "mandate payment is a subvention of funds to reimburse local governments for the costs of the program, which is different than a grant." Final Audit at 16. The City's use of Proposition A local tax funds pending receipt of subvention, however, is no different than use of other local tax funds pending receipt of

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subvention. The City has to expend funds for the mandated program, wait for reimbursement, and then after receiving reimbursement use the funds for other purposes. Here that would be other transit purposes that are a priority of the City.

Contrary to the SCO's argument, the Local Return Guidelines do not preclude such use. Indeed, the guidelines specifically recognize the ability and intent to use the funds to advance projects pending the potential receipt of funds from another source, as long as the received funds are returned to the appropriate Local Return account and used for eligible transit purposes. As set forth in the Local Return Guidelines' Audit section, identifying areas that must be verified during an audit, the audit must require that "Where funds expended are reimbursable by other grants *or fund sources*, verification that the reimbursement is credited to the Local Return account upon receipt of reimbursement." Local Return Guidelines, Section V.A, at 34 (emphasis added).

There would be no need for reference to verification that reimbursement from other sources is credited to the Local Return account if it was not anticipated that a city could receive reimbursement from such other sources. Thus, reimbursement not only from grant funds but also other "fund sources" was anticipated. The fact that the reimbursement is from a source other than a grant is not relevant.

Finally, being able to use Proposition A pending reimbursement is also consistent with the people's intent in adopting article XIII B, section 6. Government Code § 17556(d), as implemented by the Ps and Gs, excludes "expenses that are recoverable from *sources other than taxes*." *County of Fresno*, 53 Cal.3d at 487 (emphasis added). Proposition A is not a "source other than taxes." It is a local tax whose diversion to pay the State-imposed trash receptacle mandate is as much a constraint on the funds available to the City as would have been the use of other, general funds. By not providing reimbursement, this limits the funds the City has for transportation projects just as if the State had refused to reimburse City general funds used for this purpose.

## **II. THE SCO'S FINAL AUDIT IMPROPERLY APPLIES THE Ps AND Gs RETROACTIVELY**

The SCO's application of the Ps and Gs also represents an unlawful retroactive application of those guidelines. The City first used Proposition A funds in FY 2002-03, the period from July 1, 2002 to June 30, 2003, and then, as pertinent to this IRC, used Proposition A funds in each subsequent fiscal year through FY 2005-06. The Ps and Gs, on the other hand, were not adopted until March 24, 2011. It would be arbitrary and capricious to find that the Ps and Gs retroactively prohibited the use 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. *Aktar 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 n. 5.

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That rule applies here. At the time the City used its Proposition A funds for the installation and maintenance of the trash receptacles, it was operating under the understanding that the City could use those funds and then return them to the Proposition A account for other use once the City obtained funding from another source. Nothing in either Proposition A or mandate law indicated anything different. To retroactively apply the Ps and Gs, adopted in 2011, to preclude a subvention substantially changes the legal effect of these past events. Such an application is arbitrary, capricious, and unlawful.

The Final Audit responds to this argument by claiming that Proposition A funds are a “non-local source,” that the Local Return Guidelines prohibited advancement, and that the Metropolitan Transit Authority “never approved the advancement of the Proposition A funds.” Final Audit at 17. As set forth above, however, Proposition A is a local sales and use tax. It is a local source and the Local Return Guidelines recognize that Proposition A funds may be used pending reimbursement from other sources. Finally, the projects are submitted to the MTA for approval, but there was nothing that precluded the City from using those funds and then repaying the Local Return account should reimbursement become available. There is nothing in Proposition A or the guidelines that indicate differently.

The SCO’s offset of Proposition A funds against the expenses the City has incurred, if allowed to stand, would be an unlawful retroactive application of the Ps and Gs. The SCO’s attempt to offset these funds should be reversed for this reason also.

### **IX. CONCLUSION**

For the foregoing reasons, the SCO’s offset of Proposition A funds against the expenses incurred by the City to meet the requirements of Part 4F5c3 of the 2001 Stormwater Permit should be reversed.

# **SECTION 8**

## **DOCUMENTARY EVIDENCE AND DECLARATIONS**

# DECLARATION OF ANIL GANDHY

## DECLARATION OF ANIL GANDHY

I, Anil Gandhi, hereby declare:

1. I am the Director of Finance of the City of Downey and have served in this capacity since 2013. As part of my duties as Director of Finance, I am responsible for overseeing the finances of the City, including the funding of City activities and programs.

2. I have personal knowledge of the matters set forth herein and, if called to testify, could and would testify competently thereto.

3. As part of my duties as the Director of Finance, I am responsible through my staff for the recovery of costs that might be reimbursed by the State of California, including through a subvention of funds to pay for an unfunded state mandate. This responsibility includes recovery of the costs the City incurred in complying with the obligation to place trash receptacles at transit stops imposed by the Los Angeles Regional Water Quality Board in Order No. 01-182 (the "2001 Stormwater Permit").

4. The City's financial records reflect that the City incurred costs to comply with the trash receptacle obligations imposed by the 2001 Stormwater Permit.

5. Where the City used Proposition A funds to pay for the trash receptacle program, those funds were not available for other Proposition A eligible projects, including projects that would have otherwise been City priorities.

6. In 2011, the City filed claims for reimbursement with the office of the State Controller for the costs of installing and maintaining trash receptacles as required by the 2001 Stormwater Permit. Attached from the City's records as Exhibit E to the Incorrect Reduction Claim are true and correct copies of the Reimbursement Claims for the costs incurred in complying with the trash receptacle obligations imposed by the 2001 Permit for the fiscal years ending June 30 2003, 2004, 2005, and 2006.

7. If funds are received by the City in accordance with the City's claims for reimbursement, the City would be able to return the Proposition A funds used for the trash receptacle obligations to the Proposition A Local Return account and use those funds for other

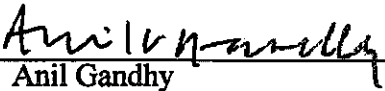
Proposition A projects. If the City does not receive funds in accordance with the City's claims for reimbursement, this means that the City will not have those funds available for other Proposition A projects.

8. Attached as Exhibit D to the Incorrect Reduction Claim is a true and correct copy of the Final Audit report received by the City from the California State Controller's Office with respect to the City's claims for reimbursement of the costs incurred in complying with the trash receptacle obligations imposed by the 2001 Stormwater Permit.

9. I have examined the information and costs presented in the Incorrect Reduction Claim filed by the City and believe them to be true and correct.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 29 day of June, 2020, at Downey, California.

  
\_\_\_\_\_  
Anil Gandhi



DECLARATION OF HOWARD GEST  
AND EXHIBITS A AND B

## DECLARATION OF HOWARD GEST

I, Howard Gest, hereby declare:

1. I am a member of Burhenn & Gest LLP and, as such, am one of the attorneys principally responsible for representing the City of Downey in this matter.

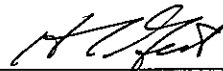
2. I have personal knowledge of the matters set forth herein and, if called to testify, could and would testify competently thereto.

3. Attached hereto as Exhibit A is a copy of Proposition A, adopted by the electorate. This copy was downloaded on June 29, 2020, from the Metropolitan Transportation website, [http://media.metro.net/projects\\_studies/taxpayer\\_oversight\\_comm/proposition\\_a\\_ordinance.pdf](http://media.metro.net/projects_studies/taxpayer_oversight_comm/proposition_a_ordinance.pdf).

4. Attached hereto as Exhibit B is a copy of the Proposition A and Proposition C Local Return Guidelines. This copy was downloaded on June 29, 2020, from the Metropolitan Transportation website, [http://media.metro.net/projects\\_studies/local\\_return/images/lr\\_guide.pdf](http://media.metro.net/projects_studies/local_return/images/lr_guide.pdf).

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 29th day of June, 2020 at Los Angeles, California.



---

Howard Gest

# EXHIBIT A

**LOS ANGELES COUNTY**  
**METROPOLITAN TRANSPORTATION AUTHORITY**  
**ADMINISTRATIVE CODE**

**Title 3**

**Finance**

**Chapter 3-05**

**An Ordinance Establishing A Retail Transactions  
And Use Tax in the County of Los Angeles  
For Public Transit Purposes**

*(Preliminary Note: The ordinance set forth in Chapter 3-05 was originally enacted as Los Angeles County Transportation Commission Ordinance No. 16 and was adopted by a vote of the electorate as Proposition A in November 1980. It is incorporated here as enacted in 1980, except that, for convenience and consistency, its section headings and numbering have been revised to conform to the style of this Code. While the provisions of this ordinance may be cited by the section headings and numbering used herein, the official ordinance remains that enacted by the electorate in 1980. The inclusion of this ordinance in this Code is not a reenactment or an amendment of the original ordinance, and its inclusion in this Code does not in any way amend its provisions or alter its application.)*

A retail Transactions and Use Tax is hereby imposed in the County of Los Angeles as follows:

**3-05-010 Definitions.** The following words, whenever used in this Ordinance, shall have the meanings set forth below:

- A. "Commission" means the Los Angeles County Transportation Commission.
- B. "County" means the incorporated and unincorporated territory of the County of Los Angeles.
- C. "Transaction" or "Transactions" have the same meaning, respectively, as the words "Sale" or "Sales"; and the word "Transactor" has the same meaning as "Seller", as "Sale" or "Sales" and "Seller" are used in Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

**3-05-020 Imposition of Retail Transactions Tax.** There is hereby imposed a tax for the privilege of selling tangible personal property at retail upon every retailer in the County at a rate of one-half of 1% of the gross receipts of the retailer from the sale of all tangible personal property sold by him at retail in the County.

**3-05-030 Imposition of Use Tax.** There is hereby imposed a complementary tax 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. Such tax shall be at a rate of one-half of 1% of the sales price of the property whose storage, use or other consumption is subject to the tax.

**3-05-040 Application of Sales and Use Tax Provisions of Revenue and Taxation Code.**

A. The provisions contained in Part 1 of Division 2 of the Revenue and Taxation code (Sales and Use Taxes, commencing with Section 6001), insofar as they relate to sales or use taxes and are not inconsistent with Part 1.6 of Division 2 of the Revenue and taxation Code (transactions and Use Taxes, commencing with Section 7251), shall apply and be part of this Ordinance, being incorporated by reference herein, except that:

1. The commission, as the taxing agency, shall be substituted for that of the State;
2. An additional transactor's permit shall not be required if a seller's permit has been or is issued to the transactor under Section 6067 of the Revenue and Taxation Code; and
3. The word "County" shall be substituted for the word "State" in the phrase, "Retailer engaged in business in this State" in Section 6203 of the Revenue and Taxation Code and in the definition of that phrase.

B. A retailer engaged in business in the County shall not be required to collect use tax from the purchase of tangible personal property unless the retailer ships or delivers the property into the County or participates within the County in making the sale of the property,

including, but not limited to soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the County or through any representative, agent, canvasser, solicitor, or subsidiary or person in the County under authority of the retailer.

C. All amendments subsequent to January 1, 1970, to the above cited Sales and Use Taxes provisions relating to sales or use taxes and not consistent with this Ordinance shall automatically become a part of this Ordinance; provided, however, that no such amendment shall operate as to affect the rate of tax imposed by the Commission.

**3-05-050 Use of Revenues Received from Imposition of the Transactions and Use Tax.**

The revenues received by the Commission from the imposition of the transactions and use tax shall be used for public transit purposes, as follows:

A. Definitions:

1. "System" or "Rail rapid transit system" means all land and other improvements and equipment necessary to provide an operable, exclusive right-of-way, or guideway, for rail transit.

2. "Local transit" means eligible transit, paratransit, and Transportation Systems Management improvements which benefit one jurisdiction.

B. Purpose of Tax. This tax is being imposed to improve and expand existing public transit Countywide, including reduction of transit fares, to construct and operate a rail rapid transit system hereinafter described, and to more effectively use State and Federal funds, benefit assessments, and fares.

C. Use of Revenues. Revenues will be allocated as follows:

1. For the first three (3) years from the operative date of this Ordinance:

a. Twenty-five (25) percent, calculated on an annual basis, to local jurisdictions for local transit, based on their relative percentage share of the population of the County of Los Angeles.

b. To the Southern California Rapid Transit District ("District"), or any other existing or successor entity in the District receiving funds under the Mills-Alquist-Deddeh Act, such sums as are necessary to accomplish the following purposes;

- (1) Establishment of a basic cash fare of fifty (50) cents.
- (2) Establishment of an unlimited use transfer charge of ten (10) cents.
- (3) Establishment of a charge for a basic monthly transit pass of \$20.00.
- (4) Establishment of a charge for a monthly transit pass for the elderly, handicapped and students of \$4.00.
- (5) Establishment of a basic cash fare for the elderly, handicapped and students of twenty (20) cents.
- (6) Establishment of a comparable fare structure for express or premium bus service.

c. The remainder to the Commission for construction and operation of the System.

2. Thereafter:

a. Twenty-five (25) percent, calculated on an annual basis, to local jurisdictions for local transit, based on their relative percentage share of the population of the County of Los Angeles.

b. Thirty-five (35) percent, calculated on an annual basis, to the commission for construction and operation of the System.

c. The remainder shall be allocated to the Commission for public transit purposes.

3. Scope of Use. Revenues can be used for capital or operating expenses.

D. Commission Policy.

1. Relative to the Local Transit Component:

a. Allocation of funds to local jurisdictions shall be subject to the following conditions:

(1) Submission to the Commission of a description of intended use of the funds, in order to establish legal eligibility. Such use shall not duplicate or compete with existing transit service.

(2) The Commission may impose regulations to ensure the timely use of local transit funds.

(3) Recipients shall account annually to the Commission on the use of such funds.

b. Local jurisdictions are encouraged to use available funds for improved transit service.

2. Relative to the System Component:

a. The Commission will determine the System to be constructed and operated.

b. The System will be constructed as expeditiously as possible. In carrying out this policy, the Commission shall use the following guidelines:

(1) Emphasis shall be placed on the use of funds for construction of the System.

(2) Use of existing rights-of-way will be emphasized.

c. The System will be constructed and operated in substantial conformity with the map attached hereto as Exhibit "A". The areas proposed to be served are, at least, the following:

San Fernando Valley

West Los Angeles



South Central Los Angeles/Long Beach

South Bay/Harbor

Century Freeway Corridor

Santa Ana Free Corridor

San Gabriel Valley

**3-05-060 Exclusion of Tax Imposed Under Bradley-Burns Uniform Local Sales and Use Tax Law.** The amount subject to tax under this Ordinance shall not include the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county, pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law, or the amount of any State-administered transactions or use tax.

**3-05-050 Exemption from Retail Transactions Tax.**

A. There are exempted from the tax imposed by this Ordinance the gross receipts from the sale of tangible personal property to operators of waterborne vessels to be used or consumed principally outside the County in which the sale is made and directly and exclusively in the carriage of persons or property in such vessels for commercial purposes.

B. There are exempted from the tax imposed under this Ordinance the gross receipts from the sale of tangible personal property to the operators of aircraft to be used or consumed principally outside the County in which the sale is made, and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

C. Sales of property to be used outside the County which are shipped to a point outside the County pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point, are exempt from the tax imposed under this Ordinance.

D. For purposes of this Section, "delivery" of vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle code, the

aircraft license in compliance with Section 21411 of the Public Utilities Code and undocumented vessels registered under Article 2 (commencing with Section 680) of Chapter 5 of Division 3 of the Harbors and Navigation code shall be satisfied by registration to an out-of-County address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his principal place of residence.

E. "Delivery" of commercial vehicle shall be satisfied by registration to a place of business out of County, and a declaration under penalty of perjury signed by the buyer that the vehicle will be operated from that address.

F. The sale of tangible personal property is exempt from tax, if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this Ordinance. A lease of tangible personal property which is a continuing sale of such property is exempt from tax for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this Ordinance. For purposes of this Section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

**3-05-070 Exemptions from Use Tax.**

A. The storage, use or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to a transaction tax under any State administered transactions and use taxes ordinances, shall be exempt from the tax imposed under this Ordinance.

B. The storage, use or other consumption of tangible personal property purchased by operators of waterborne vessels and used or consumed by such operators directly and exclusively in the carriage of persons or property in such vessels for commercial taxes is exempt from the use tax.

C. In addition to the exemption provided in Section 6366 and 6366.1 of the Revenue and Taxation Code, the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, United States, or any foreign government, is exempt from the use tax.

D. The storage, use, or other consumption in the County of tangible personal property is exempt from the use tax imposed under this Ordinance if purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of the Ordinance. The possession of, or the exercise of any right or power over, tangible personal property under a lease which is a continuing purchase of such property is exempt from tax for any period of time for which a lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this Ordinance. For the purposes of this Section, storage, use or other consumption, or possession, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

**3-05-080 Place of Consummation of Retail Transaction.** For the purpose of a retail transaction tax imposed by this Ordinance, all retail transactions are consummated at the place of business of the retailer, unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-State destination or to a common carrier for delivery to an out-of-State destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the State sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State, or has more than one place of business, the place or places at which the retail sales are consummated for the

purpose of the transactions tax imposed by this Ordinance shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

**3-05-100 Deduction of Local Transactions Taxes on Sales of Motor Fuel.**

A. The Controller shall deduct local transactions taxes on sales of motor vehicle fuel which are subject to tax and refund pursuant to Part 2 (commencing with Section 7301) of this division, unless the claimant establishes to the satisfaction of the Controller that the claimant has paid local sales tax reimbursement for a use tax measured by the sale price of the fuel to him.

B. If the claimant establishes to the satisfaction of the Controller that he has paid transactions tax reimbursement or Commission use tax measured by the sale price of the fuel to him, including the amount of the tax imposed by said Part 2, the Controller shall repay to the claimant the amount of transactions tax reimbursement or use tax paid with respect to the amount of the motor vehicle license tax refunded. If the buyer receives a refund under this Section, no refund shall be made to the seller.

**3-05-110 Adoption and Enactment of Ordinance.** This Ordinance is hereby adopted by the Commission and shall be enacted upon authorization of the electors voting in favor thereof at the special election called for November 4, 1980, to vote on the measure.

**3-05-120 Operative Date.** This Retail Transactions and Use Tax Ordinance shall be operative the first day of the first calendar quarter commencing not less than 180 days after the adoption of said Ordinance.

**3-05-130 Effective Date.** The effective date of this Ordinance shall be August 20, 1980.

## EXHIBIT B

# GUIDELINES

Proposition A and Proposition C

LOCAL RETURN



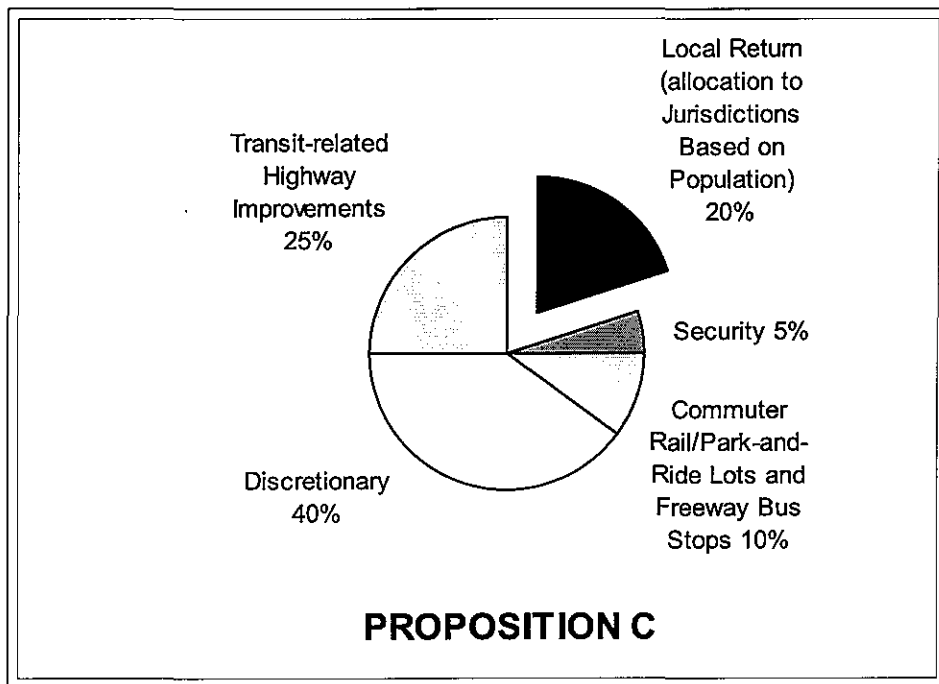
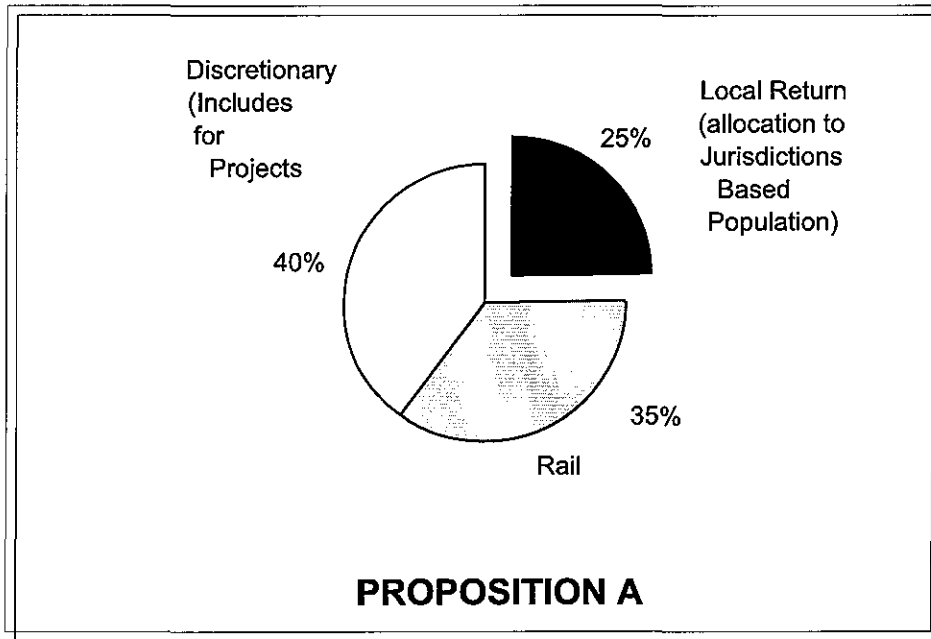
**Metro**

**Metro Board Approved  
FY 2006-07**



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**PROPOSITION A AND PROPOSITION C  
DISTRIBUTION**





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## **I. PROGRAM SUMMARY**

### **A. INTRODUCTION**

The Proposition A and Proposition C Programs are funded by two 1/2 cent sales tax measures approved by Los Angeles County voters to finance a Transit Development Program. The Proposition A tax measure was approved in 1980 and the Proposition C tax measure was approved in 1990. Collection of the taxes began on July 1, 1982, and April 1, 1991, respectively.

Twenty-five percent of the Proposition A tax and twenty percent of the Proposition C tax is designated for the Local Return (LR) Program funds to be used by cities and the County (Jurisdictions) in developing and/or improving public transit, paratransit, and the related transportation infrastructure.

LR funds are allocated and distributed monthly to Jurisdictions on a "per capita" basis by the Los Angeles County Metropolitan Transportation Authority (Metro).

#### **1. PROPOSITION A LOCAL RETURN FUNDS**

The Proposition A Ordinance requires that LR funds be used exclusively to benefit public transit. Expenditures related to fixed route and paratransit services, Transportation Demand Management, Transportation Systems Management and fare subsidy programs that exclusively benefit transit are all eligible uses of Proposition A LR funds. Proposition A LR funds may also be traded to other Jurisdictions in exchange for general or other funds.

#### **2. PROPOSITION C LOCAL RETURN FUNDS**

The Proposition C Ordinance directs that the LR funds also be used to benefit public transit, as described above, but provides an expanded list of eligible project expenditures including, Congestion Management Programs, bikeways and bike lanes, street improvements supporting public transit service, and Pavement Management System projects. Proposition C funds cannot be traded.

The tables in Appendix I, page 36, summarize the Proposition A and Proposition C LR Programs and the respective eligible project expenditures.

### **B. GENERAL PROVISIONS CONCERNING PROPOSITION A AND PROPOSITION C LOCAL RETURN EXPENDITURES**

Jurisdictions are required to use LR funds for developing and/or improving public transit service. As a general rule, an expenditure that is eligible for funding under one or more existing state or federal transit funding programs would also be an eligible LR fund expenditure provided that the project does not duplicate an existing regional or municipal transit service, project or program.

Allocation of LR funds to and expenditure by Jurisdictions shall be subject to the following conditions:

1. **TIMELY USE OF FUNDS**

Metro will enforce regulations to insure the timely use of LR funds. Under the Proposition A and Proposition C Ordinances, Jurisdictions have three years to expend LR funds. Funds must be expended within three years of the last day of the fiscal year in which funds were originally allocated. Therefore, by method of calculation, each Jurisdiction has the Fiscal Year of allocation plus three years to expend Proposition A and/or Proposition C funds. For example, a Jurisdiction receiving funds during FY 2005-06 must expend those funds, and any interest or other income earned from Proposition A and/or Proposition C projects, by June 30, 2009.

2. **AUDIT OF PROPOSITION A AND PROPOSITION C FUNDS**

Jurisdictions shall annually account, through a fiscal and compliance audit, to Metro on the use of LR funds. The Audit Section, (Section V, page 33), details Project Expenditure Criteria, Allowable Costs, Audit Deliverables, and Administrative Accounting Procedures.

3. **INELIGIBLE USE OF FUNDS**

If LR funds have been expended prior to Metro approval and/or used for ineligible purposes, Jurisdictions will be required to reimburse their Proposition A or C LR account, including interest and/or earned income, as indicated in the Audit Section (page 33).

Stand alone projects, such as, lighting, landscaping, traffic signals, storm drains, or Transportation Planning projects unrelated to an eligible project, are not eligible.

4. **STANDARD ASSURANCES**

If a new Jurisdiction is formed within Los Angeles County, Metro will require that a Standard Assurances and Understanding agreement be submitted prior to participation in the LR Program. A sample Standard Assurance and Understanding Agreement form is included as Appendix II (see page 37).

