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September 15, 2011

Employee Code: 0315  
Job Number: P10-018

City of Oxnard  
Michelle Tellez, Director of Human Resources  
300 W. Third Street, first floor  
Oxnard, CA 95303

Dear Ms. Tellez:

Enclosed is our final report on the results of the public agency review completed for the City of Oxnard. Your agency's written response, included as an appendix to the report, indicates agreement with four of the nine issues noted in the report. However, based on the criteria and facts we obtained, our recommendations remain as stated in our report with the exception of finding number seven. Based on a review of the documents submitted with the response, OAS determined this is no longer a finding. As part of our resolution process, we have referred the issues identified in the report to the appropriate divisions at CalPERS. Please work with these divisions to address the recommendations specified in our report. It was our pleasure to work with your agency and we appreciate the time and assistance of you and your staff during this review.

Sincerely,

Original Signed by Margaret Junker  
MARGARET JUNKER, Chief  
Office of Audit Services

Enclosure

cc: Finance Committee Members, CalPERS  
Peter Mixon, General Counsel, CalPERS  
Darryl Watson, Chief, CASD, CalPERS  
Mary Lynn Fisher, Chief, BNSD, CalPERS  
James Cameron, Chief Financial Officer, City of Oxnard  
Honorable Council Members, City of Oxnard

# **Office of Audit Services**



## **Public Agency Review**

### **City of Oxnard**

**Employer Code: 0315  
Job Number: P10-018**

**September 2011**

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# CITY OF OXNARD

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## RESULTS IN BRIEF

The Office of Audit Services (OAS) reviewed the City of Oxnard's (City) enrolled individuals, member compensation, required health and retirement documentation and other documentation for individuals included in test samples. A detail of the findings is noted in the results section beginning on page 3 of this report. Specifically, the following findings were noted during the review:

- Non-reportable compensation was reported.
- Earnable compensation was not reported.
- Payrates for certain management employees were not in accordance with publicly available salary schedules.
- Salary increase not available for all members in the group or class.
- Temporary/part-time employees were not correctly enrolled into CalPERS membership.
- Retired annuitants were not reinstated once the 960-hour threshold was exceeded.
- Miscellaneous employees were incorrectly reported under the safety coverage group code. (Finding removed)
- Unused sick leave balance was incorrectly reported.
- Eligibility verification for dependents enrolled in CalPERS Health Benefits was not provided.

The pertinent sections of the Government Code and California Code of Regulations for each finding are described in greater detail under Appendix C.

A confidential list identifying the individuals mentioned in this report has been sent to the City and CalPERS Customer Account Services Division (CASD), Benefit Services Division (BNSD) and Health Account Services (HAS) as an appendix to the draft report.

## CITY BACKGROUND

The City of Oxnard was incorporated as a general law city on June 30, 1903, and operates under the council-manager form of government. The City provides a full range of municipal services, including police and fire protection, construction and maintenance of streets, parks and recreational facilities, libraries, recreational activities and cultural events. Memoranda of Understanding (MOU) and employment agreements outline all City employees' salaries and benefits and state the terms of employment agreed upon between the City and its employees.

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The City contracted with CalPERS effective February 1, 1952, to provide retirement benefits for local police and fire employees and subsequently added

miscellaneous employees to the retirement contract. The City's current contract amendment identifies the length of the final compensation period as twelve months for all coverage groups. The City contracted with CalPERS effective September 1, 1985, to provide health benefits to all eligible employees.

## **SCOPE**

As part of the Board approved plan for fiscal year 2010/2011, the OAS reviewed the City's payroll reporting and member enrollment processes as these processes relate to the City's retirement and health contracts with CalPERS. The review period was limited to the examination of sampled records and processes from July 1, 2007 through June 30, 2010. The on-site fieldwork for this review was conducted on September 13, 2010 through September 17, 2010 and from October 4, 2010 through October 8, 2010. The review objectives and a summary of the procedures performed, sample sizes, sample periods and findings are listed under Appendix B.

