

CITY OF HERMOSA BEACH

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

March 2017



BETTY T. YEE
California State Controller

March 28, 2017

The Honorable Hany Fangary, Mayor
City of Hermosa Beach
1315 Valley Drive
Hermosa Beach, CA 90254

Dear Mayor Fangary:

The State Controller's Office audited the costs claimed by the City of Hermosa Beach 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 \$488,899 for the mandated program. Our audit found that \$14,019 is allowable and \$474,880 is unallowable. The costs are unallowable because the city claimed ineligible costs and reimbursement for costs it did not incur, and did not offset the revenues used to fund the mandated activities. The State made no payments to the city. The State will pay \$14,019, contingent upon available appropriations.

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than three years following the date of this report, regardless of whether this report is subsequently supplemented, superseded, or otherwise amended.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

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: Viki Copeland, Finance Director, Finance Department
City of Hermosa Beach
Charlotte Newkirk, Accounting Supervisor, Finance Department
City of Hermosa Beach
Chris Hill, Principal Program Budget Analyst
Local Government Unit, California Department of Finance
Steven Pavlov, Staff Finance Budget Analyst
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Local Government Programs and Services Division
State Controller's Office

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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by the City of Hermosa Beach 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 \$488,899 for the mandated program. Our audit found that \$14,019 is allowable and \$474,880 is unallowable. The costs are unallowable because the city claimed ineligible costs and reimbursement for costs it did not incur, and did not offset the revenues used to the fund mandated activities. The State made no payments to the city. The State will pay \$14,019, 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 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 Government Code 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 Government Code sections 12410, 17558.5, and 17561. 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. We did not audit the city's financial statements.

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 performed the following procedures:

- 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 within the Santa Monica Bay Watershed and gained an understanding of the trash TMDL effective date.
- 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 contracted waste haulers' processes in performing transit stop trash collections.
- 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 program requirements. 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 of Hermosa Beach claimed \$488,899 for costs of the Municipal Storm Water and Urban Runoff Discharges Program. Our audit found that \$14,019 is allowable and \$474,880 is unallowable. The State made no payments to the city. The State will pay \$14,019, contingent upon available appropriations.

**Views of
Responsible
Officials**

We issued a draft audit report on January 26, 2017. Viki Copeland, Finance Director, responded by letter dated February 13, 2017 (Attachment), agreeing with Finding 1 and disagreeing with Finding 2. This final audit report includes the city's response letter.

Restricted Use

This report is solely for the information and use of the City of Hermosa Beach, 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

March 28, 2017

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

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2002, through June 30, 2003</u>				
Ongoing activities:				
Unit cost rate	\$ 6.74	\$ 6.74		
Number of transit receptacles	× 84	× 6		
Annual number of trash pickups	× 52	× 156		
Total ongoing costs	29,440	6,309	\$ (23,131)	Finding 1
Less offsetting revenues	-	(5,257)	(5,257)	Finding 2
Total program costs	<u>\$ 29,440</u>	1,052	<u>\$ (28,388)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 1,052</u>		
<u>July 1, 2003, through June 30, 2004</u>				
Ongoing activities:				
Unit cost rate	\$ 6.74	\$ 6.74		
Number of transit receptacles	× 84	× 6		
Annual number of trash pickups	× 52	× 156		
Total ongoing costs	29,440	6,309	\$ (23,131)	Finding 1
Less offsetting revenues	-	(5,257)	(5,257)	Finding 2
Total program costs	<u>\$ 29,440</u>	1,052	<u>\$ (28,388)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 1,052</u>		
<u>July 1, 2004, through June 30, 2005</u>				
Ongoing activities:				
Unit cost rate	\$ 6.74	\$ 6.74		
Number of transit receptacles	× 84	× 6		
Annual number of trash pickups	× 52	× 156		
Total ongoing costs	29,440	6,309	\$ (23,131)	Finding 1
Less offsetting revenues	-	(5,257)	(5,257)	Finding 2
Total program costs	<u>\$ 29,440</u>	1,052	<u>\$ (28,388)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 1,052</u>		