C. **PROPOSITION A AND PROPOSITION C FORMS AND SUBMITTAL REQUIREMENTS**

To maintain eligibility and meet LR Program compliance requirements, Jurisdictions shall submit a Project Description (Form A) as required, an Annual Project Update (Form B) and Annual Expenditure Report (Form C). Form submittal information is detailed in the Administrative Process section, page 21. Sample forms along with instructions for their completion are included as Appendix VIII (page 49). An electronic version is available on the website @www.Metro.net (under Projects/Programs; Local Return Program).

**Project Description Form (Form A)**

Jurisdictions shall submit for approval a Project Description Form prior to the expenditure of funds for: 1) a new project; 2) a new route; 3) a 25 percent change (increase or decrease) in route or revenue vehicle miles for an established LR funded transit service; 4) a 0.75 miles or greater service change that duplicates/overlays an existing transit service; or 5) a 25 percent or greater change in an approved LR project budget or scope on all operating or capital LR projects.

**Annual Project Update (Form B)**

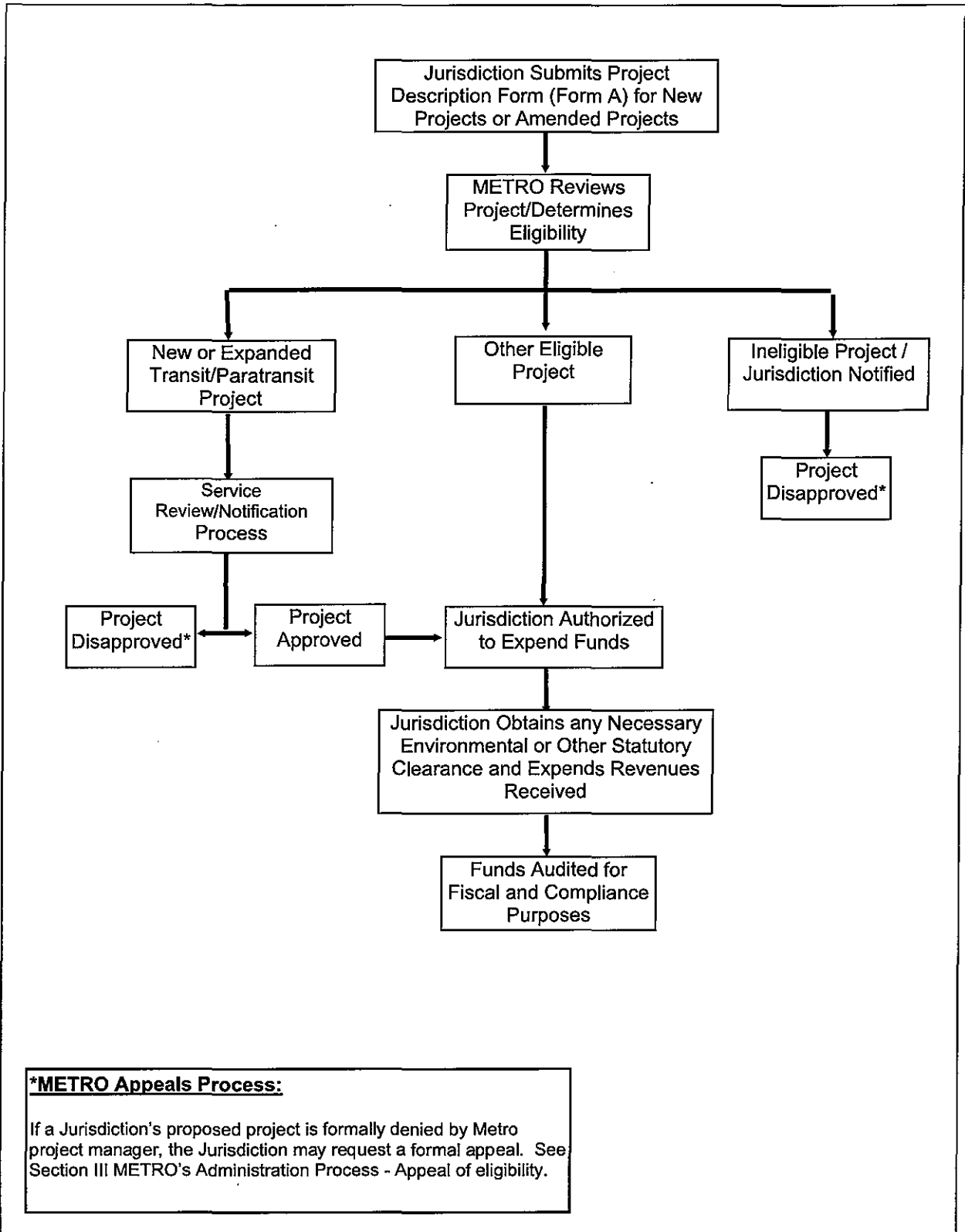
Jurisdictions shall submit on or before August 1 of each fiscal year an Annual Project Update to provide current information on all approved on-going and carryover LR projects. Metro will review and accept or return the report for changes. Cities shall report the anticipated expenditure cash flow amounts for the covered fiscal year.

**Annual Expenditure Report (Form C)**

On or before October 15th of each fiscal year, the Jurisdictions shall submit an Annual Expenditure Report to provide an update on previous year LR fund receipts and expenditures.

The following provides a summary of form use and due dates:

<u>FORM</u>	<u>DETERMINATION</u>	<u>DUE DATE</u>
Project Description Form - Form A	New and amended projects	Any time during the year
Annual Project Update - Form B	All on-going and/or capital (carryover) projects	August 1 <sup>st</sup> of each year
Annual Expenditure Report - Form C	Report expenditures	October 15 <sup>th</sup> of each year



## **II. PROJECT ELIGIBILITY**

The Proposition A and Proposition C Ordinances specify that LR funds are to be used for “public transit purposes” as defined by the following: “A proposed expenditure of funds shall be deemed to be for public transit purposes to the extent that it can reasonably be expected to sustain or improve the quality and safety of and/or access to public transit services by the general public or those requiring special public transit assistance”.

For simplification and user ease, project categories that share common eligibility requirements and/or project code designations are defined and listed as either Proposition A and Proposition C Eligible, Proposition A Exclusive, or Proposition C Exclusive. Local Return can be used as a match to grant programs such as the Metro Call for Projects, the Safe Routes to School, and the Hazard Elimination and Safety programs, so long as the projects are LR eligible. Note: The following project eligibility criteria provide for general guidance only and are not the sole determinant for project approval. The authority to determine the eligibility of an expenditure rests solely with Metro. Jurisdictions may appeal projects deemed ineligible as described in Section III, Metro’s Administrative Process, page 23.

### **A. ELIGIBLE USES OF PROPOSITION A AND PROPOSITION C**

#### **1. PUBLIC TRANSIT SERVICES - OPERATING (Codes 110,120, 130 & 140)**

New or expanded Transit or Paratransit services are subject to review under the Service Coordination Process (SCP) as detailed in Section III, page 24. The process will, in part, determine the proposed service’s compatibility with the existing regional bus transit system provided by Metro and services provided by the municipal transit operators. Metro may request that modification be made to proposed services that duplicate or compete with existing services. Proposed services must also meet the criteria outlined under Non-exclusive School Service and Specialized Transit discussed on the following page. Note that Emergency Medical Transportation is not an eligible use of LR funds.

**Examples of Fixed Route, Paratransit, and Recreational Transit Service projects follow:**

#### **1.1 FIXED ROUTE SERVICE (Project Code 110)**

- New fixed route or Flexible Destination bus service
- Extension or augmentation of an existing bus route(s)
- Contracting with a transit operator or private provider for commuter bus service
- Contracting with a transit in an adjacent county to provide transit within Los Angeles County
- Operating subsidy to existing municipal or regional bus operator
- Service enhancements related to Bus/rail Interface
- ADA improvements to fixed route operations
- Shuttle service between activity centers



## 1.2 PARATRANSIT SERVICE (Project Codes 120 & 130)

- Expansion/ coordination of existing paratransit service
- Subsidized, shared-ride taxi service for disadvantaged residents
- Taxi coupon programs used to provide intermittent or temporary capacity to support paratransit systems for senior and disabled patrons
- New paratransit service
- General public paratransit service
- ADA-related improvements to paratransit operations

### Non-Exclusive School Service

Fixed-route bus services or Demand-responsive services available to the general public, which also provide school trips, are eligible for LR funding. Exclusive school bus services are not eligible. **Projects must meet the following conditions:**

- The bus Vehicles utilized cannot be marked "School Bus" or feature graphics that in any way indicate they are not available to the general public. Yellow paint schemes should not be for the specific purpose of meeting the vehicle code definition of a school bus
- The bus Head Sign is to display its route designation by street intersection, geographic area, or other landmark/destination description and cannot denote "School Trip" or "Special." In cases where the service includes an alternate rush-hour trip to provide service by a school location, the dashboard sign is to indicate the line termination without indicating the school name
- Timetables for such services will be made available to the general public, shall provide the given schedule and route but must not be labeled "school service"
- Drivers must be instructed that such service is available to the general public and board and alight all passengers as required at designated stops
- The same fare payment options must be made available to all users
- The overall transportation service provided in the Jurisdiction must not be for school service hours only

### Specialized Public Transit

Metro will approve special-user group service or social service transit where it can be incorporated into the existing local transit or paratransit program. Jurisdictions must demonstrate that existing services cannot be modified to meet the identified user need. Projects must meet the following conditions:

- The special user group identified does not discriminate on the basis of race, religion, sex, disability or ethnicity
- Service shall be available to all members of the general public having that specialized need and not be restricted to a specific group or program
- Service shall be advertised to the general public
- Metro may require, as a condition of approval, inter-jurisdictional project coordination and consolidation
- LR funds may only be used for the transportation component of the special user group program, i.e., direct, clearly identifiable and auditable

transportation costs, excluding salaries for specialized escorts or other program aides

- The designated vehicle(s) used must be made available for coordination with other paratransit programs if space permits

**1.3 RECREATIONAL TRANSIT SERVICE (Project Code 140)**

Jurisdictions shall submit a listing of Recreational Transit Services no later than October 15 after the fiscal year. Recreational Transit Service projects must meet the following conditions:

- Travel within the area of Los Angeles, Orange and Ventura Counties, and portions of Kern, Riverside and San Bernardino Counties (see map Appendix VII, page 48) are eligible expenditures. Trip segments to areas shown on the proportionately eligible areas of the map must be funded through other sources. Trips to locations not within either the eligible or proportionately eligible area are not eligible.
- Trips may be limited to certain general age groups (e.g., children under 18, senior citizens, persons with disabilities), however, trips must be made available to all individuals within that designated group.
- Special events or destinations (e.g., city parks, concerts, special events) may be served, however, all members of the general public including individuals with disabilities must be allowed to use, the service.
- LR funds may not be used to pay the salaries of recreation leaders or escorts involved in recreational transit projects.
- All recreational transit trips must be advertised to the public, such as through newspapers, flyers, posters, and/or websites.

**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

Amenities shall be integral to the bus stop. Improvements must be located within 25 feet of the bus stop signpost, or have one edge or end within that area. At high volume stops, where more than one bus typically uses the stop at a time, improvements must be placed at the immediate locations where buses normally stop.

Curb cuts may be located on or adjacent to street segments (blocks) with bus stops.

**Conditions:**

Jurisdictions shall coordinate bus stop improvements (excluding curb cuts) with effected Transit Operators. A letter of coordination must be submitted with the Project Description Form. Jurisdictions that propose replacing privately owned benches or shelters must notify the Operator before requesting City Council project approval. The Operator shall have seven (7) days to respond to the notification before the Jurisdiction takes further action.

**3. PUBLIC TRANSIT - CAPITAL (Project Codes 180, 190 & 200)**

Public Transit Capital projects will be approved only for the percentage of vehicle or equipment use, as determined by Metro staff, exclusive to public transit service. A list of sample Public Transit Capital projects follows:

- a. Vehicles/parts purchases and repairs
  - Transit vehicles for passenger service
  - Mechanical parts and supplies for buses or vans
  - Non-revenue support vehicles, such as supervisor's cars, service trucks
  - ADA-related improvements to vehicles
  - Retrofits or additions to buses or vans, such as lifts, fare boxes, or radios
  - Security equipment, for example, cameras on buses
- b. Equipment
  - New or modified transit maintenance facilities
  - Maintenance equipment for new or existing transit or paratransit operations
  - Office equipment and furnishings for new and existing transit and paratransit operations

NOTE: Jurisdictions shall reimburse their LR Account, in the amount of the current appraised value or purchase price from resale, for Public Transit Capital projects no longer used for public transit purposes.

**4. TRANSPORTATION SYSTEMS MANAGEMENT (TSM) (Project Code 210)**

TSM projects are relatively low-cost, non-capacity-enhancing traffic control measures that serve to improve vehicular (bus and car) flow and/or increase safety within an existing right-of-way. Proposals must include an element demonstrating the project's benefit to public transit. **A list of sample TSM projects follows:**

- Reserved bus lanes (no physical separation) on surface arterials
- Contra-flow bus lanes (reversible lanes during peak travel periods)
- Ramp meter by-pass (regulated access with bus/carpool unrestricted entry)
- Traffic signal priority for buses (to allow approaching transit vehicles to extend green phase or change traffic signal from red to green)
- Preferential turning lanes for buses
- Other traffic signal improvements that facilitate bus movement

If a Local Return funded project is or has an Intelligent Transportation System (ITS) component, it must be consistent with the Regional ITS Architecture. ITS projects must comply with the Countywide ITS Policy and Procedures adopted by

the Metro Board including the submittal of a completed, signed self-certification form. Please go to <http://RIITS.net/RegITSDocs.html> and choose "Los Angeles Countywide ITS Policy and Procedures Document" or see Appendix VI (page 45) for information on Countywide ITS Policy and Procedures, and the self-certification form.

5. **TRANSIT SECURITY** **(Project Codes 220 & 230)**

Transit Security projects may include Transit Safety, Security Operations and Safety Education Programs, provided that they demonstrate a direct benefit to public transit service and do not supplant general law enforcement programs.

**A list of sample Transit Security Programs follows:**

- Local police deployment for direct and specific transit security
- Private security (state licensed) deployment for transit security
- Contracted police services for direct and specific transit security
- Capital improvements for transit security
- Innovative and/or advanced technology transit security
- Community-based policing activities in direct support of transit security
- Security awareness, graffiti prevention, Safety education and/or crime prevention programs
- Transit security at commuter rail stations and park and ride facilities

**NOTE:** Jurisdictions are encouraged to participate in existing local and regional transit security efforts, which should be coordinated through Metro.

6. **FARE SUBSIDY** **(Project Codes 240 & 250)**

Fare Subsidy programs provide residents within Jurisdictions a discount fare incentive for using public transit. The method, amount of subsidy and user group(s) shall be determined by Jurisdictions. **A list of sample Fare Subsidy Programs follows:**

- User-side subsidies (buy down of passes, tickets, or coupons) for the general public or segments of the general public (i.e., elderly, individuals with disabilities, or low-income residents)
- Subsidy of bus/rail passes, tickets or tokens for transit riders-

7. **TRANSPORTATION PLANNING** **(Project Code 270)**

Planning, coordination, engineering and design costs incurred toward the implementation of eligible LR projects are eligible when the following conditions are met:

- The projects being planned (designed, coordinated, etc.) are LR eligible.
- Coordination includes: local jurisdictions' start up costs or dues for Councils of Governments (COG's) and Transportation Management Associations (TMA's); advocacy; and funding for Joint Powers Authorities (JPA's) by local jurisdictions or (COG's).
- If some of a COG's, TMA's or JPA's projects or activities are LR eligible and some are not, partial payment of dues must be made, in proportion to the organization's budget for LR eligible projects.

- Proposition A must be used to plan for Proposition A eligible projects.  
Proposition C must be used to plan for Proposition C eligible projects.

**8. TRANSIT MARKETING (Project Code 280)**

**Transit Marketing projects may include:**

- Transit user guides, maps, brochures
- Transit information Kiosks
- Transit information/pass sales centers
- New rider subsidy programs

**9. PARK-AND-RIDE LOTS (Project Code 290)**

Park-and-Ride Lot projects must be coordinated with Metro and appropriate affected transit operator(s). Additional justification including, for example, surveys or studies that provide a basis for determining the project's level of public transit use and related funding, may be requested prior to project evaluation.

**Park-n-Ride Lot projects shall:**

- be located adjacent to (no greater than 0.25 mile away from) a fixed route service bus stop, HOV lanes and/or rail stations.
- be located on unimproved land unless a specific Metro waiver is granted.
- have received environmental clearance by the Jurisdiction prior to Metro approval for construction funds
- require a letter from the affected transit operator(s) to the Jurisdiction and Metro, as reasonable assurance, that park-and-ride lot users will be assured of continued access to services.
- be used primarily by transit/rideshare patrons during commute hours.
- have appropriate exclusive-use signage posted and enforced.
- be open for general parking during non-transit use time, e.g., evenings and weekends, provided that transit user demands are not adversely impacted. All revenues, (for example, parking, advertising or related revenue) generated during the non-transit use time must be returned to the Jurisdictions' LR Account in the same proportion as the original LR investment in the facility. In the event that the facility ceases operation, the Jurisdiction shall be required to repay its LR Account as determined by the audit, see page 33.

**10. TRANSIT FACILITIES/TRANSPORTATION ENHANCEMENTS (TE) (Project Codes 300 & 310)**

**Examples of Transit Facility projects include:**

- Bus-only transit malls or stations
- Transit/paratransit accessible Transfer Centers that feature, for example, shelters, telephones, information displays/centers, and other related amenities)
- Eligible as match to TE grants.
- Eligible projects may include building rehabilitation and restoration for transit-related purposes.
- Project itself must be LR eligible.

**Conditions:**

Jurisdictions shall submit a project budget and scope of work that specifies the proposed facility's public transit and, if applicable, joint development. Additional documentation may be required to determine project eligibility and level of funding.

If the facility ceases to be used for public transit purposes, LR funds used toward land purchase for a facility must be returned at the original purchase price or present appraised value, whichever is greater, to the Jurisdiction's LR Account. Repayment of facility expenditures shall be based on the schedule outlined on page 31.

Prior to land and/or facility purchases, Jurisdictions shall provide the following:

- Documentation of the financial resources for facility implementation, operation and maintenance
- Assurance(s) from the affected transit carrier(s) to provide facility service
- Land appraisal
- Assurance that the Jurisdiction will proceed with the project per the implementation schedule outlined in the application
- Environmental clearance in conformance with, wherever applicable, all local, state and federal requirements. Jurisdictions preparing an Environmental Impact Report (EIR) must coordinate with Metro Regional Transportation Planning and Development Department.

**11. METRO RAIL CAPITAL (Project Codes 320)**

Metro Rail Capital projects may include, for example, Metro Red, Blue, Green, or Gold Line or Mid-City Exposition Light Rail Transit station or line improvements, local match toward Metro Rail Capital projects, Metro Art or related Metro Rail enhancements.

**12. RIGHT-OF-WAY IMPROVEMENTS (Project Code 350)**

Right-of-Way Improvements or land purchases must be coordinated through Metro to ensure consistency with adopted regional corridors, priorities or preferred alignments. Right-of-Way Improvement project proposals must also demonstrate direct, quantifiable, environmental and/or economic benefit to given LR-eligible projects.

**13. COMMUTER RAIL (Project Codes 360 & 370)**

Rail (commuter system and station enhancement) projects must be consistent with Metro's existing and planned program of rail projects. Eligible project may include match to TE grants for building rehabilitation and restoration for transit-related purposes. Project itself must be LR eligible. **Examples of Rail projects include:**

- Signal upgrades at rail crossings
- Signage and marketing materials to promote increased commuter rail ridership
- Landscaping, lighting, fencing and environmental enhancements at or along commuter rail facilities

- System safety
- Safety education programs
- Commuter rail station operating, maintenance, insurance, or other station-related costs
- Commuter rail station capital costs

**14. CAPITAL RESERVE (Project Code 380)**

A Capital Reserve project provides Jurisdictions the opportunity to accumulate LR funds (over and above the year of allocation and three year expenditure requirement see page 30, Timely Use of Funds) to finance a large project. Projects are limited to construction of bus facilities, bus purchases, transit centers, park-and-ride lots, construction of major street improvements or rail projects along Metro's planned and adopted rail corridors.

A Capital Reserve project constitutes a long-term financial and planning commitment. For specific information on the Capital Reserve approval process, see Section III, Metro's Administration Process, page 26.

**15. DIRECT ADMINISTRATION (Project Code 480)**

Direct Administration is defined as those fully burdened costs which are directly associated with administering Local Return program or projects, and includes salaries and benefits, office supplies and equipment, and other overhead costs.

**Direct Administration project conditions:**

- All costs shall be associated with developing, maintaining, monitoring, coordinating, reporting and budgeting specific LR project(s)
- Expenditures must be reasonable and appropriate to the activities undertaken by the locality
- The administrative expenditures for any year shall not exceed 20 percent of the total LR annual expenditures, based on year-end expenditures, and will be subject to an audit finding if the figure exceeds 20%;
- The annual expenditure figure will be reduced by fund trades to other cities and/or funds set aside for reserves; conversely, the annual expenditure figure will be increased by expenditure of reserves or LR funds received in fund exchanges;
- Jurisdictions are required to report all administrative charges to Direct Administration in order to verify compliance of 20% administration cap.

**16. OTHER (Project Code 500)**

Projects that do not fit under any of the project codes, but are for public transit purposes, may be included in the "other" category. Note that "public transit purposes" are defined as follows: "A proposed expenditure of funds shall be deemed to be for public transit purposes to the extent that it can reasonably be expected to sustain or improve the quality and safety of and/or access to public transit services by the general public or those requiring special public transit assistance".

**B. EXCLUSIVE USES OF PROPOSITION A FUNDS**

**Projects listed below are eligible for Proposition A LR funding only.** Jurisdictions must certify that all project conditions will be met and include all supporting documents with submittal of the Form A. Stand alone amenities such as traffic signals, landscaping and storm drains are ineligible. Note: The following project eligibility criteria provide general guidance only and are not the sole determinant for project approval. The authority to determine the eligibility of an expenditure rests solely with Metro. Jurisdictions may appeal projects deemed ineligible as described in Section III, page 23.

**1. SIGNAL SYNCHRONIZATION (Project Code 400)**

**Signal Synchronization projects must meet the following eligibility conditions:**

- Bus priority must be included as an element of the project
- The project arterial must be used by a minimum of ten transit buses, counted bi-directionally, per hour, or five buses hourly in each direction
- Projects may be implemented only on major arterials
- Documentation of coordination with affected public transit operators is required for approval (e.g., correspondence between the Jurisdiction and the transit operator with written concurrence between the transit operator and Metro)
- Local return funds shall not be used to alter system/signal timing that was implemented under a traffic forum project/grant unless coordinated with all affected jurisdictions in the corridor.

If a Local Return funded project is or has an Intelligent Transportation System (ITS) component, it must be consistent with the Regional ITS Architecture. ITS projects must comply with the Countywide ITS Policy and Procedures adopted by the Metro Board including the submittal of a completed, signed self-certification form. Please go to <http://RIITS.net/RegITSDocs.html> and choose "Los Angeles Countywide ITS Policy and Procedures Document" or see Appendix VI (page 45) for information on Countywide ITS Policy and Procedures, and the self-certification form.

**2. FUND EXCHANGE (Project Code 405)**

**Proposition A funds may be given, loaned, or exchanged by Jurisdictions provided that the following conditions are met:**

- Participants are responsible for insuring that the traded funds will be utilized for public transit purposes
- The exchange of funds should not result in a net loss of revenues available for public transit in Los Angeles County (i.e., trade of Proposition A funds for farebox or other transit revenues)
- Traded Proposition A LR funds retain their original date of allocation and lapse date. Jurisdictions submitting Fund Exchange projects shall note the year of allocation on their Form A so that the fund lapse policy may be monitored.



In addition, Jurisdictions shall provide the following detail in submitting Fund Exchange projects for approval:

- Source of funds to be exchanged
- Fund amounts to be exchanged
- Period of exchange
- Assurance that the end use of Proposition A LR funds will be for eligible transit uses
- Provision for circumstances should source of funds (one or both) become unavailable during the exchange period.
- Certification by participating Jurisdictions (e.g. City Council action)

**A sample Fund Exchange Agreement is included in Appendix V page 43.**

**NOTE:** Jurisdictions participating as the “seller” in a Proposition A Fund Exchange projects will, for two years from the date of transaction, be subject to disqualification or reduced project application scores in the Transportation Improvement Program (TIP) Call for Projects.

**3. TRANSPORTATION DEMAND MANAGEMENT (Project Code 410)**

Transportation Demand Management (TDM) projects are defined as strategies/actions intended to influence the manner in which people commute, resulting in a decrease in the number of vehicle trips made and vehicle miles traveled during peak travel periods.

TDM projects funded by Proposition A require a public transit element and will be evaluated on their projected impact on reduction of single-occupancy vehicle trips, corresponding vehicle miles traveled, and potential to increase transit use.

**A list of sample TDM projects follows:**

- Formation and operation of vanpool and/or vanpool incentive programs, including ride matching programs (must be made available to all employers and/or residents within the Jurisdiction boundaries)
- Community-based shuttles for employees as long as such services complement existing transit service
- Parking Management incentive programs, such as, parking cash outs or parking pricing strategies
- Employer or citizen ride-matching programs and subsidies
- Formation or ongoing operation of a Transportation Management Association to administer and market local TDM programs (provided that the 20 administrative cost stipulated for Proposition A and Proposition C is not exceeded)
- Transit and TDM-related activities required by the Congestion Management Program (CMP) including: preparation of TDM ordinances; administration and implementation of transit or TDM-related projects pursuant to CMP deficiency plans; and monitoring of transit standards by transit operators
- Funding Transportation Management Organization's (TMO) insurance costs or individual employer's vanpool programs under the umbrella vehicle insurance policy of the Jurisdiction

- Providing matching funds for LR eligible Safe Routes to School projects.

Jurisdictions are encouraged to adopt monitoring and evaluation performance standards for funding TDM projects. Jurisdictions are encouraged to utilize regionally adopted standards, and demonstrate, for example, how AQMD trip reduction targets are addressed through the TDM measure.

In conformity with regional, state and federal air quality objectives, Metro encourages use of alternative-fuel vehicles (e.g. LNG, CNG, Methanol) for any TDM-related shuttle, vanpool or paratransit vehicles.