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## OFFICE OF AUDIT SERVICES REVIEW RESULTS

**Finding 1:** The City erroneously reported non-reportable compensation in the form of stipends, confidential pay, the value of Employer Paid Member Contributions (EPMC) and statutory duties pay to CalPERS.

### Recommendations:

The City should discontinue reporting compensation such as stipends, confidential pay, the value of EPMC and statutory duty pay to CalPERS.

The City should work with CalPERS CASD to assess the impact of this erroneous reporting error and to determine what adjustments are needed.

### Conditions:

#### *Stipends for City Council Members*

OAS found that the City incorrectly reported special compensation for elected officials by reporting compensation paid for serving on other Municipal Boards. Specifically, OAS noted that the City incorrectly reported stipends for City Council members who attended Community Development Board meetings and Airport Authority Board meetings as special compensation. Stipends for additional services rendered outside the normal work hours constitute overtime; therefore, these stipends do not meet the definition of special compensation and should not have been reported to CalPERS.

In the City's written response, the City stated that, "The payment for attendance at meetings of regional districts and similarly groups falls squarely within the meaning of reportable, compensable 'PERSable' income." However, base on criteria in the Public Employees' Retirement Law (PERL), and facts we obtained, our recommendation remains as stated in the report.

#### *Confidential Pay*

OAS found that City employees handling confidential information while performing duties for the City received confidential pay in the amount of

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five percent of their base salary. Our sample testing identified two employees that received confidential pay in each of the service periods reviewed, 10/09-3 and 5/10-3. However, the City incorrectly reported the confidential pay as special compensation. Confidential pay was not contained in a written policy or

agreement approved by the City; therefore, confidential pay should not have been reported to CalPERS.

In the City's written response, the City provided additional information not available during the field portion of the review for further consideration. In addition, the written response stated that "The five (5%) percent confidential pay is both appropriate as reportable PERSable income and MUST remain reportable compensation PERSable income for this group of employees." However, base on the criteria in the PERL, and facts we obtained, our recommendation remains as stated in the report.

## *Value of EPMC*

OAS found that the City incorrectly reported the value of EPMC as additional compensation for top and mid-management employees. On June 24, 2003, the City adopted a Resolution to pay and report the value of EPMC as additional compensation for all City employees with written labor agreements. However, the City did not provide a written labor agreement for top and mid-management employees. Therefore, the City incorrectly reported the value of EPMC for top and mid-management employees.

In the City's written response, the City provided additional information not available during the field portion of the review for further consideration. In addition, the written response stated that, "Based upon the documentation provided, as well as the fact that the City has been reporting this income as reportable, compensable and PERSable through other two other audit cycles without any indented problems from CalPERS in the past, PERS MUST continue to report this income as PERSable as all requirements have been satisfied pursuant to CalPERS rules." However, base on the criteria in the PERL, and facts we obtained, our recommendation remains as stated in the report.

## *Statutory Duty Pay*

During the review of the City's pay codes OAS noted the City had identified statutory duty pay as a reportable compensation item. After further inquiry and

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review of the City's reported compensation to CalPERS, OAS found that employees in the positions of City Treasurer and City Clerk received \$207.69 statutory duty pay per pay period. Statutory duty pay was not contained in a written policy or agreement approved by the City and does not meet the definition of special compensation and therefore, is not reportable to CalPERS.

In the City's written response, the City provided additional information not available during the field portion of the review, for further consideration. In

addition, the written response stated that, "Given that there is a written City Ordinance regarding the appropriateness of the pay and, again as Department Heads, these individuals are not represented by a certified collective bargaining agent, hence no collective bargaining agreement, this pay MUST continue to be paid as reportable, compensable PERSable income as it has been since 1994 when the Ordinance was enacted." However, base on the criteria in the PERL, and facts we obtained, our recommendation remains as stated in the report.