Schedule (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2005, through June 30, 2006</u>				
Ongoing activities:				
Unit cost rate	\$ 6.74	\$ 6.74		
Number of transit receptacles	× 84	× 6		
Annual number of trash pickups	× 52	× 156		
Total ongoing costs	29,440	6,309	\$ (23,131)	Finding 1
Less offsetting revenues	-	(5,257)	(5,257)	Finding 2
Total program costs	<u>\$ 29,440</u>	1,052	<u>\$ (28,388)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 1,052</u>		
<u>July 1, 2006, through June 30, 2007</u>				
Ongoing activities:				
Unit cost rate	\$ 6.74	\$ 6.74		
Number of transit receptacles	× 84	× 6		
Annual number of trash pickups	× 52	× 156		
Total ongoing costs	29,440	6,309	\$ (23,131)	Finding 1
Less offsetting revenues	-	(5,257)	(5,257)	Finding 2
Total program costs	<u>\$ 29,440</u>	1,052	<u>\$ (28,388)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 1,052</u>		
<u>July 1, 2007, through June 30, 2008</u>				
Ongoing activities:				
Unit cost rate	\$ 6.74	\$ 6.74		
Number of transit receptacles	× 84	× 6		
Annual number of trash pickups	× 52	× 156		
Total ongoing costs	29,440	6,309	\$ (23,131)	Finding 1
Less offsetting revenues	-	(5,257)	(5,257)	Finding 2
Total program costs	<u>\$ 29,440</u>	1,052	<u>\$ (28,388)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 1,052</u>		
<u>July 1, 2008, through June 30, 2009</u>				
Ongoing activities:				
Unit cost rate	\$ 6.74	\$ 6.74		
Number of transit receptacles	× 84	× 6		
Annual number of trash pickups	× 52	× 156		
Total ongoing costs	29,440	6,309	\$ (23,131)	Finding 1
Less offsetting revenues	-	(5,257)	(5,257)	Finding 2
Total program costs	<u>\$ 29,440</u>	1,052	<u>\$ (28,388)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 1,052</u>		

Schedule (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2009, through June 30, 2010</u>				
Ongoing activities:				
Unit cost rate	\$ 6.78	\$ 6.78		
Number of transit receptacles	× 84	× 6		
Annual number of trash pickups	× 52	× 156		
Total ongoing costs	29,615	6,346	\$ (23,269)	Finding 1
Less offsetting revenues	-	(5,288)	(5,288)	Finding 2
Total program costs	<u>\$ 29,615</u>	1,058	<u>\$ (28,557)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 1,058</u>		
<u>July 1, 2010, through June 30, 2011</u>				
Ongoing activities:				
Unit cost rate	\$ 6.80	\$ 6.80		
Number of transit receptacles	× 84	× 6		
Annual number of trash pickups	× 52	× 156		
Total ongoing costs	29,702	6,365	\$ (23,337)	Finding 1
Less offsetting revenues	-	(5,304)	(5,304)	Finding 2
Total program costs	<u>\$ 29,702</u>	1,061	<u>\$ (28,641)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 1,061</u>		
<u>July 1, 2011, through June 30, 2012</u>				
Ongoing activities:				
Unit cost rate	\$ 7.15	\$ 7.15		
Number of transit receptacles	× 83	× 6		
Annual number of trash pickups	× 156	× 156		
Total ongoing costs	92,578	6,692	\$ (85,886)	Finding 1
Less offsetting revenues	-	(5,577)	(5,577)	Finding 2
Total program costs	<u>\$ 92,578</u>	1,115	<u>\$ (91,463)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 1,115</u>		