If a Local Return funded project is or has an Intelligent Transportation System (ITS) component, it must be consistent with the Regional ITS Architecture. ITS projects must comply with the Countywide ITS Policy and Procedures adopted by the Metro Board including the submittal of a completed, signed self-certification form. Please go to <http://RIITS.net/RegITSDocs.html> and choose “Los Angeles Countywide ITS Policy and Procedures Document” or see Appendix VI (page 45) for information on Countywide ITS Policy and Procedures, and the self-certification form.

**C. EXCLUSIVE USES OF PROPOSITION C FUNDS**

**Projects listed below are eligible for Proposition C LR funding only.** Jurisdictions must certify that all project conditions will be met and include all supporting documents with submittal of the Form A. Jurisdictions are encouraged to use LR funds for improved public transit services and for multi-jurisdictional cooperation of arterial traffic signal control operations. Agency costs for operating a centralized traffic signal system, including those costs linked to a local agency’s participation in the countywide Information Exchange Network (IEN), are now eligible for reimbursement. Stand alone amenities such as landscaping and storm drains are ineligible. Note: The following project eligibility criteria provide for general guidance only and are not the sole determinant for project approval. The authority to determine the eligibility of an expenditure rests solely with Metro. Jurisdictions may appeal projects deemed ineligible as described in Section III, page 23.

**1. SIGNAL SYNCHRONIZATION & TRAFFIC MANAGEMENT (Project Code 400)**

**Synchronized Signalization projects must meet the following conditions:**

- Projects shall be implemented only on major arterials.
- Operation costs associated with centralized traffic signal control systems, including updating traffic signal coordination timing and costs associated with multi-jurisdictional or inter-community systems, (such as the IEN or ATSAC/ATCS) or with transit signal priority systems, are eligible. Costs may include: lease lines for communication; software licenses and maintenance; hardware maintenance, maintenance and repair of hardware, vehicle detection devices and interconnect lines; warranties; and upgrades and enhancements for software or hardware. Cities shall coordinate the signal timing or systems with other affected jurisdictions.

- The major arterial targeted for implementation must have full-sized transit buses operating on regularly scheduled fixed routes.
- Documentation of coordination with affected public transit operators is required for approval (e.g., correspondence between the Jurisdiction and the transit operator with written concurrence from the transit operator to Metro)
- Local return funds shall not be used to alter system/signal timing that was implemented under a traffic forum project/grant unless coordinated with all affected jurisdictions in the corridor.

**Installation or modification of traffic signals which are not part of a larger transit project are not eligible, except as detailed in this section.** Maintenance and replacement of traffic signals are not eligible.

Traffic signal projects will be reviewed and considered on a case by case basis to evaluate the transit benefit of the project. The following information may be requested and evaluated, depending on the type of traffic signal project:

- Number of transit boardings at the affected transit stop or station
- Transit patrons as a proportion of pedestrian volume
- Transit vehicles as a proportion of vehicle flow
- Letter from affected transit operator requesting and justifying traffic signal installation or modification
- Proximity of proposed signal to transit stop or station
- The affected transit stop(s) must be served by transit with 15 minute or greater frequency to be eligible.
- Proximity to adjacent controlled intersection

Based on the review, all or a proportion of the project costs may be eligible for Local Return funds.

If a Local Return funded project is or has an Intelligent Transportation System (ITS) component, it must be consistent with the Regional ITS Architecture. ITS projects must comply with the Countywide ITS Policy and Procedures adopted by the Metro Board including the submittal of a completed, signed self-certification form. Please go to <http://RIITS.net/RegITSDocs.html> and choose ‘Los Angeles Countywide ITS Policy and Procedures Document’ or see Appendix VI (page 45) for information on Countywide ITS Policy and Procedures, and the self-certification form.

## **2. TRANSPORTATION DEMAND MANAGEMENT (Project Code 410)**

Transportation Demand Management (TDM) projects are defined as strategies/actions intended to influence the manner in which people commute, resulting in a decrease in the number of vehicle trips made and vehicle miles traveled during peak travel periods.

TDM projects funded by Proposition C will be evaluated on their proposed impact on reduction of single-occupancy vehicle trips and corresponding vehicle miles traveled.

**A list of sample TDM projects follows:**

- Formation and operation of vanpool and/or vanpool incentive programs, including ride matching programs (must be made available to all employers and/or residents within the Jurisdiction boundaries)
- Community-based shuttles for employees as long as such services complement existing transit service
- Parking Management incentive programs, such as, parking cash outs or parking pricing strategies
- Employer or citizen ride-matching programs and subsidies
- Formation or ongoing operation of a Transportation Management Association to administer and market local TDM programs (provided that the 20% administrative cost stipulated for Proposition A and Proposition C is not exceeded)
- Transit and TDM-related activities required by the Congestion Management Program (CMP) including: preparation of TDM ordinances; administration and implementation of transit or TDM-related projects pursuant to CMP deficiency plans; and monitoring of transit standards by transit operators
- Funding Transportation Management Organization's (TMO) insurance costs or individual employer's vanpool programs under the umbrella vehicle insurance policy of the Jurisdiction
- Providing matching funds for LR eligible Safe Routes to School projects.

Jurisdictions are encouraged to adopt monitoring and evaluation performance standards for funding TDM projects. Jurisdictions are encouraged to utilize regionally adopted standards, and demonstrate, for example, how AQMD trip reduction targets are addressed through the TDM measure.

In conformity with regional, state and federal air quality objectives, Metro encourages use of alternative-fuel vehicles (e.g. LNG, CNG, Methanol) for any TDM-related shuttle, vanpool or paratransit vehicles.

If a Local Return funded project is or has an Intelligent Transportation System (ITS) component, it must be consistent with the Regional ITS Architecture. ITS projects must comply with the Countywide ITS Policy and Procedures adopted by the Metro Board including the submittal of a completed, signed self-certification form. Please go to <http://RIITS.net/RegITSDocs.html> and choose "Los Angeles Countywide ITS Policy and Procedures Document" or see Appendix VI (page 45) for information on Countywide ITS Policy and Procedures, and the self-certification form.

**3. CONGESTION MANAGEMENT PROGRAM (CMP) (Project Code 420)**

**The following provides a list of sample CMP projects:**

- Land use analysis as required by CMP
- Computer modeling as required to support CMP land use analysis
- Administration, monitoring and implementation of transit- or TDM-related projects as part of deficiency plans
- Monitoring of transit standards by transit operators

4. **BIKEWAYS AND BIKE LANES (Project Code 430)**

**Bikeway projects include bikeway construction and maintenance, signage, information/safety programs, and bicycle parking, and must meet the following conditions:**

- Shall be linked to employment or educational sites
- Shall be used for commuting or utilitarian trips
- Jurisdictions must have submitted a PMS Self Certification (see page 20, and Appendix III on page 39).

5. **STREET IMPROVEMENT AND MAINTENANCE (Codes 440, 450 & 460)**

Proposition C Local Return funds are to be used for the maintenance and improvements to street and highways used as public transit thoroughfares. Street Improvement and Maintenance Projects Capacity enhancements include repair and maintenance projects with a direct benefit to transit. **Projects must meet the following conditions and reporting requirements:**

A. **CONDITIONS:**

**Public Transit Benefit**

Projects must demonstrate a public transit benefit or be performed on streets “heavily used by public transit,” where such streets carry regularly-scheduled, fixed-route public transit service, and where service has operated for a minimum of one (1) year and there are no foreseeable plans to discontinue such service.

If there are no fixed-route systems within a Jurisdiction, or if all the streets supporting fixed-route systems are already in a satisfactory condition as documented by the required Pavement Management System (PMS), a Jurisdiction may use LR funds for street improvements and maintenance and repair on streets within their community on which they can demonstrate that public paratransit trips, that have been in service for a minimum of one year, concentrate.

The method of demonstrating heavy-use by paratransit vehicles is to document trip pick-up and drop-off locations, including street-routing, for a consecutive three month time period. The data will be used in making a determination on which street segments have heavy-use by this form of transit.

**Pavement Management System (PMS)**

If Proposition C LR funds are to be used for street improvement or maintenance, a jurisdiction must have a PMS in place, and use it. (See PMS code 470 for self certification requirements, page 20).

**Maintenance of Effort (MOE) Requirement**

The goal of the Proposition C LR Program is to improve transportation conditions, including the roadways upon which public transit operates. When used to improve roadways, the additional funds provided to local jurisdictions through the Proposition C LR Program are intended to supplement existing local revenues being used for road improvement purposes. Cities and counties shall maintain their existing commitment of local, discretionary funds for street and

highway maintenance, rehabilitation, reconstruction, and storm damage repair in order to remain eligible for Proposition C LR funds to be expended for streets and roads.

Metro will accept the State Controller's finding of a Jurisdiction's compliance with the California Streets and Highways Code as sufficient to demonstrate the required Maintenance of Effort during any fiscal year in which Proposition C LR funds are expended for streets and roads.

## **B. REPORTING REQUIREMENTS**

Street maintenance, rehabilitation or reconstruction projects should be submitted individually. Jurisdictions shall submit a Project Description Form listing all new project street segments prior to undertaking each street maintenance or improvement project. Jurisdictions will be advised as to any eligible and ineligible street segments within 30 days of project submittal.

The projects must be reflected on subsequent Annual Project Update (Form B) submittals and Annual Expenditure Reports (Form C) until the project is completed or deleted from the work program. Once deleted, a segment must be re-submitted for approval if a new street maintenance project on the segment is subsequently planned.

### **Eligible Street Improvement and Maintenance Projects**

#### **1. Exclusive Bus Lane Street Widening**

Such projects are for exclusive bus lanes (physically separated) on surface arterials.

#### **2. Capacity Enhancement**

Capacity Enhancement projects are level-of-service and/or capacity improvements capital projects. These projects must include a public transit element that is comprised of transit vehicles on streets that are "heavily used by transit." Examples of these projects include street widening or restriping to add additional lanes.

#### **3. Street Repair and Maintenance**

Eligible Street Repair and Maintenance projects are limited to pavement maintenance, slurry seals, and chip seals, pavement rehabilitation and roadway reconstruction. Required curb, gutter, and catch basin repair (storm drains) on streets "heavily used by transit" that are part of a rehabilitation or reconstruction project are eligible. Betterments are not eligible for LR funding.

#### **4. Safety**

Street improvement projects to increase safety are eligible, but must have a direct and clearly demonstrable benefit to both safety and transit. At Metro's discretion, a project may be approved on a down-scoped demonstration basis. The local jurisdiction would be required to conduct a before and after evaluation prior to Metro approval of the full project scope.

5. Americans with Disabilities Act Related Street Improvements

In compliance with the Americans with Disabilities Act (ADA), the provision of curb cuts or passenger boarding/alighting concrete pads at or adjacent to bus stops and other accessible improvements on roadways “heavily used by transit” is an eligible use of Proposition C LR funds. Such modifications must meet ADA and California Title 24 specifications.

7. PAVEMENT MANAGEMENT SYSTEM (PMS) (Project Code 470)

**Sample Pavement Management System projects include:**

- Cost to purchase, upgrade or replace a Pavement Management System.
- The ongoing cost of maintaining a PMS equal to the proportion of a Jurisdiction’s eligible street mileage to total street mileage; or 50% of the PMS maintenance cost, whichever is greater.

**Note:** Jurisdictions are required to certify that they have conducted and maintain Pavement Management Systems when proposing "Street Repair and Maintenance" or "Bikeway" projects (see Appendix III, page 39). The requirement for a PMS is consistent with Streets & Highways Code Section 2108.1.

**PMS must include the following:**

- Inventory of existing pavements including, as a minimum, arterial and collector routes, reviewed and updated triennially;
- Inventory of existing Class I bikeways, reviewed and updated triennially;
- Assessment of pavement condition including, as a minimum, arterial and collector routes, reviewed and updated triennially;
- Identification of all pavement sections needing rehabilitation/replacement; and
- Determination of budget needs for rehabilitation or replacement of deficient sections of pavement for current and following triennial period(s)

Self-certifications (included in Appendix III) executed by the Jurisdiction’s Engineer or designated, registered civil engineer, must be submitted with a Form A for new street maintenance or bikeway projects, or Form B (biannually) for ongoing projects, to satisfy “Street Repair and Maintenance” and “Bikeway” project eligibility criteria.

### **III. METRO'S ADMINISTRATIVE PROCESS**

#### **A. REPORTING REQUIREMENTS FOR JURISDICTIONS**

##### **STANDARD ASSURANCES**

In the event that a new Jurisdiction is formed within Los Angeles County, Metro will require that a Standard Assurances and Understanding agreement be submitted prior to participation in the LR Program. A sample Standard Assurance and Understanding agreement form is included as Appendix II, see page 37.

##### **PROPOSITION A AND PROPOSITION C FORMS**

To maintain legal eligibility and meet LR Program compliance requirements, Jurisdictions shall submit to Metro a Project Description Form as required, an Annual Project Update and Annual Expenditure Report. A Project Description Form, Annual Project Update and Annual Expenditure Report (Forms A, B and C along with instructions) are included in Appendix VIII, starting on page 49.

##### **PROJECT DESCRIPTION FORM (FORM A)**

A new project that meets the eligibility criteria listed in Section II, Project Eligibility, must be submitted to Metro on Project Description Form (Form A) prior to the expenditure of funds. Metro will review the project to determine if it meets the statutory eligibility requirement and notify Jurisdictions of the project's LR funding eligibility. If a Jurisdiction expends Proposition A or Proposition C LR funds for a project prior to Metro approval, the Jurisdiction will be required to reimburse its LR Account. Additionally, approvals cannot be retroactive.

A Project Description Form (Form A) may be submitted any time during the fiscal year. Metro will review and accept or return the report for changes. All projects must be identified with their own unique sequence and project code, e.g. 01-200, and the form must be filled out completely. Once a Jurisdiction decides to proceed on a new or revised project, the Jurisdiction should comply with the following process before expending any funds:

##### **STEP 1 - Form Submittal**

A Project Description Form (Form A) shall be submitted whenever a Jurisdiction proposes a 1) a new project; 2) a new route; 3) a 25 percent or more (increase or decrease) in route or revenue vehicle miles for an established LR funded transit service); 4) a 25 percent or greater change in an approved LR project budget or scope, or 5) a service change that duplicates/overlays an existing transit service equal to or greater than .75 miles.

A change is defined as any modification to route, budget, service area, stops, frequency, fare or clientele for the project as originally approved or subsequently approved by Metro.

**NOTE:** a.) All new transit or paratransit service projects, existing services with a change of 25% or more (increase or decrease), or cancellation of services, are subject to review under the Service Coordination Process (as described on page 24).



- b.) If transit service is canceled, Jurisdictions should notify Metro in writing, secure review by the Service Review Process, and inform the public.

**STEP 2**

Metro staff will review Form A to determine if the project is eligible for LR expenditure.

**STEP 3**

After it is determined that the project is eligible, Metro staff will notify Jurisdictions in writing authorizing the expenditure of the LR funds. This will be done within thirty days of receipt of Form A. However, if additional information/justification for the project is required, it may take longer for the approval.

**STEP 4**

Form A will be used as the basis for a Jurisdiction's annual compliance audit required under the LR Program. Records should be maintained as stated in Audit Section V, page 33.

**ANNUAL PROJECT UPDATE (FORM B)**

Jurisdictions shall submit on or before August 1 of each fiscal year an Annual Project Update (Form B) to provide Metro with an update of *all* approved, on-going and carryover LR projects. Jurisdictions will be informed in writing of approval for project continuance. Metro will review the report and accept or return the report for changes. Staff review will consist of verification that the status of the projects listed corresponds to the originally approved projects. All projects should have their own identifying code, e.g. 01-200.

Projects for service operations whose anticipated start-up date is in the middle of the fiscal year, should be budgeted for services through the end of the fiscal year only. After the first year of service operations, project updates should be submitted annually, by August 1 of the new fiscal year.

**ANNUAL EXPENDITURE REPORT (FORM C)**

On or before October 15 of each fiscal year, Jurisdictions shall submit an Annual Expenditure Report (Form C) to notify Metro of previous year LR fund receipts and expenditures. Metro will review the report and approve or return for changes.

For Jurisdictions with Recreational Transit projects, Jurisdictions are required to annually submit an accounting of Recreational Transit trips, destinations and costs. This information should be submitted along with the Form C, no later than October 15 after the fiscal year.

Jurisdictions are required to call out administration charges to Direct Administration (Project Code 480) in order to verify compliance of 20% cap on administration costs.

The following provides a summary of form use and due dates:

<u>FORM</u>	<u>DETERMINATION</u>	<u>DUE DATE</u>
Project Description Form - Form A	New and amended projects	Any time during the year
Annual Project Update - Form B	All on-going and/or capital (carryover) projects	August 1 <sup>st</sup> of each year
Annual Expenditure Report - Form C	Report expenditures	October 15 <sup>th</sup> of each year

**B. APPEAL OF ELIGIBILITY**

Jurisdictions submitting a project, which has been classified by Metro staff as ineligible, may appeal the determination. An appeal should be submitted in writing to the Chief Planning Officer of Countywide Planning & Development. The project will then be reviewed for eligibility.

Should the project be denied eligibility status by the Chief Planning Officer, a final appeal may be submitted in writing to the Chief Executive Officer. The project will then come before the Metro Board for final determination of eligibility.

The appeal process is administered as a Board Public Hearing by the Board Secretary's office at the regularly scheduled Planning and Programming meetings. The Board has the authority to act on the transcript of the Hearing or to conduct its own hearing. The Metro Board decision is final.

Once the determination is final (either by an administrative determination that is not appealed within the 10-day statute of limitations, or as a result of the appeal process), Metro staff will send a notice of final determination of project eligibility to the Jurisdiction with conditions described or attached.

**C. GOVERNING BODY AUTHORIZATION**

While Metro does not require Jurisdictions to file a governing body authorization when submitting LR Forms (e.g., a city resolution or minute order), it is the responsibility of the Jurisdiction to keep these documents on file for audit purposes.

**D. ENVIRONMENTAL REVIEW RESPONSIBILITY**

Jurisdictions are the lead agencies for the projects with which they propose to implement using LR funds. Therefore, those agencies are responsible for preparing the necessary state and/or federal environmental documentation, and must comply with all applicable provisions of the California Environmental Quality Act, or if federal funds are involved, the National Environmental Policy Act.

**E. PROJECT DESCRIPTION FORMS AND THE PROPOSITION A AND PROPOSITION C 40% DISCRETIONARY PROGRAM**

If a Jurisdiction submits a project description for operating assistance for an included transit operator, the amount of operating assistance applied for will be considered as an operating subsidy in the fiscal year specified in Forms A or B. The full LR operating assistance amount shown in Form A or B will be considered when determining the eligible Proposition A or C Discretionary grant amount in accordance with the Proposition A and Proposition C 40% Discretionary Program Guidelines. Any changes must be approved prior to the close of the specific fiscal year. No changes will be approved after November 1 of the following fiscal year (e.g., changes in FY 2006-2007 projects must be received by Metro prior to November 1, 2007 to allow adequate time for staff review).

In addition, depreciation is not an eligible operating expense for which LR funds can be allocated, committed, encumbered, or claimed.

F. ANNUAL PROJECT UPDATE SUBMITTALS BY RECIPIENTS OF METRO FORMULA FUNDS

Jurisdictions with municipal bus operations receiving Metro formula funds (e.g. TDA Article 4, FTA Section 5307 and State Transit Assistance funds) should submit projects with the regular Transportation Improvement Program (TIP) and TIP-amendment cycle to facilitate processing and coordination. Other Jurisdictions may submit Project Description Forms at any time. LR projects and revenue may be shown in the Los Angeles County TIP for information purposes.

G. OTHER RESPONSIBILITIES OF JURISDICTIONS

It is the responsibility of Jurisdictions to ensure that all applicable federal, state and local requirements are met with regard to public health and safety, affirmative action, fair labor practices, transit accessibility to disabled persons, etc. Metro has no responsibilities in these areas with regard to local transit projects carried out by Jurisdictions receiving Proposition A or C revenues.

H. AMERICANS WITH DISABILITIES ACT MAINTENANCE OF EFFORT (MOE)

Metro will continue to monitor the operations of LR funded paratransit services to ensure that ADA paratransit-eligible riders continue to receive non-discriminatory transportation service on local paratransit systems pursuant to ADA and TDA. If Metro determines that ADA paratransit-eligible individuals are disproportionately being denied service, Metro will work with the LR funded agency to resolve the issue, up to and including a Maintenance of Effort.

Jurisdictions that currently provide paratransit service are required to continue to provide either ADA-eligible individual transportation service, or fund transportation trips that are completely within their jurisdictional boundaries, when requested. This obligation may not exceed 20 percent of the total LR allocation to the jurisdiction. If no requests for service within the jurisdiction are received, there will be no obligation to provide service or funding.

To better determine the accessibility of pathways to and from bus stops in Los Angeles County, all jurisdictions and the County of Los Angeles are requested to submit their projects on the Project Description Form (Form A) indicating what accessible features are being updated. Examples include curb cuts, installation or repair of pedestrian walkways, bus pads, and/or removal of sidewalk barriers (telephone poles, light poles, and other barriers). This form shall be submitted as required under these Guidelines.

I. SERVICE COORDINATION PROCESS

If a Jurisdiction is proposing to use LR funds for a new or expanded paratransit or transit service project, it is required to comply with the following Service Coordination Process:

The Service Coordination Process has four principal steps: Early Consultation by the proposing Jurisdiction with Metro Operations, and Contract Departments as the service is being developed at a local level; Proposition A or Proposition C LR eligibility review; service coordination administrative review; Metro Board Appeal Process to review the administrative determination, if requested. The following instructions should assist Jurisdictions in completing the service coordination review process:

Under the Proposition A and Proposition C Ordinances, transit services provided by Jurisdictions with LR funds should not duplicate existing transit or paratransit services.

The Proposition A and Proposition C LR Guidelines require Jurisdictions to follow the service coordination process under the following conditions: when a new service is proposed or when current service is modified by expanding service by 25 percent (increase or decrease) in route miles, revenue vehicle miles, service areas, stops, frequency or fare; when a proposed new route or change duplicates an existing route for 0.75 miles or more; or if a service is canceled.

#### 1. **Implementing A Proposed New or Modified Transit or Paratransit Service**

When implementing a new or modified transit service or paratransit service project Jurisdictions should comply with the following process:

- a. **Prior to Submittal of the Project Description Form** -- Metro encourages Jurisdictions to work closely with Programming and Policy Analysis staff and Metro's Operations Unit (Sector General Managers and Deputy Executive Officer of Service Development) when a service project is being developed, in order to avoid or reduce service duplication impacts.
- b. **Submitting a Project Description Form** -- Similar to other LR projects, Jurisdictions are required to submit a Form A describing the new or modified service.
- c. **Letter of Conditional Approval Will Be Sent to Jurisdictions** -- After Metro Operations staffs have reviewed Form A, a letter of conditional approval is sent to Jurisdictions, subject to Metro Service Development Team review. This letter is then forwarded with a recommendation to the ***Service Development Team***, to potentially affected Jurisdictions and transit operators, with the Form A and any route maps, service schedules and fare information provided by the proposing Jurisdiction.
- d. **Role of Service Development Team** – Metro Service Development Team is an executive level committee that is chaired by Metro Chief Executive Officer (CEO). This committee reviews key issues concerning agency transportation and planning projects. The Service Development Team will use the following criteria for evaluating the impacts of new or expanded services funded:
  - Potential for passenger and revenue diversion from the existing transit services, resulting from service duplication, to the proposed new or expanded service
  - Operational considerations such as available street capacity, bus zone curb space, street configuration and traffic congestion
  - Type of service and/or markets served by the new service, compared to existing services in the area
  - Early coordination and project development with existing service providers and Jurisdictions (efforts beyond the minimum 60 days)Metro will encourage fare coordination and connectivity with other interfacing transit operators.
- e. **Letter of Final Approval or Disapproval** -- Based on the evaluation criteria, the Service Development Team will either grant approval or deny a Jurisdiction's request. The Committee will notify the Jurisdiction of the outcome.
- f. **Board Appeal Process** -- If the project is disapproved, the Jurisdiction may file an appeal. See Appeal of Eligibility, page 23.

2. **Seasonal or Emergency Temporary Service**

Seasonal service lasting less than 60 days will be administratively reviewed and considered for approval without Metro Board review, unless an Metro Board action is specifically requested. In the event of an emergency, staff reserves the right to temporarily waive the service coordination requirements. Any projects begun under emergency waiver conditions must undergo the New Service Coordination review process within 60 days after the emergency has ended, in order to continue to be eligible for expenditure of LR funds. Seasonal or emergency services are not considered ongoing projects. Equipment purchased during the emergency waiver period will not be subject to prior approval. Emergency service may continue during the subsequent New Service Review process.

3. **Contracting With Other Service Providers**

Jurisdictions may use their LR funds to contract with other public or private service providers for new or improved transit services, subject to non-duplication/competition requirements.