**Criteria:**

Government Code § 20635, § 20636(a), § 20636(b), § 20636(c)(6), § 20899

California Code of Regulation § 571, § 571(b), § 571(c)



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**Finding 2:** The City did not report compensation earnable for all employees enrolled into CalPERS membership in fiscal year 2009/2010.

**Recommendation:**

The City should report the earnings and payrates to CalPERS for all enrolled members.

The City should work with CalPERS CASD to assess the impact of and to correct this non-reporting issue.

**Condition:**

OAS found that the City did not report the earnings and payrate for two temporary/part-time employees enrolled into CalPERS membership. Specifically, OAS found that a seasonal library page was enrolled into CalPERS membership with an effective date of June 12, 2010, and a seasonal recreation leader was enrolled into CalPERS membership with an effective date of May 31, 2010. However, the City did not report the earnings and payrates to CalPERS subsequent to their CalPERS membership enrollment. Earnings and payrate should be reported to CalPERS in a timely manner.

**Criteria:**

Government Code § 20636 (a), § 20636 (b)(1)

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**Finding 3:** The City reported payrates that were not included in a publicly available salary schedule.

**Recommendation:**

The City should report payrates pursuant to publicly available salary schedules.

The City should work with CalPERS CASD to assess the impact of and to correct this issue.

**Condition:**

OAS found that payrates reported for two sampled employees did not agree with the City's salary schedules. OAS found that an employee working for the City as a development services manager received a pay increase on June 30, 2007, from \$12,137.39 to \$12,741.11 per month; however, the maximum published salary for this position was \$12,567.50 per month. Another employee working for the City as an assistant city attorney received a pay increase on June 30, 2007, from \$12,891.06 to \$13,535.61 per month. However, the maximum published salary for this position was \$12,914.05 per month.

In the City's written response the City stated that the employees, "received an authorized increase of five (5%) percent above the base salary. The salary range was not moved, thereby placing the salary out of the posted range for the job classifications. However, since moving the range was within the control of the City Management and not the fault of the employees' those affected should not be punished by prohibiting the reportability of the income." However, based on the criteria, and facts we obtained, our recommendation remains as stated in the report.

In addition, OAS found that an employee's contract did not clearly identify payrate in the enforced publically available employment agreement. The employee entered into an employment agreement with the City on February 22, 1998. On January 9, 2003, the employment agreement was amended to provide services at a base payrate of \$148,400 per year with the following planned increases: Six percent on March 1, 2002, March 1, 2003 and March 1, 2004. Three months later, on April 16, 2003, the employment agreement was amended to provide services at a base payrate of \$176,747 per year, with the following planned increases: Six percent on

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March 1, 2005, March 1, 2006 and March 1, 2007, plus the increase in the percentage of the Consumer Price Index for Los Angeles, Riverside and Orange County - all urban wage earners and clerical workers for the preceding calendar

year. However, on September 4, 2007, the employment agreement was amended effective March 1, 2008 to provide services "at his current annual base salary effective March 1, 2007."

Although the payrate increases given to the employee in the review period were properly approved in an open session by the City Council via a resolution and considered public records available for public scrutiny, OAS determined the actual payrate as of March 1, 2008 was not publicly disclosed or transparent as the September 4, 2007 contract amendment did not fully disclose the specific payrate amount. Per Government Code Sections 20636 (b)(1) and (d), a member's monthly rate of pay or base pay must be listed on a public document available for public scrutiny.

To enhance disclosure and transparency of the employee's payrate, the employee's specific payrate amount should be listed on a schedule or in a document that does not reference another document in lieu of disclosing the payrate. OAS recommends that the City clearly state and publish the employee's payrate in the City's approved salary schedule in the same manner as for all other City employees.