Schedule (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2012, through June 30, 2013</u>				
Ongoing activities:				
July 1, 2012, through December 27, 2012:				
Unit cost rate	\$ 7.15	\$ 7.31		
Number of transit receptacles	× 87	× 6		
Annual number of trash pickups	× 52	× 78		
Total, July 1, 2012, through December 27, 2012	<u>32,347</u>	<u>3,421</u>	<u>\$ (28,926)</u>	
December 28, 2012, through June 30, 2013:				
Unit cost rate	\$ 7.15	\$ -		
Number of transit receptacles	× 87	× -		
Annual number of trash pickups	× 52	× -		
Total, December 28, 2012, through June 30, 2013	<u>32,346</u>	<u>-</u>	<u>(32,346)</u>	
Total ongoing costs	64,693	3,421	(61,272)	Finding 1
Less offsetting revenues	-	-	-	
Total program costs	<u>\$ 64,693</u>	3,421	<u>\$ (61,272)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 3,421</u>		
<u>July 1, 2013, through June 30, 2014</u>				
Ongoing activities:				
Unit cost rate	\$ 7.32	\$ -		
Number of transit receptacles	× 87	× -		
Annual number of trash pickups	× 104	× -		
Total ongoing costs	<u>\$ 66,231</u>	-	<u>\$ (66,231)</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>				
Total ongoing activities	\$ 488,899	\$ 66,987	\$ (421,912)	Finding 1
Less offsetting revenues	-	(52,968)	(52,968)	Finding 2
Total program costs	<u>\$ 488,899</u>	14,019	<u>\$ (474,880)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 14,019</u>		

¹ See the Findings and Recommendations section.

Findings and Recommendations

FINDING 1— Overstated ongoing maintenance costs

The city claimed \$488,899 in ongoing maintenance costs for the Municipal Storm Water and Urban Runoff Discharges Program for the audit period. We found that \$66,987 is allowable and \$421,912 is unallowable. The costs are unallowable because the city claimed costs it did not incur, claimed reimbursement for ineligible costs, and understated the unit cost rate for fiscal year (FY) 2012-13.

The city claimed reimbursement for ongoing maintenance costs using the Commission-adopted reasonable reimbursement methodology (RRM). Under the RRM, the unit cost (which is \$6.74 for the period of July 1, 2002, through June 30, 2009, and is adjusted annually thereafter 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. The number of annual trash collections is limited to no more than three collections each week.

Following is a summary of the claimed, allowable, and audit adjustment amounts for the ongoing maintenance costs:

Fiscal Year	Amount Claimed				Amount Allowable				Audit Adjustment
	Number of Trash Receptacles	Annual Trash Collections	Unit Cost Rate	Total	Number of Trash Receptacles	Annual Trash Collections	Unit Cost Rate	Total	
2002-03	84	52	\$ 6.74	\$ 29,440	6	156	\$ 6.74	\$ 6,309	\$ (23,131)
2003-04	84	52	6.74	29,440	6	156	6.74	6,309	(23,131)
2004-05	84	52	6.74	29,440	6	156	6.74	6,309	(23,131)
2005-06	84	52	6.74	29,440	6	156	6.74	6,309	(23,131)
2006-07	84	52	6.74	29,440	6	156	6.74	6,309	(23,131)
2007-08	84	52	6.74	29,440	6	156	6.74	6,309	(23,131)
2008-09	84	52	6.74	29,440	6	156	6.74	6,309	(23,131)
2009-10	84	52	6.78	29,615	6	156	6.78	6,346	(23,269)
2010-11	84	52	6.80	29,702	6	156	6.80	6,365	(23,337)
2011-12	83	156	7.15	92,578	6	156	7.15	6,692	(85,886)
2012-13	87	104	7.15	64,693	6	78	7.31	3,421	(61,272)
2013-14	87	104	7.32	66,231	-	-	-	-	(66,231)
Total ongoing costs				<u>\$ 488,899</u>				<u>\$ 66,987</u>	<u>\$ (421,912)</u>

Costs not incurred from July 1, 2002 through December 27, 2012

The city entered into an agreement with Republic Services, Inc., through its wholly owned subsidiary, Consolidated Disposal Service, for solid waste, green waste, and recyclables collection services. The contract with Consolidated Disposal Service began on October 1, 2001, and continued until July 1, 2013, when the city entered into an agreement with Arakelian Enterprises, Inc. for an exclusive solid-waste franchise agreement.