J. **CAPITAL RESERVE PROCESS - APPROVAL PROCEDURE**

Jurisdictions who wish to establish a Capital Reserve fund with LR revenues should note that establishing a Capital Reserve fund constitutes a long term financial and planning commitment. The approval procedure is as follows:

- a. The Project Description *Form (Form A)*, submitted by the Jurisdiction, must be reviewed by Metro staff and approved by Metro Board;
- b. If the project is approved, the Jurisdiction is required to:
  - Enter into a Capital Reserve Agreement (see sample in Appendix IV, page 40) with Metro to reserve funds
  - Establish a separate account, or a sub-account, for Capital Reserve funds. Any interest accrued on the Capital Reserve Account would remain in said account
  - Include the Capital Reserve amount and the current project status in their Project Annual Update (Form B) and on the Annual Expenditures Report (Form C, including any expenditures or interest accrued.
- c. Conditions of the Capital Reserve Agreement:
  - The annual audit will include a detailed audit of the jurisdiction's capital reserve account.
  - Every three (3) years, Metro must evaluate the Capital Reserve Account as it pertains to the status of the project; and the projected amount of funds available.
  - If the funds are expended for projects other than the originally-approved capital project, the jurisdiction must pay the funds back to Metro.
  - If the capital project is not completed within the time specified under the terms of the Capital Reserve Agreement, its funds will be subject to lapse. However, if the project is delayed, Jurisdictions should request in writing to Metro approval to extend the life of the reserve. Such projects will be reviewed on a case-by-case basis.
  - For rail projects, if it is decided by Metro that the Rail corridor is no longer a high priority, the agreement will be terminated and the Jurisdiction must:
    1. Dissolve the Capital Reserve fund and return the accumulated funds, including any interest earned, to the Jurisdiction's LR fund; and

2. Reprogram the funds, within the next three (3) years from the Agreement termination date (see Appendix IV for Sample Agreement, page 40). While the Jurisdiction is not required to expend all of the funds within these three years, Metro reserves the right to impose a reasonable limit on the period of expenditure for reprogrammed funds.
  - If there is action by Metro to suspend a rail project, the Jurisdiction may continue to hold onto the reserve until such time the project is reinstated as active or terminated.
  - If, at any time a Jurisdiction, independent of any Metro action, desires to reprogram all or part of the funds in the Capital Reserve Account, the Jurisdiction must indicate the proposed use of the accumulated funds to be reprogrammed, and receive Metro approval.
  - If, at any time either party decides to terminate the Capital Reserve Project, a letter shall be submitted giving 30 days notice of the termination.
  - If the Capital Reserve Project is terminated, the Timely Use of Funds period on the lapsing date of the reserved funds will be reviewed and determined by the audit.
- d. Metro approval for reprogramming funds will be based on the following:
  - If after exhausting all LR funds, additional funds are necessary to meet critical immediate or pending transit needs
  - If the reprogramming request is approved, the agreement between Metro and the Jurisdiction will be either terminated or amended accordingly
  - If the reprogramming request is disapproved, the Jurisdiction would be required to continue the capital reserve account as stipulated or apply to draw the fund down for another Metro approved capital-related project.

K. FUND EXCHANGE

Only Proposition A funds may be exchanged or traded. Refer to page 13 for conditions.

L. LOANING LR FUNDS BETWEEN JURISDICTIONS (FOR PROPOSITION A ONLY)

In order to meet short-term project needs while preserving longer-term reserves or to avoid loss of funds due to the timely-use provisions, the Jurisdictions may arrange a mutually acceptable temporary transfer or loan from one Jurisdiction to another. These loans are to be made on terms to be negotiated between the involved parties. The participating Jurisdictions are held mutually responsible for ensuring that the end use of Proposition A is for statutorily-allowed purposes. The timely use provision as indicated on page 30 will apply to loaning of such funds. Metro must be notified of the amount, terms and period of such arrangements within thirty days of such arrangements.

Note: Metro reserves the right to temporarily reallocate funds. Any temporary reallocation would be subject to full review by the Planning and Programming Committee and approved by Metro Board.

M. GIVING PROPOSITION C LR FUNDS TO ANOTHER JURISDICTION

Since the Proposition C Ordinance does not allow trades or exchanges of these funds, a Jurisdiction can give its Proposition C funds to another Jurisdiction for the implementation of a mutual project. However, the Jurisdiction giving the funds away cannot accept an exchange or gift of any kind in return. Jurisdictions involved in giving funds should obtain Metro approval and keep official agreements on file.

N. REIMBURSEMENT

LR funds may be advanced for other grant funds as long as the project itself is eligible under LR Guidelines. The grant funds must be reimbursed to the LR fund.

IV. FINANCE SECTION

A. METRO'S METHOD OF APPORTIONMENT

The Proposition A Ordinance specifies that twenty-five percent (25%) of all Proposition A revenues, while the Proposition C Ordinance specifies that twenty percent (20%) of all Proposition C revenues, are to be allocated to Jurisdictions for local transit on a "per capita" basis. The annual estimate of Proposition A and Proposition C revenues will be derived by Metro staff based on projections by the State Board of Equalization.

After administrative costs of the Proposition A and Proposition C Programs are deducted, apportionments are made to all Jurisdiction within Los Angeles County, currently 88 cities and the County of Los Angeles (for unincorporated areas), on the basis of population. These population shares are based on the projected populations derived from annual estimates made by the California State Department of Finance.

B. METRO'S FUND DISBURSEMENT

The Proposition A and Proposition C funds are disbursed by Metro on a monthly basis. The disbursements to an individual Jurisdiction will equal that Jurisdiction's population-based share of actual net receipts for the month.

C. ACCOUNTING FOR PROPOSITION A AND PROPOSITION C REVENUES AND EXPENDITURES BY JURISDICTIONS

1. ESTABLISHING A SEPARATE ACCOUNT

Jurisdictions which do not use the State Controller's Uniform System of Accounts and Records must establish a separate Proposition A and Proposition C Local Transit Assistance Account and deposit all Proposition A and Proposition C LR revenues, interest earnings received, and other income earned from Proposition A and Proposition C LR in that account.

In accordance with the State Controller's instructions, Jurisdictions which use the Controller's Uniform System do not need to establish a separate Proposition A and Proposition C Local Transit Assistance Account but will list all Proposition A and Proposition C revenues (including interest) and expenditures as special line items in the Uniform System. In any case, all Jurisdictions will be required to account for and identify all Proposition A and Proposition C receipts, interest, and expenditures. This will enable financial and compliance audits to be conducted in an organized and timely fashion. Sufficient unrestricted cash or cash equivalent must be available at all times to meet the needs of general Jurisdiction operations without impairment of the Proposition A and Proposition C Local Transit Assistance Accounts.

2. EXCEPTIONS FOR RECIPIENTS OF TDA ARTICLE 4 FUNDS

A separate account or fund is not mandatory when Proposition A and Proposition C LR funds are accounted for in an enterprise fund and are exclusively used as transit operating subsidies as long as the Jurisdiction/operator is able to maintain accounting records. These records should allow for the preparation of financial statements, which present assets, liabilities, revenues, expenditures (if any) and transfers out. While it is necessary that Proposition A and Proposition C Program recipients be able to demonstrate that they have complied with applicable guidelines in expending Proposition A and Proposition C funds as operating subsidies, it is not necessary that such expenditures be separately identifiable for audit purposes.

3. POOLING OF FUNDS

Metro will allow Jurisdictions to pool Proposition A and Proposition C LR funds in order to obtain maximum return on investments. Such investment earnings must be reported and expended consistent with these guidelines. As in fund exchanges or transfers, Jurisdictions involved in such arrangements should keep adequate records of such transactions in order to allow for subsequent audits.

4. INTEREST AND OTHER EARNED INCOME

Jurisdictions are entitled to retain any and all interest revenues, which they may earn on their Proposition A, and Proposition C revenues. Other income earned from Proposition A and Proposition C projects such as fare revenues, revenue from advertising, etc., may also be retained by Jurisdictions in their LR accounts. Such earnings must be reported and expended consistent with these guidelines. Jurisdictions must maintain accurate records for the amount of interest earned each year. Interest must be allocated to the Local Transit Assistance Account on an annual basis, and reported as part of the annual audit.

5. PROJECT REVENUE

The Jurisdictions need only report project-generated revenues, such as fares, when such revenues are retained and recorded by the Jurisdiction. Revenues should be reported on the accrual basis.

6. INTER-FUND TRANSFERS

On an accrual basis of accounting, Jurisdictions should make note of the following: expenditures for an approved project, which are made from a fund other than the Proposition A or Proposition C LR fund and will be reimbursed by Proposition A and Proposition C LR funds, should be included in the Annual Expenditure Report to Metro in the period such expenditures are made and not in the period in which the disbursing fund is reimbursed for such expenditures.

7. UNEXPENDED PROJECT FUNDS

All unexpended project funds remaining upon completion of an approved project must be re-programmed.



8. ONGOING OPERATING PROJECTS

Continuing administration, transit or paratransit projects, are ongoing projects. Such projects which have unexpended funds at the year end (excluding any outstanding liabilities) may not carry fund balances into the next fiscal year. Ongoing projects must be resubmitted on an annual basis (see Annual Project Update on page 22).

9. CARRYOVER CAPITAL PROJECTS

All other types of projects not cited above which 1) are not completed within the applied fiscal year and 2) have unexpended funds (i.e., fund balance), may be carried into the next fiscal year without resubmitting a project description. However, until completed, such projects must continue to be reported in the Annual Project Update and Annual Expenditure Report (Forms B and C).

10. REIMBURSEMENT

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 LR Guidelines. **The reimbursement must be returned to the appropriate Proposition A or Proposition C LR fund.**

D. NON-SUBSTITUTION OF FUNDS

1. Proposition A and Proposition C revenues should only be used to maintain and/or improve public transit services. They may not be used to substitute for property tax revenues, which are currently funding existing programs. If the Jurisdiction is unable to segregate property tax from other general fund revenues which cannot be so distinguished, substitution of Proposition A and Proposition C funds for general funds is also prohibited.
2. Jurisdictions which currently receive federal and/or state transit-assistance funds may use Proposition A and Proposition C revenues to replace or supplement any other state, federal, or local transit funds, as long as there is no relation to the property tax (as noted above).
3. Metro Staff reserves the right to bring project proposals involving the substitution of funds before Metro Board.

E. TIMELY USE OF FUNDS

1. PROPOSITION A AND PROPOSITION C FUNDS

Under the Proposition A and Proposition C Ordinances, Jurisdictions have three years to expend LR funds. Funds must be expended within three years of the last day of the fiscal year in which funds were originally allocated. Therefore, by method of calculation, each Jurisdiction has the Fiscal Year of allocation plus three years to expend Proposition A and/or Proposition C funds. For example, a Jurisdiction receiving funds during FY 2004-05 must expend those funds, and any interest or other income earned from Proposition A and Proposition C projects, by June 30, 2008.

Proposition A and Proposition C disbursements, interest income and other income earned from LR projects, such as fare revenues or revenues from advertising which are not expended within the allocated time will be returned to Metro for reallocation to Jurisdictions for discretionary programs of county-wide significance.

2. DETERMINING COMPLIANCE WITH TIMELY USE PROVISION

In applying the timely use provision, Metro will use a "First-In-First-Out" (FIFO) accounting principle, to afford Jurisdictions maximum time to expend funds. For example, City A had a fund balance of \$1,000,000 as of June 30, 2004. In order to avoid lapsing LR funds, City A must expend a total of \$1,000,000 or more from its LR funds during Fiscal Years 2004-05, 2005-06 and 2006-07. This calculation will be done individually for Proposition A and Proposition C funds.

3. EXTENSION OF TIMELY USE PROVISION

Metro will allow Jurisdictions to reserve funds for multi-year capital projects. A specific project must be identified under the Capital Reserve Process. See Capital Reserve Process, page 26.

F. RELATIONSHIP TO TDA ENTRY AND FORMULA DISTRIBUTION

Provision of transit services with LR funds will not qualify Jurisdictions for Transit Development Act (TDA) funding programs. In addition, mileage will not be counted in Metro's subsidy allocation formula for TDA operators.

G. NATIONAL TRANSIT DATABASE (NTD)

Locally funded transit systems are encouraged to report NTD data, either directly to the Federal Transit Administration (FTA), or through Metro's consolidated NTD report. Examples of locally funded transit systems include community based fixed route circulators, community shuttles, Metrolink feeder services and other rail station and neighborhood shuttles (Code 110). Also included are locally funded paratransit, dial-a-ride and demand response services, including taxi voucher and specialized transportation programs (Codes 120, 130).

Benefits of increased NTD reporting include additional Federal Section 5307 capital funds for the LA County region, and improved data collection for regional transportation planning purposes. At this time, NTD reporting is voluntary for locally funded operators. The Proposition A Incentive Guidelines, as adopted by Metro Board, provide a mechanism to reimburse voluntary reporters dollar-for-dollar for additional funds generated to the LA County region, subject to funds availability.

H. REPAYMENT OF FUNDS FOR FIXED ASSETS PURCHASES

If a facility ceases to be used for public transit use as originally stated in the project description, all Proposition A and Proposition C funds expended for the project must be returned to the Proposition A and Proposition C LR accounts.

General guidelines for repayment are as follows:

Land: Repayment of purchase price or appraised value, whichever is greater.

Facilities: 100% repayment of Proposition A and Proposition C LR funds if discontinuation of public transit use occurs between 0-5 years.

75% if discontinuation occurs in more than 5 years but less than 10 years.

50% if discontinuation occurs in more than 10 years but less than 15 years.

25% if discontinuation occurs in more than 15 years.

Repayment must be made no later than five years after the decision is made to cease utilizing the project as a public transit facility. Payback may be made in one lump sum or on an annual equal payment schedule over a five-year period.

Vehicles: Jurisdictions that cease to utilize vehicles for "public transit" purposes before their useful life, will be required to repay the funds into their Proposition A and Proposition C LR accounts in proportion to the useful life remaining. Federal standards for useful life will apply.

Repayment will be made in the same fiscal year as the vehicles ceased to be used for "public transit" purposes.

**V. AUDIT SECTION**

A financial and compliance audit will be conducted annually as part of Metro’s Consolidated Audit Program to verify adherence to the Proposition A and Proposition C guidelines. Audits will be performed in accordance with auditing standards generally accepted in the United States of America and the Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that the audit is planned and performed to obtain reasonable assurance about whether the basic financial statements are free of material misstatement. The audit shall include examining, on a test basis, evidence supporting the amounts and disclosures in the basic financial statements. The audit shall also include review of internal control procedures, assessing the accounting principles used, as well as evaluation of the overall basic financial presentation.

It is the jurisdictions’ responsibility to maintain proper accounting records and documentation to facilitate the performance of the audit prescribed in these guidelines. Jurisdictions are required to retain Local Return records for at least three years following the year of allocation and be able to provide trial balances, financial statements, worksheets and other documentation required by the auditor. Jurisdictions are advised that they can be held accountable for excess audit costs arising from poor cooperation and inaccurate accounting records that would cause delays in the completion of the required audits.

**A. FINANCIAL AND COMPLIANCE PROVISIONS**

The Proposition A and Proposition C Local Return Audits shall include, but not limited to, verification of adherence to the following financial and compliance provisions of this guidelines:

Audit Area	Penalty for Non-Compliance
Verification that jurisdictions which do not use the State Controller’s Uniform System of Accounts and Records has established a Separate Proposition A and Proposition C Local Transit Assistance Account for local return purposes.	Suspension of disbursements.
Verification of revenues received including allocations, project generated revenues, interest income.	Audit exception.
Verification that funds were expended with Metro’s approval and have not been substituted for property tax.	Jurisdiction will be required to reimburse its Local Return account for the amount expended prior to or without approval.
Verification that the funds are expended within three years from the last day of the fiscal year in which funds were originally allocated or received. (see “E” page 30).	Lapsed funds will be returned to Metro for reallocation to jurisdictions for discretionary programs of countywide significance.

<p>Verification that <u>administrative expenditures</u> (project code 480) did not exceed over 20% of the total annual LR expenditures.</p>	<p>Jurisdictions will be required to reimburse their Local Return account for the amount over the 20% cap.</p>
<p>Verification that projects with greater than 25% change from the approved project budget has been amended by submitting amended Project Description Form (Form A).</p>	<p>Audit exception.</p>
<p>Verification that the Annual Project Update (Form B) was submitted on or before August 1<sup>st</sup> following the end of fiscal year.</p>	<p>Audit exception.</p>
<p>Verification that the Annual Expenditure Report (Form C) was submitted on or before October 15<sup>th</sup> following the end of fiscal year.</p>	<p>Audit Exception.</p>
<p>Where expenditures include Street Maintenance or Improvement projects (project codes 430, 440 or 450), verification that Pavement Management System (PMS) is in place and being used.</p>	<p>Any Local Returned funds spent must be returned to the Local Return Funds.</p>
<p>Where funds expended are reimbursable by other grants or fund sources, verification that the reimbursement is credited to the Local Return account upon receipt of reimbursement.</p>	<p>Audit exception and reimbursement received must be returned to the Local Return Funds.</p>
<p>Where Proposition A funds were given, loaned or exchanged by one jurisdiction to another, verification that the receiving jurisdiction has credited its Local Return Accounts with the funds received.</p>	<p>Audit exception and reimbursement of affected funds to the Proposition A LR account.</p>
<p>Where funds expended were for Intelligent Transportation Systems (ITS) projects or projects with ITS elements, verification that a Self Certification has been completed and submitted to Metro.</p>	<p>Audit exception.</p>
<p>Verification that jurisdictions have a LR Assurances and Understandings form on file.</p>	<p>Audit exception.</p>

<p>Where a capital reserve has been established, verification that a Capital Reserve Agreement is in effect, a separate account for the capital reserve is established, and current status is reported in the Annual Project Update (Form B).</p>	<p>Audit exception.</p>
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**B. AUDIT DELIVERABLES**

The auditor shall submit to the Jurisdictions and to Metro a Comprehensive Annual Report of Proposition A and Proposition C Local Return Funds no later than March 31<sup>st</sup> following the end of fiscal year. The report must contain at the minimum, the following:

- Audited Financial Statements – Balance Sheet, Statement of Revenues and Expenditures and Changes in Fund Balances.
- Compliance Report, Summary of Exceptions, if any, and ensuing recommendations.
- Supplemental Schedules – Capital Reserves, if any; Schedule of Detailed Project Expenditures; and Capital Assets.

**C. SUSPENSION OR REVOCATION**

Jurisdictions are expected to take corrective action in response to the Local Return financial and compliance audit. Notwithstanding the provisions of these guidelines, Metro reserves the right to suspend or revoke allocation to jurisdictions that may be found to be in gross violation of these guidelines, or repeatedly committing violations, or refusing to take corrective measures.

**APPENDIX I**

**PROPOSITION A AND PROPOSITION C LOCAL RETURN PROGRAM  
SUMMARY OF PROPOSITION A AND PROPOSITION C USES**

<b>PROJECT TYPE</b>	<b>PROPOSITION A</b>	<b>PROPOSITION C</b>
Streets and Roads Expenditures	<ul style="list-style-type: none"> <li>Allowed exclusively for Bus Lanes and Curb Cuts at corners located or adjacent to Bus Stops</li> </ul>	<ul style="list-style-type: none"> <li>Allowed only on streets that carry regularly scheduled, Fixed-Route Public Transit Services and on streets that carry public Paratransit trips (see conditions outlined in eligibility section of the Guidelines)</li> </ul>
Signal Synchronization	<ul style="list-style-type: none"> <li>Allowed if performed to predominantly benefit Transit.</li> <li>Bus Priority must be included as part of the project.</li> <li>The street must have a minimum of five (5) full-sized transit buses in each direction per hour</li> </ul>	<ul style="list-style-type: none"> <li>Allowed on streets that are heavily-used by Public Transit</li> <li>The street must have full-sized transit buses operating on a regularly scheduled fixed-route (no minimum number of buses)</li> <li>Operating costs such as software and hardware maintenance are allowed</li> </ul>
Bikeways and Bike Lanes	<ul style="list-style-type: none"> <li>Not allowed</li> </ul>	<ul style="list-style-type: none"> <li>Commuter bikeways</li> <li>Shall be linked to employment sites.</li> </ul>
Congestion Management Activities	<ul style="list-style-type: none"> <li>Not allowed</li> </ul>	<p>Most elements allowed, such as:</p> <ul style="list-style-type: none"> <li>Preparation of TDM Ordinances and Deficiency Plans.</li> <li>Land Use Analysis required by CMP</li> <li>Monitoring of Transit Standards by transit operators</li> </ul>
Pavement Management System	<ul style="list-style-type: none"> <li>Not allowed</li> </ul>	<p>Some elements allowed, such as:</p> <ul style="list-style-type: none"> <li>One-time development costs of a Pavement Management System.</li> <li>The ongoing costs of maintaining the Pavement Management System (see Guidelines for conditions)</li> </ul>
Trading or Exchanging of Funds	<ul style="list-style-type: none"> <li>Allowed if the traded funds are used for Public Transit purposes</li> </ul>	<ul style="list-style-type: none"> <li>Not allowed</li> </ul>

**ASSURANCES AND UNDERSTANDINGS REGARDING**

**RECEIPT AND USE OF PROPOSITION A and PROPOSITION C FUNDS**

The undersigned, in conjunction with the receipt of funds derived from the one-half cent sales tax imposed by Ordinance No. 16 (Proposition A) and the one-half cent sales tax imposed by the Proposition C Ordinance of the Los Angeles County Metropolitan Transportation Authority (Metro), and as required by Metro's Local Return Program Guidelines, hereby provides the following assurances and understandings.

A. The undersigned hereby assures Metro:

1. That the Proposition A and Proposition C funds will not be substituted for property tax funds which are currently funding existing public transportation programs;
2. That Proposition A and Proposition C funds will be used for public transit purposes as defined in Metro's Local Return Program Guidelines;
3. That the undersigned will submit to Metro a description of the use of funds:
  - a. For service expansion or new service: at least 60 days before encumbrance of funds;
  - b. For other projects: at least 30 days before encumbrance of funds;
  - c. Annually, by August 1<sup>st</sup> of each year, an update of previously approved projects;
  - d. Annually, by October 15<sup>th</sup> of each year, an update of the prior year's expenditures;
4. Any proposed use of funds will not duplicate or compete with any existing publicly-funded transit or paratransit service;
5. That Proposition A and Proposition C funds will be expended by the date that is three years from the last day of the fiscal year in which funds were originally allocated;
6. Unless otherwise required by Metro, an audit certified by a Certified Public Accountant, will be conducted by Metro within 180 days of the close of the fiscal year;
7. That the description of the intended use of the funds, as submitted to Metro, is an accurate depiction of the project to be implemented;
8. That a 25 percent change in project scope or financing for those projects defined in the Guidelines will be submitted to Metro at least 60 days before that change in scope is implemented;
9. That all projects proposed for Proposition A and Proposition C funding will meet the legal requirements of the Proposition A and Proposition C Ordinances and Metro's Local Return Program Guidelines criteria.



B. The undersigned further understands and agrees:

1. That Metro will require the undersigned to return any Proposition A and Proposition C funds and may impose interest penalties on any expenditure found to be illegal or improper under the terms of the Proposition A and Proposition C Ordinance or the Metro's Local Return Program Guidelines;
2. That the undersigned will, for projects to be funded in part or in whole with Proposition A and/or Proposition C funds, comply with all applicable federal, state, and local laws and regulations, including without limitation: American With Disabilities Act (ADA), CEQA and NEPA, affirmative action, transit accessibility and public health and safety requirements and fair labor practices;
3. That the undersigned will either utilize the State Controller's Uniform System of Accounts and Records to accommodate uses and disbursements of Proposition A and Proposition C funds or will establish a separate Proposition A and Proposition C Local Transit Assistance accounting system which will allow financial and compliance audits of Proposition A and Proposition C funds transactions and expenditures to be conducted;
4. That any Proposition A and Proposition C funds not expended within the year of receipt of funds plus three years thereafter will be returned to Metro upon request therefrom.

**IN WITNESS WHEREOF** the undersigned has executed this "Assurances and Understandings Regarding Receipt and Use of Proposition A and Proposition C Funds" this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by its duly authorized officer:

CITY OF \_\_\_\_\_

BY \_\_\_\_\_

\_\_\_\_\_  
(Title)

DATE \_\_\_\_\_

**APPENDIX III**

**LOS ANGELES COUNTY METROPOLITAN  
TRANSPORTATION AUTHORITY (METRO)  
PAVEMENT MANAGEMENT SYSTEM CERTIFICATION  
PROPOSITION C**

The City of \_\_\_\_\_ certifies that it has a Pavement Management System (PMS) in conformance with the criteria stipulated by the Proposition C Local Return Guidelines (identical to the criteria adopted by the Joint City/County/State Cooperation Committee, pursuant to Section 2108.1 of the Streets and Highways Code).

The system was developed by \_\_\_\_\_ and contains, as a minimum, the following elements:

- \* Inventory of arterial and collector routes (including all routes eligible for Proposition C funds), reviewed and updated triennially. The last inventory update was completed \_\_\_\_\_, 20\_\_.
- \* Inventory of existing Class I bikeways, reviewed and updated triennially.
- \* Assessment (evaluation) of pavement condition for all routes in the system, updated triennially. The last review of pavement conditions was completed \_\_\_\_\_, 20\_\_.
- \* Identification of all sections of pavement needing rehabilitation or replacement.
- \* Determination of budget needs for rehabilitation or replacement of deficient sections of pavement for current triennial period, and for following triennial period.

If PMS was developed in-house, briefly describe it on an attached sheet.

FROM:

AGENCY \_\_\_\_\_ DATE \_\_\_\_\_

\_\_\_\_\_  
(Please Print Name)

\_\_\_\_\_  
(Please Print Name)

\_\_\_\_\_  
(Title)

CAPITAL RESERVE AGREEMENT

This Capital Reserve Agreement (this "Agreement") is entered into as of \_\_\_\_\_, by and between the Los Angeles County Metropolitan Transportation Authority ("Metro") and the City of \_\_\_\_\_ (the "City").

RECITALS:

A. The City receives Proposition [A] [C] local return funds (the "Local Return Funds") from Metro.

B. Pursuant to the Proposition A and Proposition C Local Return Guidelines, which are incorporated herein by reference, the City has three years, beginning the last day of the Fiscal Year in which funds were originally allocated, to expend the Local Return Funds. By method of calculation, each jurisdiction has three years plus the Fiscal Year of allocation to expend the Local Return funds. This is period is identified in the Guidelines as Timely Use of Funds.

C. As of Fiscal Year \_\_\_\_\_, the City desires to commit and accumulate its Local Return Funds beyond the Timely Use of Funds period in order to construct and/or purchase \_\_\_\_\_ as more particularly described in City's project description attached hereto as Exhibit A (the "Project").

D. The Metro Board at its \_\_\_\_\_ board meeting approved the City's establishment of a capital reserve fund for the Project.

NOW, THEREFORE, the parties hereby desire to agree to the following terms and conditions:

AGREEMENT

1. The City acknowledges that establishing a capital reserve fund for the Project constitutes a long term financial and planning commitment.
2. The City shall establish a separate interest bearing account or sub-account to be designated as the Capital Reserve Account. Commencing with Fiscal Year \_\_\_\_\_, the City shall deposit \$\_\_\_\_\_ of its Local Return Funds into the Capital Reserve Account. For future Fiscal Years, the City shall deposit the amount specified in its Project Annual Update submitted to Metro for that fiscal year, provided, however, if the City fails to submit its Project Annual Update, the City shall deposit its Local Return Funds in an amount equal to the amount deposited into the Capital Reserve Account for the immediately preceding fiscal year.