In the City's written response the City stated that, "It would be impossible to publish the City Manager's or City Attorney's salary schedule as these are the two individuals who work under a contract, which is negotiated with their employer, the City Council. Each time the Council hires a City Manager, they negotiate the pay rate and give increases at their discretion or as proscribed in the multi-year contracts, which may or may not occur depending on the Council's preference." However, base on the criteria, and facts we obtained, our recommendation remains as stated in the report.

### **Criteria:**

Government Code § 20636 (b)(1), § 20636 (d)

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**Finding 4:** The City incorrectly reported payrate increases that were not available to all employees in the group or class.

**Recommendation:**

The City should ensure reported payrate increases are available to all employees in the group or class.

The City should work with CalPERS CASD to assess the impact of and to correct this reporting issue.

**Condition:**

During the review OAS was provided a document dated November 15, 2007, which stated that the City would cease payment of a \$600 contractually agreed upon monthly auto allowance effective December 1, 2007 to an employee. However, effective the same date, the City agreed to increase the employee's monthly payrate by \$600 per month. The employee's salary increased from \$203,645 to \$210,845 per year, an annual increase of \$7,200 or 3.54 percent. Other management employees did not receive an equivalent increase. Reported payrates should be consistent for City employees in the same classification and not include increases that are not available to all employees in the same group or class.

The employee received the increase effective December 1, 2007 and retired effective December 31, 2008.

In the City's written response, the City provided information reviewed during the field portion of the review, for consideration. In addition, the written response stated that, "All other Management employees do NOT fall under the provision of contractual relationships, thereby making it impossible to have them track any increases to salary or benefits received by the two employees covered under contracts. As evidenced in the November 2007 document, the abolition of vehicle allowance, coupled with the increase to annual base salary was approved by Council and signed off by the City Manager, thereby insuring the changes to the contract were reportable, compensable PERSable income. However, base on the criteria, and facts we obtained, our recommendation remains as stated in the report.

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**Criteria:**

Government Code § 20636(e)(2)

California Code of Regulations § 570

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**Finding 5:** The City did not comply with CalPERS membership eligibility and enrollment requirements for temporary/part-time employees.

**Recommendation:**

The City should monitor hours worked in a fiscal year for temporary/part-time employees to determine when membership eligibility is met and immediately enroll employees who meet membership eligibility requirements.

The City should work with CalPERS CASD to assess the impact of this membership eligibility issue and determine what adjustments, if any, are needed.

**Condition:**

*Temporary/Part-time Employees*

OAS examined the number of hours worked in fiscal year 2009/2010 for seven temporary/part-time employees to determine whether the employees met membership eligibility requirements, and if so, were enrolled timely into CalPERS membership. OAS found the following:

- A temporary/part-time employee was enrolled into CalPERS membership with an effective date of May 1, 2010. City documents provided showed that the City enrolled the employee into CalPERS membership because the employee had worked 1,000 hour in a fiscal year. However, after further review of supporting documentations for the hours worked, OAS determined the employee had only worked 968 hours in fiscal year 2009/2010 and did not meet CalPERS membership requirements. The employee was incorrectly enrolled into membership.
- A temporary/part-time employee met CalPERS membership requirements by working 1,000 hours in fiscal year 2009/2010, but was not enrolled into membership. Specifically, the employee met CalPERS membership as of May 20, 2010 by working 1,008.5 hours.
- A temporary/part-time employee met CalPERS membership by working 1,000 hours in fiscal year 2009/2010, but was not enrolled into membership.

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Specifically, the employee met CalPERS membership requirements as of June 1, 2010, by working 1,000.1 hours.

- A temporary/part-time employee met CalPERS membership requirements by working 1,000 hours in fiscal year 2009/2010, but was not enrolled into membership. Specifically, the employee met CalPERS membership requirements as of June 14, 2010, by working 1,000.66 hours.