Article 3, Section 3.1 City Facilities, of the city’s agreement with Consolidated Disposal Service states, in part:

3.10.1 Collector shall collect and either dispose of or deliver for Processing, all Solid Waste, Green Waste and Recyclables from all City Facilities...

3.10.2 All services provided pursuant to this Section shall be provided at Collector’s expense, *with no charge to the City.* ... [Emphasis added]

Based on these agreement provisions, we determined that the city did not incur any increased costs for the ongoing maintenance of the transit stop trash receptacles serviced by Consolidated Disposal Service for the period of July 1, 2002, through December 27, 2012, totaling \$390,322.

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.

Allowable ongoing maintenance costs

Landscape Maintenance

For the period of July 1, 2001, through June 30, 2013, the city entered into an agreement with TruGreen LandCare for landscape maintenance of the turf areas, parks, and medians. In the agreement, the scope of work included the removal and hauling of all trash. Although TruGreen LandCare was not specifically assigned to maintain the transit stop trash receptacles, when its area of responsibility included transit stops, we determined reimbursement for ongoing maintenance of the trash receptacles to be allowable. As such, we found that one trash receptacle maintained for the maximum of three-weekly collections, totaling \$11,153, is allowable.

Street Sweeping

For the period of October 1, 1998, through October 11, 2010, the city entered into an agreement with CleanStreet for street-sweeping services in the downtown area. On October 12, 2010, the contract for street-sweeping services was awarded to Arakelian Enterprises, Inc. (Athens Services) and continued until July 1, 2013, at which time the city entered into an exclusive solid-waste franchise agreement with Arakelian Enterprises, Inc.

As part of its street-sweeping agreements, both CleanStreet and Athens Services were assigned the task of emptying trash cans on a daily basis in the downtown area. Although neither CleanStreet nor Athens Services were specifically assigned to maintain the transit stop trash receptacles, when their areas of responsibility included a transit stop, we determined reimbursement for ongoing maintenance of the trash receptacles to be allowable. As such, we found that five trash receptacles maintained for the maximum of three-weekly collections, totaling \$55,759, is allowable.

Ineligible costs claimed after December 27, 2012

The city claimed reimbursement for costs incurred after December 27, 2012, totaling \$98,577 (\$32,346 for December 28, 2012, through June 30, 2013, and \$66,231 in FY 2013-14). On November 8, 2012, the Board adopted a new NPDES permit, Order No. R4-2012-0175, which supersedes the permit in this mandate, Order No. 01-182, Permit

CAS004001. The new permit became effective on December 28, 2012, and as such, the period of reimbursement for this mandate ended on December 27, 2012.

The parameters and guidelines (Section III. Period of Reimbursement) state:

...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.

Understated unit cost rate from July 1, 2012, through December 27, 2012

For FY 2012-13, the city used the FY 2011-12 unit cost rate of \$7.15 to compute ongoing maintenance costs. The correct unit cost rate for FY 2012-13 is \$7.31. We re-calculated the allowable costs using the proper unit cost rate and found that \$75 (six trash receptacles maintained × 78 annual trash collections × the understated unit cost rate of \$0.16) was understated for the period of July 1, 2012, through December 27, 2012.

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

The City utilized the provided reasonable reimbursement methodology (RRM) in order to calculate the reimbursement amount, however, upon review of the contracts, the trash collection services were provided at no cost to the City for all but 6 trash receptacles, therefore, the City agrees that the reimbursement amount was incorrect.