3. All interest accruing on the Capital Reserve Account shall remain in such account.
4. The City shall complete the Project by \_\_\_\_\_.
5. The City shall comply with all terms and conditions for the Capital Reserve Account as provided in the Proposition A and Proposition C Local Return Guidelines, including, without limitation, the following:
  - A. Each fiscal year, submitting the following items:
    - (i) an updated Project Description Form (Form A); and
    - (ii) an Annual Project Update (Form B), including the amount to be reserved and the current project status;
  - B. Every three years commencing with the Commencement Date of this Agreement, Metro will evaluate the Capital Reserve Account, the status of the Project and the projected amount of available funds. Based on this evaluation, Metro may require the City to take certain actions including, without limitation, terminating the Capital Reserve Account.
  - C. If the City uses the Local Return Funds in the Capital Reserve Account for a project different from the Project described above, the City shall return an amount equal to the improperly used funds to the Proposition A or Proposition C Central Account held by Metro. If the City fails to return the amount within 30 days from the date Metro notifies City that it must return the funds, the City hereby authorizes Metro to offset future Local Return allocations to the City in an amount equal to the improperly used funds.
  - D. If the City fails to complete the Project as specified by the date in paragraph 4 above, the Local Return Funds in the Capital Reserve Account may be subject to lapse unless otherwise agreed to in writing by the parties.
  - E. If the Project is a rail project, Metro may decide that the rail corridor is no longer a high priority. Metro can then terminate this Agreement and the City shall:
    - (i) close the Capital Reserve Account and return the outstanding balance of the Capital Reserve Account, including accrued interest (the "Returned Funds"), to the City's local return account; and
    - (ii) reprogram the Returned Funds to be used within three years from the termination date of this Agreement. Any funds remaining after such three-year period shall lapse.
  - F. If the City, independent of Metro action, desires to reprogram all or part of the funds in the Capital Reserve Account, the City must prior to such reprogramming, receive Metro's written approval. The City shall provide Metro with notice of its desire to reprogram the funds in the Capital Reserve Account and indicate the proposed use

of the funds to be reprogrammed and the effect of such reprogramming on the Project. Metro approval may be based on, among other things, whether after exhausting all Local Return funds, additional funds are necessary to meet the City's critical immediate or pending transit needs. If Metro approves reprogramming the funds, this Agreement shall be amended or terminated as appropriate. If Metro does not approve reprogramming the funds, the City must continue the Capital Reserve Account as provided herein or draw the funds down for Metro approved capital related project.

6. This Agreement shall commence on \_\_\_\_\_. This Agreement shall continue until such time as terminated by either party with a 30 day written notice under the conditions set forth in the Proposition A and Proposition C Local Return Guidelines.

IN WITNESS WHEREOF, the parties have executed this Capital Reserve Agreement by their duly authorized representatives as of the date above.

City of \_\_\_\_\_

Los Angeles County Metropolitan  
Transportation Authority

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Approved as to form:

Approved as to form:

\_\_\_\_\_  
Name: \_\_\_\_\_

Raymond G. Fortner, Jr.  
County Counsel

Its: \_\_\_\_\_

By: \_\_\_\_\_  
Deputy

**SAMPLE FUND EXCHANGE AGREEMENT****(PROPOSITION A LOCAL RETURN ONLY)**

This Fund Exchange Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the City of Surf City, California and the City of Mountain Valley, California with respect to the following facts:

- A. The City of Mountain Valley proposes to provide Dial-A-Ride services to its elderly and individuals with disabilities. Approximately 20% of the City population is unable to use the available fixed route service due to frailty or handicap. No door-to-door public transit services are available in the City of Mountain Valley. Adequate Proposition A Local Return funding for such a service is not available given the limited amount of the City of Mountain Valley's Local Return allocation and the needs of other priority transit projects in the City.
- B. City of Surf City, has uncommitted funding authority for its Fiscal Year 2000-01 allocation of Proposition A Local Return funds which could be made available to the City of Mountain Valley to assist in providing the services discussed in Paragraph A of this Agreement.
- C. City of Mountain Valley is willing to exchange its general funds in the amount indicated in Section 1 below in exchange for City of Surf City's uncommitted Proposition A Local Return funds.
- D. City of Surf City is willing to exchange its uncommitted Proposition A Local Return funding in the amount indicated in Section 1 below to City of Mountain Valley, for the purpose identified in Paragraph A above, for City of Mountain Valley's general funds.

Now, therefore, in consideration of the mutual benefits to be derived by the parties and of the premises herein contained, it is mutually agreed as follows:

1. Exchange. City of Surf City shall transfer \$100,000 of its Fiscal Year 20\_\_-20\_\_ Proposition A Local Return Funds to City of Mountain Valley. In return, City of Mountain Valley shall transfer \$50,000 of its General Funds to City of Surf City.
2. Consideration. City of Surf City shall transfer the Proposition A Local Return funds to City of Mountain Valley in twelve equal installments due the first day of each month (or in one lump sum payment). City of Mountain Valley shall transfer its general funds to City of Surf City in twelve equal installments due the first of each month (or in one lump sum payment).

The first installment shall be due and payable upon approval by the Los Angeles County Metropolitan Transportation Authority ("Metro") of City of Mountain Valley's project description Form (Form A) covering the services discussed in Paragraph A above.

3. Term. This Agreement is effective on the date above written and for such time as is necessary for both parties to complete their mutual obligations under this Agreement.

4. Termination. Termination of this Agreement may be made by either party before the date of approval of the project description covering the funds in question by the Metro so long as written notice of intent to terminate is given to the other party at least five (5) days prior to the termination date.

5. Notices. Notices shall be given pursuant to this agreement by personal service on the party to be notified, or by written notice upon such party deposited in the custody of the United States Postal Service addressed as follows:

a. City Manager  
City of Surf City  
101 Main Street  
Surf City, CA 90000

b. City Manager  
City of Mountain Valley  
401 Valley Boulevard  
Mountain Valley, CA 90000

6. Assurances

A. City of Mountain Valley shall use the assigned Proposition A Local Return funds only for the purpose of providing the services discussed in Paragraph A of this Agreement and within the time limits specified in Metro's Proposition A Local Return Program Guidelines.

B. Concurrently with the execution of this Agreement City of Mountain Valley shall provide Metro with the Standard Assurances and Understandings Regarding Receipt and Use of Proposition A Funds specified in the Guidelines regarding the use of the assigned Proposition A Local Return funds.

7. This Agreement constitutes the entire understanding between the parties, with respect to the subject matter herein. This Agreement shall not be amended nor any provisions or breach hereof waived, except in writing signed by the parties hereto.

**IN WITNESS WHEREOF**, the parties hereto have caused this Fund Exchange Agreement to be executed by their respective officers, duly authorized, on the day and year above written.

CITY OF \_\_\_\_\_

CITY OF \_\_\_\_\_

BY \_\_\_\_\_

BY \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Clerk  
Approved as to Form:

\_\_\_\_\_  
City Clerk  
Approved as to Form:

**LOS ANGELES COUNTYWIDE  
INTELLIGENT TRANSPORTATION SYSTEMS (ITS)**

**POLICIES AND PROCEDURES**

**Policy Summary**

Federal regulations (23 CFR Parts 655 and 940 Intelligent Transportation System (ITS) Architecture and Standards; Final Rule) now require ITS projects funded with the Highway Trust Fund to conform to the National ITS Architecture and Standards; be guided by a regional architecture with geographic boundaries defined by stakeholder needs; and use systems engineering analysis on a scale commensurate with the project scope. It is Metro's Policy to abide by the Federal ITS regulations and requirements for those agencies seeking federal funding programmed by Metro for projects subject to this rule. For consistency and to maximize benefits, Los Angeles Countywide ITS Policy and Procedures is also applied to projects with state and local funding sources programmed and administered by the Metro.

**Procedures Summary**

To ensure compliance with the ITS Policy, all ITS project sponsor agencies including Metro internal departments are required to complete the Los Angeles County Regional ITS Architecture Consistency Certification Form (Attachment B) and to self certify that their project's ITS elements in whole or in part are consistent with the Los Angeles County Regional ITS Architecture.

Attached is the RIITS self-certification form. This form must be completed and submitted to Metro for each Local Return funded ITS project or project which includes an ITS element. To learn more about RIITS, please visit [www.riits.net](http://www.riits.net). For a complete copy of the Los Angeles Countywide ITS Policy and Procedures, you may go directly to <http://RIITS.net/RegITSDocs.html> and choose "Los Angeles Countywide ITS Policy and Procedures Document."



**LOS ANGELES COUNTY REGIONAL ITS ARCHITECTURE CONSISTENCY  
SELF-CERTIFICATION FORM**

This form should be completed and executed for all ITS projects or projects with ITS elements except routine maintenance and operations, traffic signal controller replacement, purchase of bus or rolling stock, expansion or enhancement of an existing operating system. The form should be sent to Metro Countywide Planning and Development (CP&D) for any planned ITS projects or proposed funding involving Local, State or Federal funds programmed or administered through the Metro at the time of submittal of project application.

1. Name of Sponsoring Agency: \_\_\_\_\_

2. Contact Name: \_\_\_\_\_

3. Contact Phone: \_\_\_\_\_

4. Contact Email: \_\_\_\_\_

5. Project Description:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Identify the ITS elements being implemented and the relevant National Architecture User Services(s), see Attachment A.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. Outline of the concept of operations for the project:

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8. Identify participating agencies roles and responsibilities:

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By signing and self-certifying this form, the agency commits itself to follow the ITS requirements listed below during project design and implementation. Please be advised that your project may be subject to further review and documentation by FHWA or FTA during project design and implementation phases:

- Perform a lifecycle analysis for the ITS project elements and incorporate these costs into the Operations and Maintenance plan as part of the system engineering process,
- Maintain and operate the system according to the recommendations of the Operations and Maintenance plan upon project completion,
- Use the systems engineering process and document the system engineering steps, and
- Use the Los Angeles County Regional ITS Architecture interface standards if required and conform to the regional configuration management process.

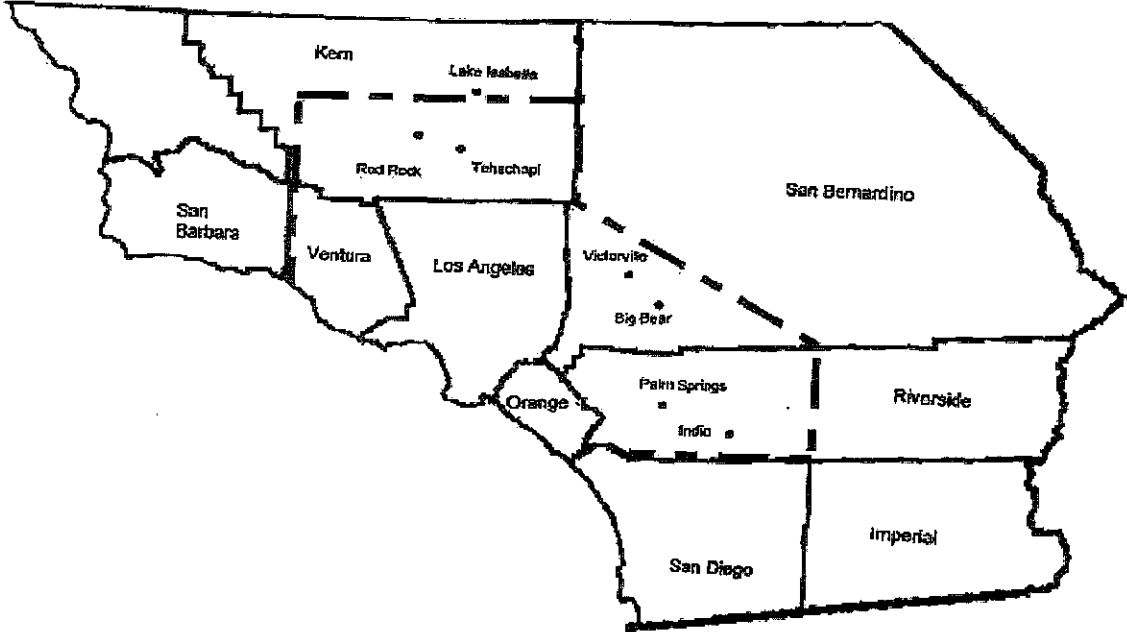
Signature:

\_\_\_\_\_  
Agency Representative

Date \_\_\_\_\_

**Please return the original Project Self Certification Form to Metro Department of CP&D, Attention, Ms. Carol Inge, Deputy Executive Officer, Los Angeles County Metropolitan Transportation Authority, One Gateway Plaza, MS 99-22-1, Los Angeles, CA 90012-2952**

ELIGIBLE RECREATION TRANSIT SERVICE AREA



--- ■ --- | Recreational transit area eligible for full Proposition A & C funding

□ Recreational transit area available for Proposition A & C funding on a proportional share basis

## LOCAL RETURN FORMS

### **Summary:**

**Project Code:** All projects must have Project Codes (see column on right). This code is critical in Form submittal as it is used in the LR database system.

**Sequence Number:** Sequence Numbers distinguish between the different projects being implemented. Indicate the sequence number of the project that is the order of submittal for the project (i.e., oldest approved to most recent approval).

**Form A** should be submitted whenever a Jurisdiction is requesting the approval of a new project or if there is a budget or scope change of more than 25 percent in an ongoing transit or paratransit project (as defined in the Proposition A and Proposition C Guidelines).

**Form B** requires Jurisdictions to give an update of already approved, ongoing and carryover Prop A and Prop C LR projects. Since new projects require additional information, please include all new projects on Form A only. (Note: Jurisdictions are required to call out all administration charges to Direct Administration in order to verify compliance of 20 percent maximum limit).

**Form C** requires Jurisdictions to report the annual expenditures for both Prop A and Prop C LR for the previous fiscal year. (Note: Jurisdictions are also required to submit an accounting of recreational transit trips, destinations and costs, if applicable).

### **PROJECT CODES**

#### **PROP A AND PROP C LR JOINT CODES:**

- 110 Fixed Route Service
- 120 Paratransit Service - General Public Dial-a-Ride
- 130 Paratransit Service - Elderly & Disabled (E&D)
- 140 Recreational Transit Service (incl. special event)
- 150 Bus Stop Improvement (BSI) Program
- 160 Bus Stop Improvement - Capital
- 170 Bus Stop Improvement - Maintenance
- 180 Capital - Vehicle & Misc. Equipment (fare box)
- 190 Capital - Vehicle Modification Program
- 200 Capital - Vehicle Purchase Program
- 210 Transportation Systems Management (TSM)
- 220 Transit Security - On-Board & Bus Stop
- 230 Transit Security - Station/Park-and-Ride Lot
- 240 Fare Subsidy (Taxi)
- 250 Fare Subsidy (User-Side Subsidy)
- 270 Transportation Planning  
(Prop A eligible and Prop C eligible)
- 280 Transit Marketing
- 290 Park-and-Ride Lot Program
- 300 Transit Facility Transportation Enhancements
- 310 Transit Centers Program
- 320 Metro Rail Capital
- 350 Right-of-Way Improvements
- 360 Commuter Rail (Operations)
- 370 Commuter Rail (Capital)
- 380 Capital Reserve
- 390 Rail Transit Enhancements
- 480 Direct Administration
- 500 Other (Specify)

#### **Exclusive Uses of Prop A LR Funds:**

- 400 Signal Synchronization
- 405 Fund Exchange
- 410 Transportation Demand Management

#### **Exclusive Uses of Prop C LR Funds:**

- 400 Signal Synchronization & Traffic Management
- 410 Transportation Demand Management
- 420 Congestion Management Program (CMP)
- 430 Bikeways & Bike Lanes
- 440 Street Repair and Maintenance (e.g., slurry seal)
- 450 Street Improvement Projects (e.g., widenings)
- 460 Street TSM Projects (e.g., signalization)
- 470 Pavement Management Systems (PMS)

# Form A - Project Description Form

(This form may be submitted any time during the fiscal year)

--Instructions--

<b>M Metro</b>		LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY Proposition A and Proposition C Local Return Program			
<b>Form A</b>					
<b>PROJECT DESCRIPTION FORM</b>					
(Required for all new and amended projects)					
Local Jurisdiction				Fiscal Year	
				-	
Contact Person		Telephone No.	Extension	E-Mail Address	
Project Title					
Project Code:		-	Category:		
Sequence Number:		Type:	<input type="checkbox"/> Capital	<input type="checkbox"/> New	Est Start Date:
			<input type="checkbox"/> Operating	<input type="checkbox"/> Revised	Est Compl Date:
Project Description and Justification					
Project Revenues					
Fund Source(s)		Proposition A Amount	Proposition C Amount	Other Amount	Total
Local Return					-
Fare Revenues					-
Other (Specify)					-
Total Project Revenues		-	-	-	-
Accessibility Features (For Bus Stop Improvement Projects only)					
<input type="checkbox"/> Curb Cut <input type="checkbox"/> Bus Pad <input type="checkbox"/> Installation Sidewalk <input type="checkbox"/> Removal of sidewalk Barrier					
<input type="checkbox"/> For Bikeways and Pedestrian Improvements, Street Repair and Maintenance or Street Improvement projects (project codes 430, 440 or 450), please check to indicate a <b>Pavement Management System (PMS) Self Certification Form</b> (See Appendix III) has been submitted to Metro.					
<input type="checkbox"/> For Intelligent Transportation Systems (ITS) projects, or projects which include an ITS element, please check box to indicate a <b>Self Certification Form</b> (See Appendix VI) has been completed and submitted to Metro.					
Authorized Signature		Title		Date	

Click [here](#) to access form.

# Form A - Project Description Form

(This form may be submitted any time during the fiscal year)

--Instructions--

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## Summary:

Form A should be submitted whenever a Jurisdiction is requesting the approval of a new project or if there is a budget or scope change of more than 25 percent in an ongoing transit or paratransit project (as defined in the Prop A and Prop C Guidelines).

## Key Terms:

- **Local Jurisdiction:** Indicate your City or Agency.
- **Fiscal Year:** Indicate the fiscal year (July 1 - June 30<sup>th</sup>) for which Prop A or Prop C LR funds will be used.
- **Project Description and Justification:** Provide a brief project description (include any necessary details) to help Metro staff determine project scope and eligibility.
- **Project Revenues:** Under the appropriate fund sources, indicate the revenues expected to fund the project.
- **Accessibility Features:** Check box applicable for Bus Stop Improvement Projects only.
- **Street Maintenance, Improvement or bikeway projects:** Check the box to indicate that a Pavement Management System (PMS) is in place and being used (see Appendix III).
- **Intelligent Transportation Systems projects:** Please check the box if this project is or has an ITS project element to indicate that an ITS self-certification (see Appendix VI) has been submitted to Metro.
- **Authorized Signature:** Form A may be printed, signed and dated by authorized Local Jurisdiction, and sent to Metro by mail or fax, or e-mailed as described in Step 5.

## **Excel Operations:**

### Step 1 – Confirm computer is set to run macros

Open Microsoft Excel application

From the menu, select:

- Tools
- Macros
- Security
- Set it at Medium
- Press OK

Close Excel application

### Step 2 Open Form A

Visit Metro's Web Site at [www.metro.net](http://www.metro.net)

- Go to Projects/Programs
- Click on Local Return
- Click on Form A to open

Click yes to open the document containing Macros

### Step 3 – Enter Form A Information

Once Form A is opened,

- Select correct agency (click on small arrow to scroll agency names)
- Enter contact name, telephone number, and e-mail address
- Enter project information on Form A

### Step 4 – Save document under MY DOCUMENTS

Once information is entered on Form A, save document in My Documents

- Save Document as Form A City of .....

### Step 5 – Forward Form A to Metro

Open Outlook (or other e-mail browser)

On e-mail include:

- Contact information including name, title, telephone number, and jurisdiction
- Brief description of the e-mail (transmittal)
- Attach Form A to the e-mail message

## Important Changes

---

- All forms require that the entire value of project be entered, no longer will values be stated in \$ thousands.
- DO NOT alter forms. If for any reason there is a difference in Project Code, Sequence Number, or Project Title, contact Metro to resolve any discrepancies.
- Enter value for every project. If project is finalized, enter COMPLETE. DO NOT enter a dollar value.



# Form B – Annual Project Update Form

(This form must be submitted by August 1<sup>st</sup> of each year)

--Instructions--

---

## Summary:

Form B requires Jurisdictions to give an update of already approved, ongoing and carryover Prop A and Prop C LR projects. Since new projects require additional information, please include all new projects on Form A only. (Note: Jurisdictions are required to call out all administration charges to Direct Administration in order to verify compliance of 20 percent maximum limit).

## Key Terms:

- **Local Jurisdiction:** Indicate your City or Agency.
- **Fiscal Year:** Indicate the fiscal year (July 1 - June 30<sup>th</sup>) for which Prop A or Prop C LR funds will be used.
- **Project Code:** Enter Project Codes (see column on right). This code is critical in Form submittal as it is used in the LR database system.
- **Sequence Number:** Sequence Numbers distinguish between the different projects being implemented. Indicate the sequence number of the project which is the order of submittal for the project (i.e., oldest approved to most recent approval).
- **Project Title:** Provide Project Title as indicated on the Form A or previous Form B submittal.
- **Project Status:** Check box applicable – Completed, On-going or Carryover.
- **Project Revenues:** Under the appropriate fund sources, indicate the itemized revenues expected to fund the project.
- **Authorized Signature:** Form B may be printed, signed and dated by authorized Local Jurisdiction, and sent to Metro by mail or fax, or e-mailed as described in Step 5.

## **Excel Operations:**

### **Step 1 – Confirm computer is set to run macros**

Open Microsoft Excel application

From the menu, select:

- Tools
- Macros
- Security
- Set it at Medium
- Press OK

Close Excel application

### **Step 2 Open Form B**

Visit Metro's Web Site at [www.metro.net](http://www.metro.net)

- Go to Projects/Programs
- Click on Local Return
- Click on Form B to open

Click yes to open the document containing Macros

### **Step 3 – Enter Form B Information**

Once Form B is opened,

- Select correct agency (click on small arrow to scroll agency names)
- Enter contact name, telephone number, and e-mail address
- Enter appropriate values for each project

### **Step 4 – Save document under MY DOCUMENTS**

Once the values of each project have been entered, save document into My Documents

- Save Document as Form B City of .....

### **Step 5 – Forward Form B to Metro**

Open Outlook (or other e-mail browser)

On e-mail include:

- Contact information including name, title, telephone number, and Jurisdiction
- Brief description of the e-mail (transmittal)
- Attach Form B to the e-mail message

## Important Changes

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- All forms require that the entire value of project be entered, no longer will values be stated in \$ thousands.
- DO NOT alter forms. If for any reason there is a difference in Project Code, Sequence Number, or Project Title, contact Metro to resolve any discrepancies.
- DO NOT add or remove project on Form B, please contact Metro regarding any changes.
- Enter value for every project. If project is finalized, enter COMPLETE. DO NOT enter a dollar value.





# Form C – Annual Expenditure Report Form

(This form must be submitted by October 15<sup>th</sup> of each year)

--Instructions--

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## Summary:

Form C requires Jurisdictions to report the annual expenditures for both Prop A and Prop C LR for the previous fiscal year. (Note: Jurisdictions are also required to submit an accounting of recreational transit trips, destinations and costs, if applicable).

## Key Terms:

- **Local Jurisdiction:** Indicate your City or Agency.
- **Fiscal Year:** Indicate the fiscal year (July 1 - June 30<sup>th</sup>) for which Prop A or Prop C LR funds will be used.
- **Project Title:** Provide Project Title as indicated on the Form A or previous Form B submittal.
- **Project Status:** Check box applicable – Completed, On-going or Carryover.
- **Project Revenues:** Under the appropriate fund sources, indicate the itemized revenues expected to fund the project.
- **Authorized Signature:** Form C may be printed, signed and dated by authorized Local Jurisdiction, and sent to Metro by mail or fax, or e-mailed as described in Step 5.

## **Excel Operations:**

### **Step 1 – Confirm computer is set to run macros**

Open Microsoft Excel application

From the menu, select:

- Tools
- Macros
- Security
- Set it at Medium
- Press OK

Close Excel application

### **Step 2 Open Form C**

Visit Metro's Web Site at [www.metro.net](http://www.metro.net)

- Go to Projects/Programs
- Click on Local Return
- Click on Form C to open

Click yes to open the document containing Macros

### **Step 3 – Enter Form C Information**

Once Form C is opened,

- Select correct agency (click on small arrow to scroll agency names)
- Enter contact name, telephone number, and e-mail address
- Enter appropriate values for each project

### **Step 4 – Save document under MY DOCUMENTS**

Once the values of each project have been entered, save document into My Documents

- Save Document as Form C City of .....

### **Step 5 – Forward Form C to Metro**

Open Outlook (or other e-mail server)

On e-mail include:

- Contact information such as name, title, telephone number, and Jurisdiction
- Brief description of the e-mail (transmittal)
- Attach Form C on the e-mail message

## Important Change Important Changes

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- All forms require that the entire value of project be entered, no longer will values be stated in \$ thousands.
- Enter value for every project. If project is finalized, enter COMPLETE. DO NOT enter a dollar value

**GLOSSARY OF TERMS  
USED IN LOCAL RETURN GUIDELINES**

**Americans with Disabilities Act (ADA), 1990**

A civil rights law passed by Congress in 1990 that makes it illegal to discriminate against people with disabilities in employment, services provided by state and local governments, public and private transportation, public accommodations and telecommunications.

**Advanced Traveler Information Systems (ATIS)**

ATIS technologies provide travelers and transportation professionals with the information they need to make decisions, from daily individual travel decisions to larger scale decisions that affect the entire system, such as those concerning incident management.

**Air Quality Management District (AQMD)**

Administrative districts organized in California to control air pollution. Generally, AQMDs and their national parallel encompass multiple jurisdictions and closely follow the definition of Consolidated Metropolitan Statistical Areas and Metropolitan Statistical Areas.

**Adaptive Traffic Control Systems (ATCS)**

ATCS uses sensors to interpret characteristics of traffic approaching a traffic signal, and using mathematical and predictive algorithms, adapts the signal timing accordingly, optimizing its performance.

**Advanced Traffic Management Systems (ATMS)**

ATMS technologies apply surveillance and control strategies to improve traffic flow on highways and arterials.

**Automatic Vehicle Location (AVL)**

The installation of devices on a fleet of vehicles (e.g., buses, trucks, or taxis) to enable the fleet manager to determine the level of congestion in the road network. AVL is also used to enable the fleet to function more efficiently by pinpointing the location of vehicles in real time.