### *Employees Hired Through a Temporary Employment Agency*

OAS reviewed two temporary part-time employees hired by the City through a temporary employment agency during fiscal years 2008/2009 and 2009/2010 to determine whether they met CalPERS membership requirements by working 1,000 hours and if so, were enrolled into CalPERS membership. OAS found the following:

- One employee met CalPERS membership requirements in fiscal year 2008/2009 by working 1,020.5 hours as of February 15, 2009. The employee worked a total of 1,593.15 hours in the fiscal year.
- Another employee also met CalPERS membership requirements in fiscal year 2009/2010 by working 1,011.00 hours as of January 8, 2010. The employee worked a total of 1,820.5 hours in the fiscal year.

OAS was not able to locate these employees in the CalPERS membership database utilizing name searches.

### **Criteria:**

Government Code § 20305(a)

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**Finding 6:** The City did not reinstate retired annuitants who exceeded the 960-hour threshold in a fiscal year.

**Recommendation:**

The City should monitor the hours worked by retired annuitants to ensure the 960-hour threshold is not exceeded in a fiscal year without reinstating the retired annuitants into membership.

The City should work with CalPERS BNSD to assess the impact of and to correct this reinstatement issue.

**Condition:**

The City provided an employee roster that identified five retired annuitants working for the City during the review period. OAS selected the five retired annuitants for further review and found the following:

- A retired annuitant worked 965 hours as of June 2, 2009 and was not reinstated into CalPERS membership. The retired annuitant worked a total of 1,045 hours in fiscal year 2008/2009. OAS found that the retired annuitant also exceeded the 960-hour threshold in fiscal year 2009/2010 by working 1,045 hours.
- A retired annuitant worked 964 hours as of June 2, 2010 and was not reinstated into CalPERS membership. The retired annuitant worked a total of 1,044 hours in fiscal year 2009/2010. The retiree has historically exceeded the 960-hour threshold without being reinstated into CalPERS membership. Documentation provided by the City showed that the retired annuitant exceeded the 960-hour threshold in 2000, 2001, 2002, 2003, and 2004; however, CalPERS granted a waiver providing the 960-hour threshold was not exceeded in future fiscal years. OAS also noted the City stated that they would ensure that this employee would comply with Government Code Section 21224 by not allowing this employee to work over the 960-hour threshold in a letter dated June 28, 2006. Although the employee was classified as working in a seasonal position, our review of the hours worked showed that the employee maintained a steady work schedule during fiscal year 2009/2010 and was not reinstated into CalPERS membership.



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- A retired annuitant worked 967 hours as of April 13, 2010 and was not reinstated into CalPERS membership. The retired annuitant worked a total of 1,077 hours in fiscal year 2009/2010. The City provided OAS a copy of an e-mail dated May 5, 2010, stating that the City had stopped the employee from working, but would re-examine the feasibility for him to return to work in the following fiscal year with a cap of 950 hours. However, the retired annuitant had not been reinstated as of the date of this review.

In the City's written response, the City stated that, "Clearly there were MINOR miscalculation in the hours worked. These de minimis overages spread over a three year period of time does not constitute a violation of CalPERS rules." However, based on the criteria, and facts we obtained, our recommendation remains as stated in the report.

**Criteria:**

Government Code § 20085, § 21220.5, § 21224(a)

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# CITY OF OXNARD

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**Finding 7:** The City misclassified and incorrectly reported miscellaneous employees under the safety coverage group code.

**Recommendation:**

The City should ensure employees are classified under the correct coverage group and discontinue reporting miscellaneous employees under the safety coverage group code.

The City should work with CalPERS CASD to assess the impact of reporting employees under the incorrect coverage group code and determine what adjustments are needed.

**Condition:**

OAS reviewed a sample of 11 employees and found that the City misclassified four miscellaneous employees and incorrectly reported them as safety employees. Specifically, OAS found that a Fire Environmental Specialist II, a Fire Environmental Specialist I, an EMS Coordinator, and a Certified Unified Program Agency (CUPA) Coordinator were reported as safety employees instead of miscellaneous employees. These employees were in classifications that did not meet the definition of "Local Firefighter" per Government Code Section 20433 based on their work duties.