The city agrees that there was an oversight in the reimbursement rate used for filing the 2012-13 claim. The City used a lower rate from the previous year and agrees to the correction made in the audit, adjusting the rate from \$7.15 to \$7.31.

**FINDING 2—
Unreported offsetting
revenues**

The city did not offset any revenues on its claim forms for the audit period. We found that the city should have offset \$52,968 in revenues used to fund the ongoing maintenance costs claimed.

The city had a Downtown Enhancement Fund (Fund No. 109), an Enterprise Fund Type, to account for funds generated from the downtown parking lots and parking structure. The city used the parking revenue to pay for the street-sweeping expenses incurred by CleanStreet and Athens Services. Therefore, as the ongoing maintenance costs of the five transit stop trash receptacles within the vicinity of the downtown parking lots and parking structures were paid for with service charges, the city did not have to rely on the use of discretionary general funds to pay for the mandated activities.

For FY 2003-04, FY 2005-06, and FY 2008-09, the General Fund transferred funds to the Downtown Enhancement Fund; however, as specified in the Financial Statement footnote disclosures, all transfers were for purposes unrelated to the mandated activities (such as changes to employee memorandums of understanding, funding for the annual required contribution to other post-employment benefits, and financing of a Centennial celebration at the Downtown Plaza).

Also, as of June 30, 2012, the Downtown Enhancement Fund was merged into the General Fund, and future activities of the parking lot and parking garage operations were reported in the General Fund. As the maintenance costs from July 1, 2012 through December 27, 2012, were paid for out of the General Fund, we did not offset any costs for that period.

The following table summarizes the unreported offsetting revenue calculation for the audit period:

Fiscal Year	Street-sweeping services provided by CleanStreet and Athens Services				Amount Offset
	Number of Trash Receptacles	Annual Trash Collections	Unit Cost Rate	Total ongoing costs	
2002-03	5	156	\$ 6.74	\$ 5,257	\$ (5,257)
2003-04	5	156	6.74	5,257	(5,257)
2004-05	5	156	6.74	5,257	(5,257)
2005-06	5	156	6.74	5,257	(5,257)
2006-07	5	156	6.74	5,257	(5,257)
2007-08	5	156	6.74	5,257	(5,257)
2008-09	5	156	6.74	5,257	(5,257)
2009-10	5	156	6.78	5,288	(5,288)
2010-11	5	156	6.80	5,304	(5,304)
2011-12	5	156	7.15	5,577	(5,577)
2012-13	5	78	7.31	2,851	-
2013-14	-	-	7.32	-	-
Total				<u>\$ 55,819</u>	<u>\$ (52,968)</u>

Government Code section 17556, subdivision d, states, in part:

The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:

- d. The 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. This subdivision applies regardless of whether the authority to levy charges, fees, or assessments was enacted or adopted prior to or after the date on which the statute or executive order was enacted or issued.

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

The city believes that it should be reimbursed for \$52,968 for the reasons stated below:

The Downtown Enhancement Fund was a discretionary fund and has since been combined with the General Fund. The fact that it was a separate fund for a period does not change the fact that it was discretionary. If General Fund discretionary funds are an allowable source for reimbursement, then Downtown Enhancement Funds, which were later combined and are now part of the General Fund should be an allowable source for reimbursement.

Additionally, during the period of time audited, the City did need to transfer from the General Fund to offset expenditures. While the stated purpose of the transfers from the General Fund was not related to the mandated costs, the maintenance contracts reduced the available fund balance, making it necessary for the General Fund to offset other expenditures that could have been funded from the Downtown Enhancement Fund.

SCO's Comment

The finding and recommendation remain unchanged.

Article XIIB, section 6 of the California Constitution requires subvention only when the mandated program is paid for from the proceeds of taxes. As "costs" are defined by Government Code section 17556(d) as being paid from other than the proceeds of taxes, such expenses are not required to be reimbursed. Therefore, because the city used the parking revenues to pay for the mandated activities, the city has demonstrated that it is not in need of protection offered by Article XIIB, section 6.