**Bicyclists Rights**

According to CVC21200 Bicyclists have all the rights and responsibilities of vehicle drivers.

**Bikeway Definitions**

*Class I Bikeway* - Off road paved bike path

Exclusive bi-directional path designated for bicycles or as multi-use path shared with pedestrians (if pedestrian path is not adjacent).

*Class II Bikeway* - On-road striped bike lane

*Class III Bikeway* - On-road bike route (signage only)

Streets designated as preferred routes through high demand corridors, used to provide continuity to other bicycle facilities (usually II bikeways), or provide routes to transit or other destinations where the streets are too narrow for bike lanes. Usually bike routes have some added preferential bike treatments that offers advantages over alternative routes.

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**Bus turn-out**

A branch from or widening of a road that permits buses to stop, without obstructing traffic, while laying over or while passengers board and alight. It is designed to allow easy reentry of the bus into the traffic stream.

**California Streets and Highways Code**

This is the legal code regulating the roads and highways of the State of California. The code sets forth the administration and funding of the highway system, the relationship of the state government to the county and local governments in regards to streets and roads, administration of tolls collected by the state, and various acts dealing with streets and highways passed by the state legislature.

**Capital Reserve**

With Metro Board approval and signed Capital Reserve Agreement, funds may be set aside for Capital projects to provide reserve funds for a period of time over the three year timely use provision.

**Carry-over Project**

A project that was not completed and which takes two or more year to finish. The construction of a transit center or a citywide bus shelter installation project may be multi-year projects.

**Congestion Management Program (CMP)**

A state mandated program linked to Proposition 111 (1990) that requires each county to prepare a plan to address traffic congestion on regional streets and freeways. Elements of the CMP include designation of a regional highway system with level of service (LOS) standards, a local trip reduction ordinance, capital improvement program, land use impact analysis, and transit performance standards. If LOS standards are not maintained, deficiency plans must be prepared and implemented.

**Changeable Message Signs (CMS)**

Electronic road and transit station signs used to display information that can be updated, such as warnings of road incidents, hazardous weather conditions, or estimated arrival times of transit vehicles. Used in ATIS and ATMS. Also called Variable Message Signs (VMS).

**Councils of Governments (COG)**

Regional planning bodies that exist throughout the United States. A typical council is defined to serve an area of several counties, and they address issues such as regional planning, water use, pollution control, and transportation. The Council membership is drawn from the county, city, and other government bodies within its area.

**Commuter Rail**

Railroad local and regional passenger train operations between a central city, its suburbs and/or another central city. It may be either locomotive-hauled or self-propelled, and is characterized by multi-trip tickets, specific station-to-station fares, railroad employment practices and usually only one or two stations in the central business district. Also known as "suburban rail."

**Curb Cut**

A small ramp between the sidewalk and curb that facilitates passage by wheelchairs, strollers, etc. between the sidewalk and street intersection.

**Commercial Vehicle Operations (CVO)**

ITS program to apply advanced technologies to commercial vehicle operations, including commercial vehicle electronic clearance; automated roadside safety inspection; electronic purchase of credentials;

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automated mileage and fuel reporting and auditing; safety status monitoring; communication between drivers, dispatchers, and intermodal transportation providers; and immediate notification of incidents and descriptions of hazardous materials involved.

**Demand Responsive**

Non-fixed-route service utilizing vans or buses with passengers boarding and alighting at pre-arranged times at any location within the system's service area. Also called "Dial-a-Ride."

**Dial-a-Ride**

A shared-ride public transportation service for senior citizens age 65 and older, people with disabilities and people who meet American Disabilities Act (ADA) eligibility.

**Direct Administration**

Those fully burdened salaries and overhead, office supplies and equipment directly associated with administering LR operating and capital projects.

**Electronic Payment Systems**

Systems that collect payments using an electronic transponder. Payment types include fees for transit fares, taxis, parking, and tolls. Electronic payment systems can also gather real-time transit information on travel demand for better planning and scheduling of services.

**Farebox revenue**

Money, including fares and transfers, zone and park and ride receipts, paid by transit passengers; also known as "passenger revenue."

**Financial and Compliance Audit**

The review and examination of the jurisdictions' books and records to verify compliance with existing statutes governing the Local Return Funds. Such review and examination include verification of adherence to the generally accepted accounting principles, review of internal control system and evaluation of compliance with the Local Return Guidelines. The Financial and Compliance Audit shall be conducted by an independent auditor and in accordance with the Government Auditing Standards issued by the Comptroller General of the United States.

**Fiscal year**

A twelve-month period to which the annual budget applies and at the end of which a governmental unit determines its financial position and the results of its operations. This twelve-month period varies from the calendar year. In the California, State Government system, the fiscal year starts July 1 and ends the following June 30. In the Federal system, the fiscal year starts October 1 and ends the following September 30.

**Fixed Route**

Service provided on a repetitive, fixed-schedule basis along a specific route with vehicles stopping to pick up and deliver passengers to specific locations; each fixed-route trip serves the same origins and destinations, unlike demand responsive and taxicabs.

**Flexible Destination**

A type of demand-responsive service which takes on passengers according to a fixed route, and drops passengers off at alternative destinations within a defined service area.

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**Formula Funds**

Funds distributed or apportioned to qualifying recipients using formulas which are based on statistics (such as operating performance or route characteristics) and established by law or by funding agency-adopted policies.

**Fund Exchange**

Funds traded to another Local Jurisdiction or Agency for an agreed amount. Funds returned may be from General, State, Federal funds or other agreed upon method of exchange between the agencies. Eligible under Proposition A only.

**Giving**

Local Jurisdictions can give Prop C funds to another Jurisdiction for a transit related project as long as Metro approves, and no exchange or gift of any kind is received in return.

**Headsign**

A destination sign above the front (and sometimes side) window of a bus or train.

**Information Exchange Network (IEN)**

The Los Angeles County IEN can exchange real-time TCS data from intersections in each of the county's several traffic forums and enables all forums, the county, and partner cities to access the information.

**Intelligent Transportation Systems (ITS)**

This program is an initiative of the United States Department of Transportation to add information technology to surface transportation infrastructure and vehicles. It aims to manage vehicles, roads, and routes to improve efficiency, safety and reduce vehicle wear, transportation times and fuel costs. ITS Architecture relates to the overarching framework that allows individual ITS services and technologies to work together, share information, and yield synergistic benefits.

**Loaning**

Local Jurisdictions may arrange a mutually acceptable temporary transfer or loan from one Jurisdiction to another. Refer to Metro's Administrative Process for additional information.

**Local Jurisdiction**

City or Agency that is the applicant for the project to be funded with Proposition A or Proposition C Local Return (LR).

**Maintenance**

Maintenance refers to minor work to prevent further deterioration, such as, slurry seal, or pothole repair

**Maintenance of Effort**

This requirement provides for the continuation of funding commitments by local jurisdictions on roadways used by public transit while supplementing these improvements with Proposition C Local Return funds. Local Return funds cannot be used to replace any pre-existing roadway funding but only to augment what is currently being utilized by local jurisdictions. In the past, local jurisdictions have had to report to the State Controller those funds spent on streets and roads in order to be in compliance with the California Streets and Highways Code.

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**Metro**

The Metropolitan Transportation Authority. Metro staff manages the administration of the program. Metro refers to the administrative staff.

**Metro Art**

The Metro department responsible for incorporating art enhancements into Metro projects, including rail stations, bus stops, construction sites, streetscapes and other public oriented improvements..

**Metro Board**

The Metropolitan Transportation Authority has an established member list of Board of Directors and Executives as appointed by the Board. The Metro Board makes decisions on funding allocations, Guidelines, Capital Reserves and possible appeals.

**Metro Rail**

Rail service operated by the Los Angeles County Metropolitan Transportation Authority (Metro)

**Metro Long Range Transportation Plans**

In April 2001, the Metro Board adopted the Long Range Transportation Plan. This plan is a 25-year blueprint for transportation planning in Los Angeles County through the year 2025. The Long Range Transportation Plan assesses future population increases projected for the county and what such increases will mean for future mobility needs. The plan recommends what can be done within anticipated revenues, as well as what could be done if additional revenues become available.

**Metro Short Range Transportation Plans**

The 2003 Short Range Transportation Plan focuses on the phasing of transportation improvements through 2009 that will help put together the pieces of our mobility puzzle. The Plan relies on performance-based modeling to identify the best solution for each mobility challenge. In total, \$19.3 billion is needed to fund this Plan's transportation priorities through 2009. These include the costs of operating the current system and funding new transportation solutions.

**National ITS Architecture**

A systems framework to guide the planning and deployment of ITS infrastructure. The national ITS architecture is a blueprint for the coordinated development of ITS technologies in the U.S. The architecture defines the functions that must be performed, the subsystems that provide these functions, and the information that must be exchanged to support the defined **User Services**. The National ITS Architecture was released as a final document in June 1996.

**National Transit Database (NTD)**

A reporting system administered by the Federal Transit Administration (FTA) that uses uniform categories to record mass transportation financial and operating information through a uniform system of accounts on an annual basis.

**Paratransit**

Auxiliary public transportation available to elderly or disabled passengers or patrons in areas, which are underserved by conventional transit. Paratransit is generally operated using smaller vehicles, with flexible schedules and routes.

**Park-and-Ride**

An access mode to transit in which patrons drive private vehicles or ride bicycles to a transit station, bus or rail stop or carpool or vanpool waiting area and park their vehicles in the area provided for the

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purpose. They then ride the transit system or take the carpool/vanpool to their destinations. (TRB) 2 involve the use of a motorized personal vehicle in conjunction with transit. Park-and-ride facilities include a parking lot or portion of a lot near transit stops, allowing transit users to park their personal vehicles for a short period of time and make convenient transfers to the transit system.

**Pavement Condition Index (PCI)**

A value for a pavement segment representing its condition. The Pavement Condition Index (PCI) is a numerical rating of the pavement condition that ranges from 0 to 100, with 0 being the worst possible condition and 100 being the best possible condition.

**Pavement Management System (PMS)**

A systematic process that provides, analyzes, and summarizes pavement information for use in selecting and implementing cost-effective pavement construction, rehabilitation, and maintenance programs and projects. A PMS involves the identification of optimum strategies at various Pavement Condition Index (PCI) levels and maintains pavements at an adequate PCI Threshold (level of serviceability). These include, but are not limited to, systematic procedures for scheduling maintenance and rehabilitation activities based on optimization of benefits and minimization of costs.

**Project Code**

Project Codes distinguish the type of projects being implemented.

**Reconstruction**

Activities that extend the serviceable life by at least 10 years, and involve reworking or removal and replacement of all or part of the engineered layers in the pavement structure. Removal and replacement of all asphalt and concrete layers and often the base and sub-base layers, in combination with remediation of the sub-grade and drainage, and possible geometric changes. Due to its high cost, reconstruction is rarely done solely on the basis of pavement condition. Other circumstances such as obsolete geometrics, capacity improvement needs, and/or alignment changes, are often involved in the decision to reconstruct a pavement.

**Recreational Transit**

City-sponsored trips to recreational or cultural destinations within defined geographic area. Charter buses are frequently used and trips must be advertised to the general public. Service is generally contracted out to a private sector operator.

**Rehabilitation**

Activities that extend the serviceable life by at least 10 years, and add structural capacity to the pavement.

**Reimbursement**

LR funds may be advanced for other grant funds as long as the project itself is eligible under LR Guidelines. The grant funds must be reimbursed to the LR fund.

**Resurfacing**

Activities that extend the serviceable life by at least 10 years and change the surface characteristics of the pavement. Resurfacing generally consists of placing additional asphalt concrete over a structurally sound highway or bridge that needs treatment to extend its useful life.



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**Revenue Vehicle Miles**

The miles a vehicle travels while in revenue service. Vehicle revenue miles exclude travel to and from storage facilities, training operators prior to revenue service, road tests and deadhead travel, as well as school bus and charter services.

**Ride matching programs**

Programs that provide nearest major intersection-matching services to commuters who wish to establish a car- or van-pool.

**Right of Way**

Land; a public or private area that allows for passage of people or goods, including, but not limited to, freeways, streets, bicycle paths, alleys, trails and walkways. A public right-of-way is dedicated or deeded to the public entity for use under the control of a public agency.

**Regional Integration of Intelligent Transportation Systems (RIITS)**

This system supports information exchange between freeway, traffic, transit and emergency service agencies to improve management of the Los Angeles County transportation system.

**Ramp Metering Station (RMS)**

Traffic-responsive regulation of vehicle entry to a freeway, typically via sensor controlled freeway ramp stoplights.

**Sequence Code**

Sequence Codes distinguish between the different projects being implemented.

**Shuttle**

A public or private vehicle that travels back and forth over a particular route, especially a short route or one that provides connections between transportation systems, employment centers, etc.

**State Controller**

The Controller is the state's chief financial officer and is elected by a vote of the people every four years. The duties of the State Controller are prescribed by the Constitution with additional powers and functions set by statute. The primary function of the State Controller is to provide sound fiscal control over both receipt and disbursement of public funds, to report periodically on the financial operations of both state and local governments and to make certain that money due the state is collected in a fair, equitable and effective manner. The office also enforces collection of delinquent gas, truck and insurance taxes.

**Traffic Control Systems (TCS)**

Advanced systems that adjust the amount of "green time" for each street and coordinate operation between each signal to maximize traffic flow and minimize delay. Adjustments are based on real-time changes in demand.

**Traffic/Transportation/Transit Management Center (TMC)**

Traffic/Transportation/Transit Management Center (interchangeable)

**Transfer Center**

A fixed location where passengers interchange from one route or transit vehicle to another.

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**Transit revenues**

Revenues generated from public transportation (bus, rail or other conveyance for public).

**Transportation Demand Management (TDM)**

A program designed to maximize the people-moving capability of the transportation system by increasing the number of people in each vehicle or by influencing the time of, or need to, travel. To accomplish these sorts of changes, TDM programs must rely on incentives or disincentives to make the shifts in behavior attractive. The term TDM encompasses both the alternatives to driving alone and the techniques or supporting strategies that encourage the use of these modes.

**Transportation Improvement Program (TIP)**

A prioritized program of transportation projects to be implemented in appropriate stages over several years (3 to 5 years). The projects are recommended from those in the transportation systems management element and the long-range element of the planning process. This program is required as a condition for a locality to receive federal transit and highway grants.

**Transportation Management Associations (TMAs)**

An urbanized area with a population more than 200,000 (as determined by the most recent decennial census) or other area when TMA-designation is requested by the Governor and the MPO (or affected local officials), and officially designated by the Federal Highway Administration and the Federal Transit Administration. TMA designation applies to the entire metropolitan planning area(s). (23CFR500).

**Transportation Enhancements (TE)**

A funding program of the USDOT Federal Highway Administration that offers communities the opportunity to expand transportation choices. Activities such as safe bicycle and pedestrian facilities, scenic routes, beautification, and other investments increase opportunities for recreation, accessibility, and safety for everyone beyond traditional highway programs.

**Transportation Systems Management (TSM)**

Transportation Systems Management is the cooperative development and implementation of strategies to maximize the safe movement of people and goods by managing an integrated multimodal transportation system. The effective management of the system will enable the traveling public more efficient use of the existing transportation facilities. Elements of TSM include incident management programs, traveler information systems, traffic signal systems upgrades, intermodal freight planning, surveillance control systems, demand management techniques, and commercial vehicle operations.

**Traffic Signal Priority (TSP)**

It gives preferential treatment to one type of system user over other users and allows signal controllers to service competing needs in the order of relative importance.

**User Services**

Services available to travelers on an ITS-equipped transportation system, as set forth by ITS America. The 30 services are arranged in 7 categories, as follows: travel and transportation management, travel demand management, public transportation operations, electronic payment, commercial vehicle operations, emergency management, and advanced vehicle control and safety systems.

**User-side Subsidies**

This refers to funds set aside to offer discounts to public transit users. Such subsidies are approved by local jurisdictions councils or boards and are optional. A city, for example, pays full price for a monthly

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bus or rail pass but will sell it to a transit user (city resident) for a lower (subsidized) rate. Each city defines who is eligible for subsidies based on demand and budgetary constraints.

**Vehicle Miles Traveled (VMT)**

The number of miles traveled within a specific geographic location by vehicles for a period of one year. VMT is calculated either by using two odometer readings or, in the absence of one of the odometer readings, by regression estimate.

**REFERENCES**

American Public Transportation Association

Website: <http://www.apta.com/research/info/online/glossary.cfm>

California Highway Design Manual Chapter 1000

California Streets and Highways Code

Website: <http://ntl.bts.gov/>

Caltrans-California Department of Transportation

Website: <http://www.dot.ca.gov/>

City and County of Honolulu and the Hawaii Department of Transportation

Website: <http://www.oahutrans2k.com/info/glossary>

Department of Energy

Website: <http://www.energy.gov/>

Federal Transportation Authority glossary

Website: [http://www.fta.dot.gov/31\\_ENG\\_Printable.htm](http://www.fta.dot.gov/31_ENG_Printable.htm)

Federal Highway Administration (ITS glossary )

Website: [http://www.fhwa.dot.gov/planning/glossary/glossary\\_listing.cfm](http://www.fhwa.dot.gov/planning/glossary/glossary_listing.cfm)

Kitsap Transit, Bremerton, Washington.

Website: [www.kitsaptransit.org/home/ktjargon.html](http://www.kitsaptransit.org/home/ktjargon.html)

State of North Carolina Department of Transportation

Website: <http://www.ncdot.org/transit/transitnet/Glossary/>

US Department of Transportation glossary

Website: <http://www.dot.ca.gov/hq/MassTrans/trterms.htm>

**Other website sources**

<http://en.wikipedia.org/wiki/infrastructure>

<http://sco.ca.gov>

<http://www.belmont.gov/SubContent.asp?CatId=240000622>

<http://www.dieselnets.com/gl-a.html>

[http://www.pvpc.org/html/tier3/transp/trans\\_study.html](http://www.pvpc.org/html/tier3/transp/trans_study.html)

<http://www.tempe.gov/tim/DialARide.htm>

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## **ACKNOWLEDGEMENTS**

The Fiscal Year 2007 revision of the Proposition A and Proposition C Local Return Guidelines was made possible through the combined efforts of Metro staff and the constituent representatives comprising the Local Return Guidelines Update Working Group:

Maged El-Rabaa, County of Los Angeles, Technical Advisory Committee  
Mike Uyeno, City of Los Angeles, Technical Advisory Committee  
Desi Alvarez, City of Downey, Gateway Cities Council of Governments  
Victor Rollinger, League of California Cities, South Bay Cities Council of Governments  
Greg Hermann/Ryan Mills, City of Burbank, Arroyo Verdugo Cities Council of Governments  
Daniel Rix, City of Pasadena, San Gabriel Valley Council of Governments  
James Thorsen, City Of Agoura Hills, Los Virgenes –Malibu Council Of Governments  
Mark Bozigian, City Of Lancaster, North County Transportation Coalition  
David Feinberg, City of Santa Monica, Westside Cities Council of Governments  
Sumire Gant, City of Long Beach  
Mark Yamarone, City of Pasadena, TDM/Air Quality Subcommittee  
Susan Lipman, City of Santa Clarita, Bus Operators Subcommittee  
David Feinberg, City of Santa Monica, Bus Operators Subcommittee  
Joyce Rooney, City of West Hollywood, Local Transit Systems Subcommittee  
Ken Johnson, City of Burbank, Streets & Freeways Subcommittee

Nalini Ahuja, Local Programming, Metro  
Patricia Chen, Local Programming, Metro  
Ed Clifford, Service Coordination, Operations, Metro  
Jay Fuhrman, Local Programming, Metro  
Jon Grace, Transportation Development & Implementation, Metro  
Chip Hazen, ADA Compliance, Metro  
Lori Huddleston, Transportation Development & Implementation, Metro  
Ben Jong, Transportation Development & Implementation, Metro  
Randy Lamm, Transportation Development & Implementation, Metro  
Robert Machuca, Local Programming, Metro  
Al Patashnick, Transportation Development & Implementation, Metro  
Susan Richan, Local Programming, Metro  
James Rojas, Transportation Development & Implementation, Metro  
Armineh Saint, Local Programming, Metro  
Carlos Vendiola, Local Programming, Metro  
Thomas Soteros-McNamara (cover)

DECLARATION OF DAVID W. BURHENN  
AND EXHIBITS 1 AND 2

**DECLARATION OF DAVID W. BURHENN**

I, David W. Burhenn, hereby declare:

1. I am a member of Burhenn & Gest LLP and, as such, am one of the attorneys principally responsible for representing the City of Downey in this matter.

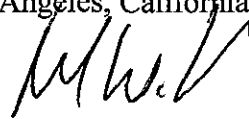
2. I have personal knowledge of the matters set forth herein and, if called to testify, could and would testify competently thereto.

3. Attached hereto as Exhibit 1 is a true and correct copy of a letter from the Office of the California State Controller to the Commission on State Mandates (“Commission”) dated July 23, 2010 regarding “Revised Proposed Parameters and Guidelines and Reasonable Reimbursement Methodology” which I downloaded from the website of the Commission on June 29, 2020 at the following address: <http://csm.ca.gov/matters/03-TC-04/doc19.pdf>.

4. Attached hereto as Exhibit 2 is a true and correct copy of a letter from the Office of the California State Controller to the Commission dated February 18, 2011 regarding “Draft Staff Analysis, Proposed Parameters and Guidelines, Schedule for Comments, and Hearing Date” which I downloaded from the website of the Commission on June 29, 2020 at the following address: <http://csm.ca.gov/matters/03-TC-04/doc28.pdf>.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 29th day of June, 2020 at Los Angeles, California.



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David W. Burhenn

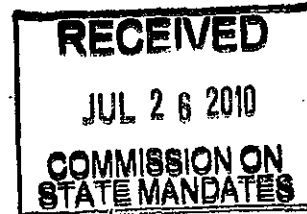
# EXHIBIT 1



**JOHN CHIANG**  
California State Controller

July 23, 2010

Ms. Nancy Patton  
Assistant Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814



**RE: Revised Proposed Parameters and Guidelines and Reasonable Reimbursement Methodology**  
Municipal Storm Water and Urban Runoff Discharges  
03-TC-04, 03-TC-20, 03-TC-21  
Los Angeles Regional Quality Control Board Order No. 01-182  
Permit CAS004001; Part 4, Section F.5.c.3.  
County of Los Angeles, Cities of Artesia, Azusa, Beverly Hills, Carson, Commerce  
Norwalk, Rancho Palos Verdes, Westlake Village, Vernon, Bellflower, Covina, Downey,  
Monterey Park, and Signal Hill, Co-claimants

Dear Ms. Patton:

We have reviewed the revised proposed parameters and guidelines submitted by the County of Los Angeles and the various cities, respectively. Below are our comments and recommendations; proposed additions are underlined and deletions are indicated with strikethrough as follows:

**III. PERIOD OF REIMBURSEMENT**

“Actual costs for one fiscal year shall be included in each claim. ~~Estimated costs for the subsequent year may be included on the same claim, if applicable.~~ Pursuant to section 17561, subdivision (d)(1)(A) of the Government Code, all claims for reimbursement of initial years<sup>2</sup> fiscal year costs shall be submitted to the State Controller within 120 days of notification by the State Controller of the issuance date of claiming instructions.”

“ If the total costs for a given year do not exceed \$200 1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.”



**COMMENTS:** The County of Los Angeles' proposed revised parameters and guidelines on June 1, 2010.

*Paragraph 6, Page 9*

- a. *Delete 2<sup>nd</sup> sentence on Estimated Costs.* Chapter 6, Statutes of 2008 (effective February 16, 2008), eliminates the option of filing an estimated reimbursement claim.
- b. *Change 3<sup>rd</sup> sentence on language for minimum claim.* The language needs to be specific as to the initial fiscal year costs and the time frame 120 days from the issuance date, instead of the date of notification by SCO.

2. *7<sup>th</sup> Paragraph:*

*Change minimum amount from \$200 to \$1,000.* GC section 17564 (a) provides that no claim may be filed pursuant to Section 17551 and 17561, unless such a claim exceeds one thousand dollars (\$1,000).

#### **IV. REIMBURSABLE ACTIVITIES**

*Paragraph 1, Page 9*

~~“To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed, except where reasonable reimbursement methodology (RRM) rates are adopted as set forth in Section IV.B. To claim repetitive trash collection activities, claimants may elect to use RRM rates, their own time study or actual costs.”~~

#### **IV. A. Actual Costs**

*Paragraph 3, Page 10*

“Claimants may use time studies to support labor [salary, benefit and associated indirect] costs when an activity is task-repetitive. Time study usage is subject to the review and audit conducted by the State Controller’s Office. A time study plan is necessary before conducting a time study. The claimant must retain the time study plan for audit purposes. The plan needs to identify the following:

- Time period(s) to be studied – The plan must show that all time periods selected are representative of the fiscal year, and the results can be reasonably projected to approximate actual costs;
- Activities and/or programs to be studied – For each mandated program included, the time study must separately identify each reimbursable activity defined in the mandated program’s parameters and guidelines, which are derived from the program’s Statement of

Decision. If a reimbursable activity in the parameters and guidelines identifies separate and distinct sub-activities, these sub-activities must also be treated as individual activities;  
The reimbursable time recorded on each time survey..."

#### **IV.B. Reasonable Reimbursement Methodology**

~~"Claimants may elect to be reimbursed for their transit trash collection costs using a reasonable reimbursement methodology (RRM) as set forth below. Under this RRM, the annual standard or unit cost for each trash collection or 'pick-up' is multiplied by the annual number of trash collections to compute reimbursement for trash collection activities."~~

~~"The annual standard costs for a transit trash collection or 'pick-up' are:"~~

<del>2008-09</del>	<del>\$6.75</del>	<del>plus three annual cost of living adjustments</del>
<del>2007-08</del>	<del>\$6.75</del>	<del>plus two annual cost of living adjustments</del>
<del>2006-07</del>	<del>\$6.75</del>	<del>plus one annual cost of living adjustment</del>
<del>2005-06</del>	<del>\$6.75</del>	<del>—</del>
<del>2004-05</del>	<del>\$6.75</del>	<del>less one annual cost of living adjustment</del>
<del>2003-04</del>	<del>\$6.75</del>	<del>less two annual cost of living adjustments</del>
<del>2002-03</del>	<del>\$6.75</del>	<del>less three annual cost of living adjustments"</del>

#### **COMMENT:**

*Page 10, Part IV.B, Paragraph 1:*

To be eligible for mandated cost reimbursement, the claimant should be used only One-time Activity for claiming. The claimants should use the "Actual Costs" method to claim costs for Installation of Trash Receptacles (subsections 1.a. to 1.e, pp. 11-12) and Maintenance of trash receptacles (subsections 2.b to 2.e), except for subsection 2.a. For uniformity and consistency, we recommend "Actual Costs" method to claim costs for the Collection of trash, Section IV. (C)(2)(a). Consequently, we propose to delete "Reasonable Reimbursement Methodology" (RRM) method and RRM table as set forth in Section IV.B.