In the City's written response, the City provided additional information which helped to clarify this issue and the finding was removed. No longer a finding.

**Criteria:**

Government Code § 20383, § 20433

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# CITY OF OXNARD

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**Finding 8:** The City incorrectly certified and reported the unused sick leave balance for a retiring CalPERS member.

**Recommendation:**

The City should ensure that retiring members' unused sick leave balances are correctly certified and reported to CalPERS.

The City should work with CalPERS BNSD to determine the impact of this incorrect reporting and determine what adjustments, if any, are needed.

**Condition:**

The City's contract with CalPERS indicates that the City elected the optional provision of Government Code Section 20965, credit for unused sick leave for police safety members only. Credit for unused sick leave was mandated for fire safety employees effective July 1, 2005. The City did not elect the optional provision of Government Code Section 20965, Credit for Unused Sick leave for miscellaneous employees.

OAS reviewed a sample of 13 safety members who retired during the review period and found that while the City properly computed the unused sick leave hours to days by using a divisor of eight, the City did not accurately report the resulting number of days to CalPERS for one of the sampled members. In one instance, a safety employee had an unused sick leave balance of 29.8838 days as of the retirement date; however, the City certified an unused sick leave balance of 0.00 for the employee. The City under reported the unused sick leave for this retiring member.

**Criteria:**

Government Code § 20965

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**Finding 9:** The City did not provide eligibility verifications for dependents enrolled in CalPERS Health Benefits Program nor maintain required health forms on file.

**Recommendation:**

The City must ensure that the proper member and dependent enrollment documentation is on file at the City within 60-days from the date of the final report.

The City should work with CASD's HAS section to provide the required documentation and to cancel enrollment of any person who is found to be ineligible to participate in the CalPERS Health Benefits Program. HAS may be contacted at 1-888-CalPERs (1-888-227-7377).

**Condition:**

The City contracted with CalPERS to provide health benefits to all eligible employees effective September 1, 1985. The City is responsible for providing employees with enrollment information and has the authority to request documentation needed to determine the eligibility of family members.

OAS reviewed a sample of 13 employees and found that the City had not properly enrolled individuals in CalPERS Health Benefits Program. OAS was unable to ascertain that enrollments for individuals were proper because the City failed to provide required documentation requested such as marriage certificates and various dependent child documents. Specifically, the following exceptions were noted:

- The City failed to provide marriage certificates supporting the enrollment of two members' spouses.
- The City failed to provide birth certificates to verify eligibility of 33 dependent children enrolled under nine sampled members' health benefits.
- The City failed to provide and maintain required Affidavit of Eligibility forms for two economically dependent children.

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**Criteria:**

Government Code § 20085, § 200859(a), § 22775,

California Code of Regulations § 599.500 (f), § 599.500 (k), § 599.500 (n)

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## CONCLUSION

OAS limited this review to the areas specified in the scope section of this report and in the objectives as outlined in Appendix B. OAS limited the test of transactions to employee samples selected from the City's payroll and health records. Sample testing procedures provide reasonable, but not absolute, assurance that these transactions complied with the California Government Code except as noted.

The findings and conclusions outlined in this report are based on information made available or otherwise obtained at the time this report was prepared.

Respectfully submitted,

Original Signed by Margaret Junker  
MARGARET JUNKER, CPA, CIA, CIDA  
Chief, Office of Audit Services

Date: September 2011  
Staff: Michael Dutil, CIA, Senior Manager  
Diana Thomas, CIDA, Manager  
Alan Feblowitz, Manager  
Jose Martinez, Auditor

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**CITY OF OXNARD**

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# **APPENDIX A**

## **BACKGROUND**

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# CITY OF OXNARD

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## BACKGROUND

### California Public Employees' Retirement System

The California Public Employees' Retirement System (CalPERS) provides a variety of programs serving members employed by more than 2,500 local public agencies as well as state agencies and state universities. The agencies contract with CalPERS for retirement benefits, with CalPERS providing actuarial services necessary for the agencies to fund their benefit structure. In addition, CalPERS provides services which facilitate the retirement process.