In addition, the city agrees with the SCO when it states "the stated purpose of the transfers from the General Fund was not related to the mandated costs..." However, the city contends that due to the maintenance contracts, the available fund balance was reduced, thereby necessitating the General Fund transfer to the Downtown Enhancement Fund to offset other expenditures. We disagree. First, the city has not provided any documentation to indicate that the General Fund transfers were for purposes other than those stated in the Financial Statement footnotes. Second, we question the city's contention that the general fund transfers were necessary, as the Downtown Enhancement Fund had positive net operating income before transfers for FY 2005-06 until it merged with the General Fund in FY 2011-12. Further, while the Downtown Enhancement Fund did operate at a net loss before transfers for FY 2002-03, FY 2003-04, and FY 2004-05, we confirmed that there were no General Fund transfers for either FY 2002-03 or FY 2004-05 to "make it necessary for the General Fund to offset other expenditures that could have been funded from the Downtown Enhancement Fund," and the FY 2003-04 General Fund transfer was for an immaterial amount.

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



City of Hermosa Beach

Civic Center, 1315 Valley Drive, Hermosa Beach, California 90254-3885

February 13, 2017

Jim L. Spano, Chief, Mandated Cost Audits Bureau
State Controller's Office, Division of Audits
PO Box 942850
Sacramento, Ca 94250-5874

Dear Mr. Spano:

This letter is in response to the State Controller's Office audit of costs for the legislatively mandated Municipal Storm Water and Urban Runoff Discharge Program for the period of July 1, 2002 through June 30, 2014.

Finding 1

The draft audit report found that the City had claimed \$488,899 in ongoing maintenance costs for the program, of which \$421,912 is unallowable because the City claimed costs it did not incur, claimed reimbursement for ineligible costs, and understated the unit cost rate for fiscal year 2012-13.

The City utilized the provided reasonable reimbursement methodology (RRM) in order to calculate the reimbursement amount, however, upon review of the contracts, the trash collection services were provided at no cost to the City for all but 6 trash receptacles, therefore, the City agrees that the reimbursement amount was incorrect.

The city agrees that there was an oversight in the reimbursement rate used for filing the 2012-13 claim. The City used a lower rate from the previous year and agrees to the correction made in the audit, adjusting the rate from \$7.15 to \$7.31.

Finding 2

The draft audit report found that the City had offsetting revenue of \$52,968 that was not reported on the claim forms for the period of July 1, 2002 to June 30, 2012. The finding on page 10 of the report is based on the City utilizing the Downtown Enhancement Fund to pay for maintenance contracts which included the five transit stop trash receptacles. The audit further notes that the General Fund did transfer to the Downtown Enhancement Fund in 2003-04, 2005-06, and 2008-09, however for purposes unrelated to the mandated activity. As of June 30, 2012, the Downtown Enhancement Fund was merged into the General Fund, and subsequent expenses related to the mandate were allowed with no offsetting revenue.

The City believes that it should still be reimbursed for the \$52,968 for the reasons stated below:

The Downtown Enhancement Fund was a discretionary fund and has since been combined with the General Fund. The fact that it was a separate fund for a period does not change the fact that it was discretionary. If General Fund discretionary funds are an allowable source for reimbursement, then Downtown Enhancement Funds, which were later combined and are now part of the General Fund should be an allowable source for reimbursement.

Additionally, during the period of time audited, the City did need to transfer from the General Fund to offset expenditures. While the stated purpose of the transfers from the General Fund was not related to the mandated costs, the maintenance contracts reduced the available fund balance, making it necessary for the General Fund to offset other expenditures that could have been funded from the Downtown Enhancement Fund.

Sincerely,



Viki Copeland
Finance Director

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