#### **IV.C B. Scope of Reimbursable Activities**

**COMMENT:** This would have to be "B" now ... we're eliminating "B" above.

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

~~For each eligible claimant, the following activities are reimbursable:~~

- ~~1. Installation of Trash Receptacles. The activities include: planning (identifying transit stops, evaluating and selecting trash receptacle and pad type, evaluation of placement of trash receptacles and pads and specification and drawing preparation); preliminary~~

~~engineering work (construction contract preparation and specification review, bid advertising and award process); construction and installation of trash receptacles (including fabrication and installation of pads for receptacles and foundations and construction management). The five transit trash installation claiming categories are:~~

- ~~a. Identification of locations of all transit stops within the jurisdiction required to have a trash receptacle pursuant to the Permit.~~
- ~~b. Selection of receptacle and pad type, evaluate proper placement of receptacles and prepare specifications and/or drawings.~~
- ~~c. Contract preparation, specification review process, bid advertising, and review and award of bid.~~
- ~~d. Purchase of receptacles and/or construct receptacles and install receptacles.~~
- ~~e. Repeat steps (IV.C.1.c-d) when necessary for replacement of receptacles/pads.~~

**COMMENT:**

*Paragraphs 3-10, Pages 11 & 12*

We propose to delete the activities of "Installation of Trash Receptacles" as set forth in Section IV.C of subsections 1.a to 1.e, pp 11-12 because they are outside the scope of the state mandated reimbursable costs. "On September 3, 2009, the Commission adopted a Statement of Decision... (Part4F5c3 and GC section 17514 and 17556)".

**IV.D. C. Methods for Claiming Costs**

**COMMENT:**

*Page 11-12:*

We propose to delete Section IV.B. Reasonable Reimbursement Methodology above. Therefore, we recommend changing the distribution of and Section IV.C. Methods for Claiming Costs.

**V. CLAIM PREPARATION AND SUBMISSION**

**4. Capital Fixed Assets and Equipment**

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

**COMMENT:**

*Page 13, Part V:*

We propose to change "Capital" to "Fixed" because "Capital" pertains to both Fixed Assets and Equipment.

Ms. Nancy Patton  
July 23, 2010  
Page 5

Should you have any questions regarding the above, please contact Tiffany Hoang at (916) 323-1127, e-mail [thoang@sco.ca.gov](mailto:thoang@sco.ca.gov) or Angie Lowi-Teng at (916) 323-0706, e-mail [ateng@sco.ca.gov](mailto:ateng@sco.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'JAYLAL', with a long horizontal flourish extending to the right.

JAYLAL, Manager  
Local Reimbursement Sections

JL/ATL/th

Mr. Michael Lauffer State Water Resources Control Board 1001 I Street, 22nd Floor Sacramento, CA 95814-2828	Tel: (916)341-5183 Email mlauffer@waterboards.ca.gov Fax: (916)641-5199
Mr. Mark C. Whitworth City of Vernon 4305 Santa Fe Avenue Vernon, CA 90058	Tel: (323)583-8811 Email Kenemoto@ci.vernon.ca.us Fax:
Ms. Kimberley Nguyen MAXIMUS 3130 Kilgore Road, Suite 400 Rancho Córdova, CA 95670	Tel: (916)471-5516 Email kimberleynguyen@maximus.com Fax: (916)366-4838
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Ms. Carla Shelton Department of Finance 915 L Street, 7th Floor Sacramento, CA 95814	Tel: carla.shelton@dof.ca.gov Email carla.shelton@dof.ca.gov Fax:
Mr. Leonard Kaye Los Angeles County Auditor-Controller's Office 500 W. Temple Street, Room 603 Los Angeles, CA 90012	Tel: (213)974-9791 Email lkaye@auditor.lacounty.gov Fax: (213)617-8106

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

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

**COMMISSION ON STATE MANDATES**

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

**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

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

On February 18, 2011, I served the:

State Controller's Office comments

*Municipal Storm Water and Urban Runoff Discharges*

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

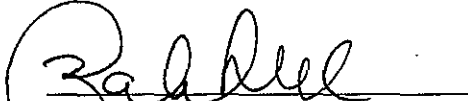
Los Angeles Regional Quality Control Board Order No. 01-182

Permit CAS004001; Part 4F5c3

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

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on February 18, 2011 at Sacramento, California.

  
Heidi J. Palchik



## EXHIBIT 2



**JOHN CHIANG**  
California State Controller  
Division of Accounting and Reporting

February 18, 2011

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

Re: Draft Staff Analysis, Proposed Parameters and Guidelines, Schedule for Comments, and Hearing Date  
Municipal Storm Water and Urban Runoff Discharges  
03-TC-04, 03-TC-20, 03-TC-21  
Los Angeles Regional Quality Control Board Order No. 01-182  
Permit CAS004001; Part 4, Section F.5.c.3.  
County of Los Angeles, Cities of Artesia, Beverly Hills, Carson, Norwalk, Rancho Palos Verdes, Westlake Village, Azusa, Commerce, Vernon, Bellflower, Covina, Downy, Monterey Park, and Signal Hill, Co-claimants

Dear Mr. Bohan:

We have reviewed the proposed parameters and guidelines submitted by the County of Los Angeles and the various cities, respectively. Below are our comments and recommendations; proposed additions are underlined and deletions are indicated with strikethrough as follows:

**III. PERIOD OF REIMBURSEMENT**

**Page 3**

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

3. Pursuant to Government Code section 17560, subdivision (a), a local agency may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.

4. ~~If~~ In the event that revised claiming instructions are issued by the Controller pursuant to Government Code section 17558, subdivision (c), between November 15 and February 15, a local agency filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Government Code section 17560, subdivision (b)).

**Comment:** Change the boilerplate language to conform to Government Code section 17560, subdivision (b).

Mr. Drew Bohan  
February 18, 2011  
Page 2

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

#### **IV. REIMBURSABLE ACTIVITIES**

##### ***Page 4, Paragraph 2***

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

##### ***Page 4, Paragraph 4***

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

##### **One-Time Activities**

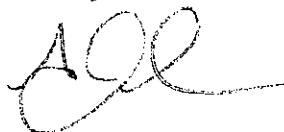
- A. Installation of Trash Receptacles (one-time per transit stop):

##### **Ongoing Activities**

- B. Maintenance of Trash Receptacles and Pads (on-going as needed):

Should you have any questions regarding the above, please contact Tiffany Hoang at (916) 323-1127, or e-mail to [thoang@sco.ca.gov](mailto:thoang@sco.ca.gov) .

Sincerely,



JAY LAL, Manager  
Local Reimbursement Sections

## Commission on State Mandates

Original List Date:  
Last Updated: 2/17/2011  
List Print Date: 02/18/2011  
Claim Number: 03-TC-04, 19, 20, 21  
Issue: Municipal Stormwater and Urban Runoff Discharges

### Mailing List

#### TO ALL PARTIES AND INTERESTED PARTIES:

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

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Mr. Wayne Shimabukuro County of San Bernardino Auditor/Controller-Recorder-Treasurer-Tax Collector 222 West Hospitality Lane, 4th Floor San Bernardino, California 92415-0018	Tel: (909)386-8850 Email wayne.shimabukuro@atc.sbcounty.gov Fax: (909)386-8830
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Mr. Ray Taylor City of Westlake Village 31200 Oakcrest Drive Westlake Village, CA 91361	Tel: (818)706-1613 Email Ray@wlv.org Fax:
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Ms. Jill Kanemasu State Controller's Office (B-08) Division of Accounting and Reporting 3301 C Street, Suite 700 Sacramento, CA 95816	Tel: (916)322-9891 Email jkanemasu@sco.ca.gov Fax:
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Ms. Lisa Bond Richards, Watson & Gershon, LLP 355 South Grand Avenue, 40th Floor Los Angeles, CA 90071	Tel: (213)626-8484 Email lbond@wgjaw.com Fax: (213)626-0078
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Ms. Jennifer L. Fordyce State Water Resources Control Board 1001 I Street, 22nd floor Sacramento, CA 95814	Tel: (916)324-6682 Email jfordyce@waterboards.ca.gov Fax: (916)341-5199
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Mr. Andy Nichols Nichols Consulting 1857 44th Street Sacramento, CA 95819	Tel: (916)455-3939 Email andy@nichols-consulting.com Fax: (916)739-8712
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# **SECTION 9**

## **CLAIMING INSTRUCTIONS**

**EXHIBIT C**

**CLAIMING INSTRUCTIONS**

OFFICE OF THE STATE CONTROLLER  
STATE MANDATED COSTS CLAIMING INSTRUCTIONS NO. 2011-05  
MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES

MAY 31, 2011

This program will be in effect beginning July 1, 2002, until a new national pollutant discharge elimination system (NPDES) permit issued by the Regional Water Quality Control Board for Los Angeles is adopted.

In accordance with Government Code sections 17560 and 17561, eligible claimants may submit claims to the State Controller's Office (SCO) for reimbursement of costs incurred for state mandated cost programs. The following are claiming instructions and forms that eligible claimants will use for the filing of claims for the Municipal Storm Water and Urban Runoff Discharges program. These claiming instructions are issued subsequent to adoption of the program's Parameters and Guidelines (P's & G's) by the Commission on State Mandates (Commission).

On July 31, 2009, the Commission adopted a Statement of Decision finding that part 4F5c3 of the Permit CAS004001 adopted by the Los Angeles Regional Water Quality Control Board imposes a partially reimbursable state-mandated program on specified local agencies for the activities listed in the P's & G's which are included as an integral part of these claiming instructions.

**Exception**

There will be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

**Eligible Claimants**

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

- Local agency permittees identified in the Los Angeles Regional Water Quality Control Board Order No. 01-182, Permit CAS004001, that are *not* subject to a trash total maximum daily load (TMDL) are eligible to claim reimbursement for the mandated activities.
- The following local agency permittees that are subject to the Ballona Creek trash TMDL are eligible to claim reimbursement for the mandated activities only to the extent they have transit stops located in areas not covered by the Ballona Creek trash TMDL requirements:
  - Beverly Hills, Culver City, Inglewood, Los Angeles (City), Los Angeles County, Santa Monica, and West Hollywood
- From August 28, 2002, until September 22, 2008, the following local agency permittees that are subject to the Los Angeles River trash TMDL are eligible to claim reimbursement for the mandated activities:

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

- Beginning September 23, 2008, the following local agency permittees that are subject to the Los Angeles River trash TMDL are eligible to claim reimbursement for the mandated activities only to the extent they have transit stops located in areas not covered by the Los Angeles River trash TMDL requirements:

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

## **Filing Deadlines**

### **A. Reimbursement Claims**

Initial reimbursement claims must be filed within 120 days from the issuance date of the claiming instructions. Costs incurred for compliance with this mandate are reimbursable for fiscal years 2002-2003 through 2009-2010 and must be filed with the SCO and be delivered or postmarked on or before **September 28, 2011**. Claims filed after **September 28, 2011**, are subject to a 10% late penalty without limitation. Claims for fiscal year 2010-2011 must be filed with the SCO and be delivered or post marked on or before **February 15, 2012**. Claims for fiscal year 2010-2011 filed after **February 15, 2012**, will be subject to a 10% late penalty not to exceed \$10,000. **Claims filed more than one year after the applicable deadline will not be accepted.**

### **B. Late Penalty**

#### **1. Initial Claims**

Late initial claims are assessed a 10% late penalty of the total amount of the claims without limitation pursuant to Government Code Section 17561.

#### **2. Annual Reimbursement Claims**

Annual reimbursement claims must be filed by February 15 of the following fiscal year in which costs were incurred or the claims will be reduced by a late penalty.

Late annual reimbursement claims are assessed a 10% late penalty of the claimed amount; \$10,000 maximum penalty.



### **Minimum Claim Cost**

GC section 17564(a) provides that no claim may be filed pursuant to sections 17551, 17560, and 17561, unless such a claim exceeds one thousand dollars (**\$1,000**).

### **Reimbursement of Claims**

Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating: "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure Section 2015.5.

Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

### **Audit of Costs**

All claims submitted to the SCO are subject to review to determine if costs are related to the mandate, are reasonable and not excessive, and if the claim was prepared in accordance with the SCO's claiming instructions and the P's & G's adopted by the Commission. If any adjustments are made to a claim, a Notice of Claim Adjustment specifying the activity adjusted, the amount adjusted, and the reason for the adjustment, will be mailed within thirty days after payment of the claim.

On-site audits will be conducted by the SCO as deemed necessary. Pursuant to GC section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency for this mandate is subject to the initiation of an audit by the SCO no later than three years after the date that the actual reimbursement claim was filed or last amended, whichever is later. However, if no funds were appropriated or no payment was made to a claimant for the program for the fiscal year for which the claim was filed, the time for the Controller to initiate an audit will commence to run from the date of initial payment of the claim.

All documents used to support the reimbursable activities must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

### **Record Retention**

All documentation to support actual costs claimed must be retained for a period of three years after the end of the calendar year in which the reimbursement claim was filed or last amended regardless of the year of costs incurred. If no funds were appropriated for initial claims at the time the claim was filed, supporting documents must be retained for three years from the date of

initial payment of the claim. Therefore, all documentation to support actual costs claimed must be retained for the same period, and must be made available to the SCO on request.

**Address for Filing Claims**

Submit a signed original and a copy of form FAM-27, Claim for Payment, and all other forms and supporting documents. **To expedite the payment process, please sign the form in blue ink, and attach a copy of the form FAM-27 to the top of the claim package.**

Use the following mailing addresses:

If delivered by  
U.S. Postal Service:

Office of the State Controller  
Attn: Local Reimbursements Section  
Division of Accounting and Reporting  
P.O. Box 942850  
Sacramento, CA 94250

If delivered by  
other delivery services:

Office of the State Controller  
Attn: Local Reimbursements Section  
Division of Accounting and Reporting  
3301 C Street, Suite 700  
Sacramento, CA 95816

Mandated costs claiming instructions and forms are available online at the SCO's Web site: [www.sco.ca.gov/ard\\_mancost.html](http://www.sco.ca.gov/ard_mancost.html). If you have questions, call the Local Reimbursements Section at (916) 324-5729 or email [LRSDAR@sco.ca.gov](mailto:LRSDAR@sco.ca.gov).

Adopted: March 24, 2011

## **PARAMETERS AND GUIDELINES**

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

Permit CAS004001

Part 4F5c3

### *Municipal Storm Water and Urban Runoff Discharges*

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

County of Los Angeles, Claimant (03-TC-04)

Cities of Artesia, Beverly Hills, Carson, Norwalk, Rancho Palos Verdes, Westlake Village,

Azusa, Commerce, Vernon, Claimants (03-TC-20)

Bellflower, Covina, Downey, Monterey Park, Signal Hill, Claimants (03-TC-21)

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### **I. SUMMARY OF THE MANDATE**

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

Permittees not subject to a trash TMDL [total maximum daily load] shall [¶]...[¶] Place trash receptacles at all transit stops within its jurisdiction that have shelters no later than August 1, 2002, and at all other transit stops within its jurisdiction no later than February 3, 2003. All trash receptacles shall be maintained as necessary.

The Commission found that each local agency subject to the permit and not subject to a trash total maximum daily load (TMDL), is entitled to reimbursement to: "Place trash receptacles at all transit stops within its jurisdiction that have shelters no later than August 1, 2002, and at all other transit stops within its jurisdiction no later than February 3, 2003. All trash receptacles shall be maintained as necessary." All other activities pled in the test claim were denied by the Commission. The Statement of Decision was issued in September 2009.

### **II. ELIGIBLE CLAIMANTS**

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

- Local agency permittees identified in the Los Angeles Regional Water Quality Control Board Order No. 01-182, Permit CAS004001, that are *not* subject to a trash TMDL are eligible to claim reimbursement for the mandated activities.
- The following local agency permittees that are subject to the Ballona Creek trash TMDL are eligible to claim reimbursement for the mandated activities only to the extent they have transit stops located in areas not covered by the Ballona Creek trash TMDL requirements:
  - Beverly Hills, Culver City, Inglewood, Los Angeles (City), Los Angeles County Santa Monica, and West Hollywood
- From August 28, 2002, until September 22, 2008, the following local agency permittees that are subject to the Los Angeles River trash TMDL are eligible to claim reimbursement for the mandated activities:
  - Alhambra, Arcadia, Bell, Bell Gardens, Bradbury, Burbank, Calabasas, Carson, Commerce, Compton, Cudahy, Downey, Duarte, El Monte, Glendale, Hidden Hills, Huntington Park, Irwindale, La Canada Flintridge, Los Angeles (City), Los Angeles County, Lynwood, Maywood, Monrovia, Montebello, Monterey Park, Paramount, Pasadena, Pico Rivera, Rosemead, San Fernando, San Gabriel, San Marino, Santa Clarita, Sierra Madre, Signal Hill, Simi Valley, South El Monte, South Gate, South Pasadena, Temple City, and Vernon
- Beginning September 23, 2008, the following local agency permittees that are subject to the Los Angeles River trash TMDL are eligible to claim reimbursement for the mandated activities only to the extent they have transit stops located in areas not covered by the Los Angeles River trash TMDL requirements:
  - Alhambra, Arcadia, Bell, Bell Gardens, Bradbury, Burbank, Calabasas, Carson, Commerce, Compton, Cudahy, Downey, Duarte, El Monte, Glendale, Hidden Hills, Huntington Park, Irwindale, La Canada Flintridge, Los Angeles (City), Los Angeles County, Lynwood, Maywood, Monrovia, Montebello, Monterey Park, Paramount, Pasadena, Pico Rivera, Rosemead, San Fernando, San Gabriel, San Marino, Santa Clarita, Sierra Madre, Signal Hill, Simi Valley, South El Monte, South Gate, South Pasadena, Temple City, and Vernon

### III. PERIOD OF REIMBURSEMENT

Government Code section 17557 states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for reimbursement for that fiscal year. The County of Los Angeles filed a test claim on *Transit Trash Receptacles* (03-TC-04) on September 2, 2003. The Cities of Artesia, Beverly Hills, Carson, La Mirada, Monrovia, Norwalk, Rancho Palos Verdes, San Marino, and Westlake Village filed a test claim on *Waste Discharge Requirements* (03-TC-20) on September 30, 2003. The Cities of Baldwin Park, Bellflower, Cerritos, Covina, Downey, Monterey Park, Pico Rivera, Signal Hill, South Pasadena, and West Covina filed a test claim on *Storm Water Pollution Requirements* (03-TC-21) on September 30, 2003. Each test claim alleged that Part 4F5C3 of the Los Angeles Regional Water Quality Control Board Order No. 01-182,

Permit CAS004001 was a reimbursable state-mandated program. The filing dates of these test claims establish eligibility for reimbursement beginning July 1, 2002, pursuant to Government Code section 17557, subdivision (e), and continues until a new NPDES permit issued by the Regional Water Quality Control Board for Los Angeles is adopted.

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

1. Costs for one fiscal year shall be included in each claim.
2. All claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions. (Gov. Code, § 17561, subd. (b)(1)(A).)
3. A local agency may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year. (Gov. Code, § 17560, subd. (a).)
4. In the event revised claiming instructions are issued by the Controller pursuant to Government Code section 17558, subdivision (c), between November 15 and February 15, a local agency filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Gov. Code, § 17560, subd. (b).)
5. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564, subdivision (a).
6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

#### **IV. REIMBURSABLE ACTIVITIES**

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed for the one-time activities in section IV. A below. The ongoing activities in section IV. B below are reimbursed under a reasonable reimbursement methodology.

Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual costs were incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

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

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

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

- A. Install Trash Receptacles (one-time per transit stop, reimbursed using actual costs):
  1. Identify locations of all transit stops within the jurisdiction required to have a trash receptacle pursuant to the Permit.
  2. Select receptacle and pad type, evaluate proper placement of receptacles and prepare specifications and drawings.
  3. Prepare contracts, conduct specification review process, advertise bids, and review and award bids.
  4. Purchase or construct receptacles and pads and install receptacles and pads.
  5. Move (including replacement if required) receptacles and pads to reflect changes in transit stops, including costs of removal and restoration of property at former receptacle location and installation at new location.
- B. Maintain Trash Receptacles and Pads (on-going, reimbursed using the reasonable reimbursement methodology):
  1. Collect and dispose of trash at a disposal/recycling facility. *This activity is limited to no more than three times per week.*
  2. Inspect receptacles and pads for wear, cleaning, emptying, and other maintenance needs.
  3. Maintain receptacles and pads. This activity includes painting, cleaning, and repairing receptacles; and replacing liners. The cost of paint, cleaning supplies and liners is reimbursable. *Graffiti removal is not reimbursable.*
  4. Replace individual damaged or missing receptacles and pads. The costs to purchase and install replacement receptacles and pads and dispose of or recycle replaced receptacles and pads are reimbursable.

**V. CLAIM PREPARATION AND SUBMISSION OF ACTUAL COSTS FOR THE REIMBURSABLE ACTIVITIES IDENTIFIED IN SECTION IV.A.**

Each of the following cost elements must be identified for the reimbursable activities identified in section IV of this document. Each reimbursable cost must be supported by source documentation as described in section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

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

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

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

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services were also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

4. Fixed Assets and Equipment

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

5. Travel

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

B. Indirect Cost Rates

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

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the 2 CFR Part 225 (Office of Management and Budget (OMB) Circular A-87). Claimants have the option of using 10% of labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in 2 CFR Part 225, Appendix A and B (OMB Circular A-87 Attachments A and B) and the indirect shall exclude capital expenditures and unallowable costs (as defined and described in 2 CFR Part 225, Appendix A and B (OMB Circular A-87 Attachments A and B).) However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

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

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

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

## **VI. CLAIM PREPARATION AND SUBMISSION OF THE REASONABLE REIMBURSEMENT METHODOLOGY FOR THE REIMBURSABLE ACTIVITIES IDENTIFIED IN SECTION IV.B**

### **Direct and Indirect Costs**

The Commission is adopting a reasonable reimbursement methodology to reimburse eligible local agencies for all direct and indirect costs for the on-going activities identified in section IV.B of these parameters and guidelines to maintain trash receptacles. (Gov. Code, §§ 17557, subd. (b) & 17518.) The RRM is in lieu of filing detailed documentation of actual costs. Under the RRM, the unit cost of \$6.74, during the period of July 1, 2002 to June 30, 2009, for each trash collection or "pickup" is multiplied by the annual number of trash collections (number of receptacles times pickup



events for each receptacle), subject to the limitation of no more than three pickups per week. Beginning in fiscal year 2009-2010, the RRM shall be adjusted annually by the implicit price deflator as forecast by the Department of Finance.

## **VII. RECORDS RETENTION**

### **A. Actual Costs**

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter<sup>1</sup> is subject to the initiation of an audit by the State Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

### **B. Reasonable Reimbursement Methodology**

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a school district pursuant to this chapter<sup>2</sup> is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. Pursuant to Government Code section 17561, subdivision (d)(2), the Controller has the authority to audit the application of a reasonable reimbursement methodology.

Local agencies must retain documentation which supports the reimbursement of the maintenance costs identified in Section IV.B of these parameters and guidelines during the period subject to audit, including documentation showing the number of trash receptacles in the jurisdiction and the number of trash collections or pickups. If an audit has been initiated by the Controller during the period subject to audit, the record retention period is extended until the ultimate resolution of any audit findings.

## **VIII. OFFSETTING REVENUES AND REIMBURSEMENTS**

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.

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<sup>1</sup> This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

<sup>2</sup> This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

### **VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS**

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission.

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

### **IX. REMEDIES BEFORE THE COMMISSION**

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

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

### **X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES**

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.

<b>MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES CLAIM FOR PAYMENT</b>	For State Controller Use Only (19) Program Number 00314 (20) Date Filed (21) LRS Input	<b>PROGRAM</b>  <span style="font-size: 2em;"><b>314</b></span>
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(01) Claimant Identification Number	<b>Reimbursement Claim Data</b>	
(02) Claimant Name	(22) FORM-1, (04) A.1.(g)	
County of Location	(23) FORM-1, (04) A.2.(g)	
Street Address or P.O. Box <span style="float: right;">Suite</span>	(24) FORM-1, (04) A.3.(g)	
City <span style="float: right;">State</span> <span style="float: right;">Zip Code</span>	(25) FORM-1, (04) A.4.(g)	
(03) (04) (05)	<b>Type of Claim</b>	(26) FORM-1, (04) A.5.(g)
	(09) Reimbursement <input type="checkbox"/>	(27) FORM-1, (06)
	(10) Combined <input type="checkbox"/>	(28) FORM-1, (07)
	(11) Amended <input type="checkbox"/>	(29) FORM-1, (08)
Fiscal Year of Cost (06)	(12)	(30) FORM-1, (11)
Total Claimed Amount (07)	(13)	(31) FORM-1, (12)
Less: (refer to attached Instructions)	(14)	(32)
Less: Prior Claim Payment Received	(15)	(33)
<b>Net Claimed Amount</b>	(16)	(34)
Due from State (08)	(17)	(35)
Due to State	(18)	(36)

**(37) CERTIFICATION OF CLAIM**

In accordance with the provisions of Government Code Sections 17560 and 17561, I certify that I am the officer authorized by the local agency to file mandated cost 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 Article 4, Chapter 1 of Division 4 of Title 1 Government Code.

I further certify that there was no application other than from the claimant, nor any grants or payments received for reimbursement of costs claimed herein and claimed costs are for a new program or increased level of services of an existing program. All offsetting revenues and reimbursements set forth in the parameters and guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant.