CalPERS Customer Account Services Division (CASD) manages contract coverage for public agencies and receives, processes, and posts payroll information. In addition, CASD provides services for eligible members who apply for service or disability retirement. CalPERS's Benefit Services Division (BNSD) sets up retirees' accounts, processes applications, calculates retirement allowances, prepares monthly retirement benefit payment rolls, and makes adjustments to retirement benefits. The Health Account Services (HAS) section, as part of the CASD, provides eligibility and enrollment services to the members and employers that participate in the CalPERS Health Benefits Program, including state agencies, public agencies, and school districts.

Retirement allowances are computed using three factors: years of service, age at retirement and final compensation. Final compensation is defined as the highest average annual compensation earnable by a member during the last one or three consecutive years of employment, unless the member elects a different period with a higher average. State and school members use the one-year period. Local public agency members' final compensation period is three years unless the agency contracts with CalPERS for a one-year period.

The employers' knowledge of the laws relating to membership and payroll reporting facilitates the employer in providing CalPERS with appropriate employee information. Appropriately enrolling eligible employees and correctly reporting payroll information is necessary to accurately compute a member's retirement allowance.



# APPENDIX B

## OBJECTIVES

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# CITY OF OXNARD

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## OBJECTIVES

The objectives of this review were limited to determine whether:

- The City complied with applicable sections of the California Government Code (Sections 20000 et seq.) and Title 2 of the California Code of Regulations.
- Prescribed reporting and enrollment procedures as they relate to the City's retirement and health benefits contracts with CalPERS were followed.

This review covers the period of period July 1, 2007 through June 30, 2010. OAS completed a prior review covering the period of January 1, 2001 to December 31, 2003.

## SUMMARY

### Procedures, Sample Sizes, Sample Periods, and Findings

To accomplish the review objectives, OAS interviewed key staff members to obtain an understanding of the City's personnel and payroll procedures.

✓ Reviewed:

- Contracts and contract amendments between the City and CalPERS
- Correspondence files maintained at CalPERS
- City Council minutes and City Council resolutions
- City written labor policies and agreements
- City salary, wage and benefit agreements including applicable resolutions
- City personnel records and employee hours worked records
- City payroll information including Summary Reports and PERS listings
- Other documents used to specify payrate, special compensation and benefits for all employees
- Health Benefits Program enrollment records and supporting documentation
- City ordinances as necessary
- Various other documents as necessary

OAS performed the following procedures. Related sample sizes, sample periods and findings are listed.

- ✓ Reviewed City payroll records and compared the records to data reported to CalPERS to determine whether the City correctly reported employees' compensation.

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Sample Size and Period: Reviewed 35 employees covering two sampled service periods - the first service period in October 2009 (10/09-3), and the first service period in May 2010 (5/10-3).

**See Finding 1:** Non-reportable compensation was incorrectly reported.

**See Finding 2:** Compensation earnable was not reported to CalPERS.

- ✓ Reviewed payrates reported to CalPERS and reconciled the payrates to the City's publicly available salary schedule to determine whether base payrates reported were accurate, pursuant to publicly available pay schedules that identified the position title, payrate and time base for each position, and duly approved by the City's governing body in accordance with requirements of applicable public meeting laws.

Sample Size and Period: Reviewed 35 sampled employees for the entire review period July 1, 2007 to July 30, 2010.

**See Finding 3:** Payrates reported incorrectly.

**See Finding 4:** Reported salary increase not available to all members in the class or group.

- ✓ Reviewed the City's enrollment practices for temporary and part-time employees to determine whether individuals met CalPERS membership requirements.