The amount for this reimbursement is hereby claimed from the State for payment of actual costs set forth on the attached statements.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature of Authorized Officer \_\_\_\_\_

Date Signed \_\_\_\_\_

Telephone Number \_\_\_\_\_

E-mail Address \_\_\_\_\_

Type or Print Name and Title of Authorized Signatory \_\_\_\_\_

(38) Name of Agency Contact Person for Claim \_\_\_\_\_ Telephone Number \_\_\_\_\_

E-mail Address \_\_\_\_\_

Name of Consulting Firm / Claim Preparer \_\_\_\_\_ Telephone Number \_\_\_\_\_

E-mail Address \_\_\_\_\_

<b>PROGRAM</b> <b>314</b>	<b>MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES</b> <b>CLAIM FOR PAYMENT</b> <b>INSTRUCTIONS</b>	<b>FORM</b> <b>FAM - 27</b>
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- (01) Enter the claimant identification number assigned by the State Controller's Office.
- (02) Enter claimant official name, county of location, street or postal office box address, city, State, and zip code.
- (03) to (08) Leave blank.
- (09) If filing a reimbursement claim, enter an "X" in the box on line (09) Reimbursement.
- (10) Not applicable.
- (11) If filing an amended reimbursement claim, enter an "X" in the box on line (11) Amended.
- (12) Enter the fiscal year for which actual costs are being claimed. If actual costs for more than one fiscal year are being claimed, complete a separate form FAM-27 for each fiscal year.
- (13) Enter the amount of the reimbursement claim as shown on Form 1, line (13). The total claimed amount must exceed \$1,000; minimum claim must be \$1,001.
- (14) Initial claims must be filed as specified in the claiming instructions. Annual reimbursement claims must be filed by **February 15** of the following fiscal year in which costs were incurred or the claims must be reduced by a late penalty. Enter zero if the claim was timely filed. Otherwise, enter the penalty amount as a result of the calculation formula as follows:
- Late Initial Claims: FAM-27 line(13) multiplied by 10%, without limitation; or
  - Late Annual Reimbursement Claims: FAM-27, line (13) multiplied by 10%, late penalty not to exceed \$10,000.
- (15) Enter the amount of payment, if any, received for the claim. If no payment was received, enter zero.
- (16) Enter the net claimed amount by subtracting the sum of lines (14) and (15) from line (13).
- (17) If line (16), Net Claimed Amount, is positive, enter that amount on line (17), Due from State.
- (18) If line (16), Net Claimed Amount, is negative, enter that amount on line (18), Due to State.
- (19) to (21) Leave blank.
- (22) to (36) Reimbursement Claim Data. Bring forward the cost information as specified on the left-hand column of lines (22) through (36) for the reimbursement claim, e.g., Form 1, (04) A.1.(g), means the information is located on Form 1, line (04). A.1, column (g). Enter the information on the same line but in the right-hand column. Cost information should be rounded to the nearest dollar, i.e., no cents. Indirect costs percentage should be shown as a whole number and without the percent symbol, i.e., 35.19% should be shown as 35. **Completion of this data block will expedite the payment process.**
- (37) Read the statement of Certification of Claim. The claim must be dated, signed by the district's authorized officer, and must type or print name, title, date signed, telephone number, and email address. **Claims cannot be paid unless accompanied by an original signed certification. (To expedite the payment process, please sign the form FAM-27 with blue ink, and attach a copy of the form FAM-27 to the top of the claim package.)**
- (38) Enter the name, telephone number, and e-mail address of the agency contact person for the claim. If the claim was prepared by a consultant, type or print the name of the consulting firm, the claim preparer, telephone number, and e-mail address.

**SUBMIT A SIGNED ORIGINAL, AND A COPY OF FORM FAM-27, WITH ALL OTHER FORMS TO:**

**Address, if delivered by U.S. Postal Service:**

**OFFICE OF THE STATE CONTROLLER**  
**ATTN: Local Reimbursements Section**  
**Division of Accounting and Reporting**  
**P.O. Box 942850**  
**Sacramento, CA 94250**

**Address, if delivered by other delivery service:**

**OFFICE OF THE STATE CONTROLLER**  
**ATTN: Local Reimbursements Section**  
**Division of Accounting and Reporting**  
**3301 C Street, Suite 700**  
**Sacramento, CA 95816**

<b>PROGRAM</b> <b>314</b>	<b>MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES</b> <b>CLAIM SUMMARY</b>	<b>Form</b> <b>1</b>
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(01) Claimant	(02) Fiscal Year
	____/20____

(03) Department	
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Direct Costs	Object Accounts						
(04) Reimbursable Activities	(a)	(b)	(c)	(d)	(e)	(f)	(g)
	Salaries	Benefits	Materials and Supplies	Contract Services	Fixed Assets	Travel	Total
<b>A. One-time Activities</b>							
1. Identification of locations that are required to have a trash receptacle							
2. Selection/evaluation/and preparation of specifications and drawings							
3. Preparation of contracts/specification review process/advertise/review and award bids							
4. Purchase or construction and installation of receptacles and pads							
5. Moving/restoration at old location/and installation at new location							
(05) Total One-time Costs							

**Reasonable Reimbursement Methodology (RRM).**

<b>B. Ongoing Activity: Maintain Trash Receptacles and Pads</b>	
(06) Annual number of trash collections (Refer to claiming instructions)	
(07) Total Ongoing Costs	Line (06) x RRM rate

Indirect Costs	
(08) Indirect Cost Rate for A. One-time Activities	[From ICRP or 10%] %
(09) Total Indirect Costs for A. One-time Activities	Line (05)(a) x 10% or [Refer to Claiming Instructions for ICRP over 10%]
(10) Total Direct and Indirect Costs	Line (05)(g)+ line (07) + line (09)
(11) Less: Offsetting Revenues	
(12) Less: Other Reimbursements	
(13) Total Claimed Amount	[Line (10) - {line (11) + line (12)}]

<b>PROGRAM</b>  <b>314</b>	<b>MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES</b>  <b>CLAIM SUMMARY</b>  <b>INSTRUCTIONS</b>	<b>Form</b>  <b>1</b>
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- (01) Enter the name of the claimant.
- (02) Enter the fiscal year of claim.
- (03) Department. If more than one department has incurred costs for this mandate, give the name of each department. A separate Form-1 should be completed for each department.
- (04) **A One-time Activities (Actual Costs)**  
 Reimbursable Activities. For each reimbursable activity, enter the total from Form 2, line (05), columns (d) through (i) to Form 1, block (04), columns (a) through (f) in the appropriate row. Total each row.
- (05) Total One-time Costs. Total each column (a) through (g).
- (04) **B. Ongoing Activity- Reasonable Reimbursement Methodology (RRM)**
- (06) Annual number of trash collections. Enter the product of (number of receptacles) x (pick up events) for each receptacle, subject to the limitation of no more than three pickups per week.  
 Example: 10 receptacles x 2 times per week x 52 weeks = 1,040
- (07) Total Cost = Result from line (06) above x RRM rate for the applicable fiscal year.  
 Example: 1,040 x \$6.74 = \$7,010

Fiscal Year	RRM Rate
2002-03 to 2008-09	\$6.74
2009-2010	6.78
2010-2011	6.80

- (08) Indirect Cost Rate for A. One-time Activities. Indirect costs may be computed as 10% of direct labor costs, excluding fringe benefits, without preparing an ICRP. If an indirect cost rate of greater than 10% is used, include the Indirect Cost Rate Proposal (ICRP) with the claim.
- (09) Local agencies have the option of using 1) the flat rate of 10% of direct labor costs or 2) a department's indirect cost rate proposal (ICRP) in accordance with the Office of Management and Budget OMB Circular A-87 (Title 2 CFR Part 225). If the flat rate is used for indirect costs, multiply Total Salaries, line (05)(a), by 10%. If an ICRP is submitted, multiply applicable costs used in the distribution base for the computation of the indirect cost rate, by the Indirect Cost Rate, line (08). If more than one department is reporting costs, each must have its own ICRP for the program. [Line (08) x (line (05) (g) – costs not used in distribution base)].
- (10) Total Direct and Indirect Costs. Enter the sum of line (05)(g) + line (07) + line (09).
- (11) Less Offsetting Revenues. If applicable, enter any revenue received by the claimant for this mandate from any state or federal source.
- (12) Less: Other Reimbursements. If applicable, enter the amount of other reimbursements received from any source including, but not limited to, service fees collected, federal funds, and other state funds, that reimbursed any portion of the mandated cost program. Submit a schedule detailing the reimbursement sources and amounts.
- (13) Total Claimed Amount. Line (10) less the sum of line (11) plus line (12). Enter the total on this line and carry the amount forward to form FAM-27, line (14) for the Reimbursement Claim.

Program <b>314</b>	<b>MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES</b> <b>ACTIVITY COST DETAIL</b>	<b>Form</b> <b>2</b>
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(01) Claimant \_\_\_\_\_

(02) Fiscal Year \_\_\_\_\_

(03) Reimbursable Activities: Check only one box per form to identify the activity being claimed.

**A. One-time Activities**

- |   |  |
|---|--|
| <input type="checkbox"/> 1. Identification of locations that are required to have a trash receptacle<br><input type="checkbox"/> 2. Selection/evaluation and preparation of specifications and drawings<br><input type="checkbox"/> 3. Preparation of contracts/specification review process/advertisement/review and award of bids | <input type="checkbox"/> 4. Purchase or construction and installation of receptacles and pads<br><input type="checkbox"/> 5. Moving/restoration at old location/and installation at new location |
|---|--|

(04) Description of Expenses			Object Accounts					
(a) Employee Names, Job Classifications, Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries	(e) Benefits	(f) Materials and Supplies	(g) Contract Services	(h) Fixed Assets	(i) Travel
(05) Total <input type="checkbox"/> Subtotal <input type="checkbox"/> Page: _____ of _____								

<b>Program</b>  <span style="font-size: 2em;"><b>314</b></span>	<b>MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES</b>  <b>ACTIVITY COST DETAIL</b>  <b>INSTRUCTIONS</b>	<b>Form</b>  <span style="font-size: 2em;"><b>2</b></span>
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- (01) Claimant. Enter the name of the claimant.
- (02) Fiscal Year. Enter the fiscal year for which costs were incurred.
- (03) Reimbursable Activities. Check the box which indicates the activity being claimed. Check only one box per form. A separate Form 2 must be prepared for each applicable activity.
- (04) Description of Expenses. The following table identifies the type of information required to support reimbursable costs. To detail costs for the activity box checked in block (03), enter the employee names, position titles, a brief description of the activities performed, actual time spent by each employee, productive hourly rates, fringe benefits, supplies used, contract services, and travel expenses. **The descriptions required in column (4)(a) must be of sufficient detail to explain the cost of activities or items being claimed.** For audit purposes, all supporting documents must be retained by the claimant for a period of not less than three years after the date the claim was filed or last amended, whichever is later. If no funds were appropriated and no payment was made at the time the claim was filed, the time for the Controller to initiate an audit shall be from the date of initial payment of the claim. Such documents must be made available to the SCO on request.

Object/ Sub object Accounts	Columns									Submit supporting documents with the claim
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	
<b>Salaries</b>	Employee Name/Title	Hourly Rate	Hours Worked	Salaries = Hourly Rate x Hours Worked						
<b>Benefits</b>	Activities Performed	Benefit Rate			Benefits = Benefit Rate x Salaries					
<b>Materials and Supplies</b>	Description of Supplies Used	Unit Cost	Quantity Used			Cost = Unit Cost x Quantity Used				
<b>Contract Services</b>	Name of Contractor Specific Tasks Performed	Hourly Rate	Hours Worked Inclusive Dates of Service				Cost = Hourly Rate x Hours Worked			Copy of Contract
<b>Fixed Assets</b>	Description of Equipment Purchased	Unit Cost	Usage					Cost = Unit Cost x Usage		
<b>Travel</b>	Purpose of Trip Name and Title Departure and Return Date	Per Diem Rate Mileage Rate Travel Cost	Days Miles Travel Mode						Total Travel Cost = Rate x Days or Miles	

- (05) Total line (04), columns (d) through (i) and enter the sum on this line. Check the appropriate box to indicate if the amount is a total or subtotal. If more than one form is needed to detail the activity costs, number each page. Enter totals from line (05), columns (d) through (i) to Form 1, block (05), columns (a) through (f) in the appropriate row.



**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 August 23, 2018, I served the:

- **Notice of Complete Incorrect Reduction Claim, Schedule for Comments, and Notice of Tentative Hearing Date issued August 23, 2018**
- **Incorrect Reduction Claim (IRC) filed by the City of Bellflower on August 17, 2018**  
*Municipal Storm Water and Urban Runoff Discharges, 18-0304-I-01*  
Los Angeles Regional Quality Control Board Order No. 01-182,  
Permit CAS004001, Part 4F5c3  
Fiscal Years: 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007,  
2007-2008, 2008-2009, and 2009-2010  
City of Bellflower, 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 August 23, 2018 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:** 8/21/18

**Claim Number:** 18-0304-I-01

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

**Claimant:** City of Bellflower

### 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.)

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# **SECTION 10**

## **FINAL STATE AUDIT REPORT**

**EXHIBIT D**

**FINAL STATE AUDIT REPORT FOR CITY OF  
DOWNEY**

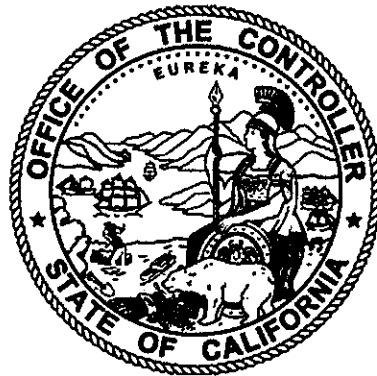
# **CITY OF DOWNEY**

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/IRCFrm.pdf](http://www.csm.ca.gov/forms/IRCFrm.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  
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Local Government Programs and Services Division  
State Controller's Office

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## **Audit Report**

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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:				
Number of transit receptacles	× 151	× 151	× -	
Annual number of trash pickups	× 52	× 52	× -	
Total ongoing activities	<u>6.74</u>	<u>6.74</u>	<u>-</u>	
Total one-time and ongoing activities	<u>72,262</u>	<u>72,262</u>	<u>-</u>	
Less offsetting revenues and reimbursements	<u>-</u>	<u>(48,381)</u>	<u>(48,381)</u>	Finding 2
Total program costs	<u>\$ 72,262</u>	<u>23,881</u>	<u>\$ (48,381)</u>	
Less amount paid by the State		<u>-</u>		
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	<u>-</u>	<u>(16,877)</u>	<u>(16,877)</u>	Finding 2
Total program costs	<u>\$ 52,922</u>	<u>36,045</u>	<u>\$ (16,877)</u>	
Less amount paid by the State		<u>-</u>		
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	<u>-</u>	<u>(79,780)</u>	<u>(79,780)</u>	Finding 2
Total program costs	<u>\$ 83,765</u>	<u>3,985</u>	<u>\$ (79,780)</u>	
Less amount paid by the State		<u>-</u>		
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)	
Total program costs	<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	<u>697,223</u>	<u>231,492</u>	<u>(465,731)</u>	
Total one-time and ongoing activities	716,563	250,832	(465,731)	
Less offsetting revenues and reimbursements	<u>-</u>	<u>(186,921)</u>	<u>(186,921)</u>	
Total program costs	<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>				<u>\$ 697,223</u>				<u>\$ 231,492</u>	<u>\$ (465,731)</u>

**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:

<u>Fiscal Year</u>	<u>Offset Reported</u>	<u>Unreported Offset</u>	<u>Audit Adjustment</u>
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	-	-	-
<b>Total</b>	<b>\$ -</b>	<b>\$ (186,921)</b>	<b>\$ (186,921)</b>

### **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  
11111 BROOKSHIRE AVE.  
PO BOX 7016  
DOWNEY, CALIFORNIA  
90241-7016  
562-869-7331  
[www.downeyca.org](http://www.downeyca.org)

LIBRARY  
1121 BROOKSHIRE AVE.  
DOWNEY, CALIFORNIA  
90241-7016  
562-904-7350  
[www.downeylibrary.org](http://www.downeylibrary.org)

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

PARKS & RECREATION  
7550 QUILL DR.  
DOWNEY, CALIFORNIA  
90242  
562-904-7238

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

MAINTENANCE SERVICES  
12324 BELLFLOWER 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. *Aktar 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.

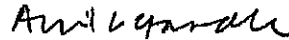
### III. Conclusion

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>**

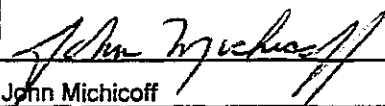
# **SECTION 11**

## **REIMBURSEMENT CLAIMS**



**EXHIBIT E**

**REIMBURSEMENT CLAIMS FILED BY  
CITY OF DOWNEY**

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		
Mailing Address		1111 Brookshire Blvd.	(22) FORM-1 (04)(A)(1)(g)	
Street Address or P.O. Box			(23) FORM-1 (04)(A)(2)(g)	
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)	19,254
	(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)	7,852
Fiscal Year of Cost	(06)	(12) 2002-03	(28) FORM-1,(07)	85
Total Claimed	(07)	(13) \$72,262	(29) FORM-1,(08)	10
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) \$72,262	(32)	
Due from State	(08)	(17) \$72,262	(33)	
Due to State	(09)	(18)	(34)	
<b>(38) CERTIFICATION OF CLAIM</b>				
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.				
I further certify that there was no application for nor any grant or payment received, other than that 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.				
<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**

<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> 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	(f) 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						
<b>(05) Total Direct Costs</b>	<b>\$853</b>	<b>\$273</b>	<b>\$18,129</b>			<b>\$19,254</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>					10.0%
<b>(09) Total Indirect Costs</b>	<small>Line (06) x line (05)(a) or line(06) x [(line (05)(a) + line(05)(b))]</small>					\$85
<b>(10) Total Direct and Indirect Costs</b>	<small>Line (05)(d) + line (07)</small>					\$72,262
<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(09) + Line(10))</small>					<b>\$72,262</b>

**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 Usage 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>



**City of Downey**  
 11111 BROOKSHIRE AVENUE  
 DOWNEY, CALIF. 90241  
 PHONE: (562) 904-7257  
 FAX: (562) 904-7270

Date: 05/27/02

PO Number: 31-11119

VENDOR: 104086

SEATING COMPONENT MFG  
 4520 E. LA PALMA AVENUE  
 ANHEIM, 92807

SHIP TO:

MAINTENANCE SERVICES YARD  
 12326 BELLEVOUE BLVD  
 DOWNEY, CA 90242

FOB Point: DESTINATION  
 Terms: NET 30 DAYS

Req. Del. Date:

Special Inst:

ATTENTION: SONJA

Req. No.:

Dept: BUS BENCH

Contact: SHIRLEY BENNETT/RJ

Confirming?

Quantity	UOM	Description	Unit Price	Ext. Price
50.00	each	WFO2436VDL 55 GALLON EXPANDED VINYL COATED TRASH UNIT WITH DOME LID, LINER AND SURFACE MOUNT PEDESTAL COLOR: ROYAL BLUE	327.00	16,350.00
<i>P 1x 25-02</i>				

BILL TO: CITY OF DOWNEY  
 PO BOX 7016  
 DOWNEY, CA 90241

SUBTOTAL	16,350.00
TAX	1,348.88
FREIGHT	.00
TOTAL	17,698.88

Account Number	Amount	Account Number	Amount

I HEREBY CERTIFY THAT I HAVE RECEIVED, WEIGHED, COUNTED, OR MEASURED THE ABOVE QUANTITIES AND THAT THE QUANTITIES AND QUALITIES ARE CORRECTLY STATED AND CORRECTLY LISTED HEREIN.

Date: \_\_\_\_\_ Sign: *Shirley Bennett*

Authorized Signature

State of California  
Business, Transportation, and Housing Agency

---

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 PLANTS [ ELGEN ]**

**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 = 0.38**  
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	5218	\$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

<u>Model</u>	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 SIGN [ CMSN ]**

<u>Model</u>	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.

<u>Model</u>	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.)

<u>Model</u>	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.

<u>Model</u>	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.

<u>Model</u>	Code	Rate
per 100	100	\$17.76

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

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

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

<u>Model</u>	Code	Rate
portable 12 volt	12V	\$4.37

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

<u>Model</u>	Code	Rate
incl sign, stand & 3 flags	EACH	\$1.98

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

<u>Model</u>	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		
<u>Model</u>	Code	Rate
4 Tires per axle	100	\$11.16
8 Tires per axle	200	\$14.07

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

3 axle		
<u>Model</u>	Code	Rate
4 Tires per axle	300	\$14.95
8 Tires per axle	400	\$17.32

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

4 axle		
<u>Model</u>	Code	Rate
4 Tires per axle	500	\$24.06
8 Tires per axle	600	\$29.87

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

6 axle		
<u>Model</u>	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		00-06	\$9.39
2727 (6000) pickups	5443 (12000) No small	06-12	\$11.61
5443 (12000)	9072 (20000)	12-20	\$14.76
9072 (20000)	12701(28000)	20-28	\$16.49
12701 (28000)	16330 (36000)	28-36	\$22.52
16330 (36000)	21773 (48000)	36-48	\$26.53
21773 (48000)	27216 (60000)	48-60	\$31.76
27216(60000) & Over		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 struck 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 ]**

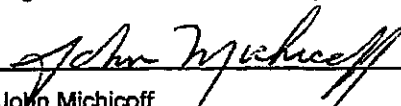
Diesel, gas or electric powered. Includes helmets, holders, cable and all attachments and accessories. Rate capacity in amps.

<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	(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	(25) FORM-1 (04)(A)(4)(g)
Zip Code			90241	(26) FORM-1 (04)(A)(5)(g)
Type of Claim	Estimated Claim	Reimbursement Claim		(27) FORM-1,(06)
	(03) Estimated <input type="checkbox"/>	(09) Reimbursement <input checked="" type="checkbox"/>		
	(04) Combined <input type="checkbox"/>	(10) Combined <input type="checkbox"/>		
	(05) Amended <input type="checkbox"/>	(11) Amended <input type="checkbox"/>		
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>				
<b>Signature of Authorized Representative</b>				
 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**

<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>
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**(03) Department** Public Works

**(04) Reimbursable Activities**

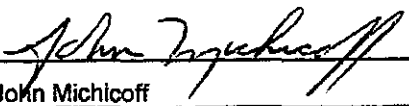
	(a) Salaries	(b) Benefits	(c) Materials and Supplies	(d) Contract Services	(e) Fixed Assets	(g) Total
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<b>A. ONE-TIME ACTIVITIES</b>						
1. ID of locations that are required to have receptacle						
2. Select/Eval./& preparation of specs and drawings						
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>	(from ICRP) (Applied to Salaries)	
<b>(09) Total Indirect Costs</b>	Line (06) x line (05)(a) or line(06) x {line (05)(a) + line(05)(b)}	
<b>(10) Total Direct and Indirect Costs</b>	Line (05)(d) + line (07)	\$52,922

<b>(11) Less: Offsetting Savings, if applicable</b>	
<b>(12) Less: Other Reimbursements, if applicable</b>	
<b>(13) Total Claimed Amount</b>	Line (08) - (line(09) + Line(10)) <b>\$52,922</b>

<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	9/24/11
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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**(03) Department** Public Works

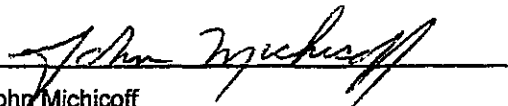
**(04) Reimbursable Activities**

	(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						
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)(a) or line(06) 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>	Line (08) - (line(09) + Line(10)) <b>\$83,765</b>

<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) 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>				
Signature of Authorized Representative				
			Date Signed	9/21/11
John Michicoff			Telephone Number	(562) 904-7265
Finance Director			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> 2005-06 <small>(see FAM-27 for estimate)</small>
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**City of Downey**

<b>(03) Department</b>	<b>Public Works</b>
------------------------	---------------------

**City of Downey**

(04) Reimbursable Activities	(a) Salaries	(b) Benefits	(c) Materials and Supplies	(d) Contract Services	(e) Fixed Assets	(f) 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>						
(06) Annual number of trash collections						12428
(07) Total Ongoing Costs (Line (06) x RRM rate)						<b>\$83,765</b>

(08) Indirect Cost Rate (applied to salaries)	<small>(from ICRP) (Applied to Salaries)</small>					
(09) Total Indirect Costs	<small>Line (06) x line (05)(a) or line(06) x ((line (05)(a) + line(05)(b))</small>					
(10) Total Direct and Indirect Costs	<small>Line (05)(d) + line (07)</small>					<b>\$83,765</b>
(11) Less: Offsetting Savings, if applicable						
(12) Less: Other Reimbursements, if applicable						
<b>(13) Total Claimed Amount:</b>	<small>Line (08) - ((line(06) + Line(10))</small>					<b>\$83,765</b>

# **SECTION 12**

## **CERTIFICATION**



**12. CLAIM CERTIFICATION**

*Read, sign, and date this section and insert at the end of the incorrect reduction claim submission. \**

This claim alleges an incorrect reduction of a reimbursement claim filed with the State Controller's Office pursuant to Government Code section 17561. This incorrect reduction claim is filed pursuant to Government Code section 17551, subdivision (d). I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this incorrect reduction claim submission is true and complete to the best of my own knowledge or information or belief.

Anil Gandhi  
Print or Type Name of Authorized Local Agency  
or School District Official

Finance Director  
Print or Type Title

Anil Gandhi  
Signature of Authorized Local Agency or  
School District Official

6/21/20  
Date

*\* If the declarant for this Claim Certification is different from the Claimant contact identified in section 2 of the incorrect reduction claim form, please provide the declarant's address, telephone number, fax number, and e-mail address below.*

**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 July 6, 2020, I served the:

- **Notice of Complete Incorrect Reduction Claim, Schedule for Comments, and Notice of Tentative Hearing Date issued July 6, 2020**
- **Incorrect Reduction Claim (IRC) filed by the City of Downey on June 30, 2020**

*Municipal Storm Water and Urban Runoff Discharges*, 19-0304-I-04  
Los Angeles Regional Quality Control Board Order No. 01-182,  
Permit CAS004001, Part 4F5c3  
Fiscal Years: 2002-2003, 2003-2004, 2004-2005, and 2005-2006  
City of Downey, 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 July 6, 2020 at Sacramento, California.



Jill L. Magee  
Commission on State Mandates  
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Sacramento, CA 95814  
(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 7/6/20

**Claim Number:** 19-0304-I-04

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

**Claimant:** City of Downey

### 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.)

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