Sample Size and Period: Reviewed seven temporary/part-time employees selected from the City's part-time employment roster for fiscal years 2008/2009 and 2009/2010 and two employees hired through a temporary employment agency during fiscal years 2008/2009 and 2009/2010.

**See Finding 5:** Membership eligibility enrolment requirements were not met.

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- ✓ Reviewed the City's enrollment practices for retired annuitants to determine whether retirees were reinstated when 960 hours were worked in a fiscal year.

Sample Size and Period: Reviewed five retired annuitants that worked for the City during fiscal years 2008/2009 and 2009/2010 were selected from the city's retired annuitant employee roster.

**See Finding 6:** Retired annuitants were not reinstated.

- ✓ Reviewed CalPERS payroll listing reports to determine whether payroll reporting elements were reported correctly.

Sample Size and Period: Reviewed 11 sampled employees in the first service period in April 2010 (4/10-1).

**See Finding 7:** Incorrect payroll reporting elements. (Finding removed)

- ✓ Reviewed the City's calculation and reporting of unused sick leave balances.

Sample Size and Period: Reviewed 13 members who retired during the review period to determine whether unused sick leave balances were correctly certified and reported.

**See Finding 8:** Unused sick leave balance was incorrectly certified and reported.

- ✓ Reviewed health records to determine whether the City properly enrolled eligible individuals into CalPERS Health Benefits Program.

Sample Size and Period: Reviewed a sample of 13 employees to assess the health benefits eligibility and enrollment of members and their dependents during the review period.

**See Finding 9:** Eligibility verification forms for dependents were not provided and required health forms were not maintained.

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**CITY OF OXNARD**

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# APPENDIX C

## CRITERIA

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# CITY OF OXNARD

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## CRITERIA

Government Code § 20085, states, in part:

(a) It is unlawful for a person to do any of the following:

(1) Make, or cause to be made, any knowingly false material statement or material representation, to knowingly fail to disclose a material fact, or to otherwise provide false information with the intent to use it, or allow it to be used, to obtain, receive, continue, increase, deny, or reduce any benefit administered by this system....

(b) For purposes of this section, 'statement' includes, but is not limited to, any oral or written application for benefits, report of family relationship..., or continued eligibility for a benefit or the amount of a benefit administered by this system.

(c) A person who violates any provision of this section is punishable by imprisonment in a county jail not to exceed one year, or by a fine of not more than five thousand dollars (\$5,000), or by both that imprisonment and fine.

(d) A person violating any provision of this section may be required by the court in a criminal action to make restitution to this system... for the amount of the benefit unlawfully obtained.

Government Code § 20305, subdivision (a), states:

An employee whose appointment or employment contract does not fix a term of full-time, continuous employment in excess of six months is excluded from this system unless: (1) He or she is a member at the time he or she renders that services and is not otherwise excluded pursuant to this article of by a provision of a contract.... (3)(B) The person works more than... 1,000 hours within the fiscal year, in which case, membership shall be effective not later than the first day of the first pay period of the month following the month in which... 1,000 hours of service were completed.

Government Code § 20383, defines local miscellaneous member as:

All employees of a contracting agency, except local safety members.

Government Code § 20433, states:

Local firefighter means any officer or employee of a fire department of a contracting agency, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise and whose functions do not clearly fall within the scope of active firefighting and prevention service, active firefighting and fire training, or active firefighting and hazardous materials, active firefighting and fire or arson investigation, or active firefighting and emergency medical services, even though that employee is subject to be occasionally called upon, to perform duties within the scope of active firefighting, or active firefighting and

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# CITY OF OXNARD

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prevention service, active firefighting and fire training, active firefighting and hazardous materials, active firefighting and fire or arson investigation, or active firefighting and emergency medical services, but not excepting persons employed and qualifying as firefighters of equal or higher rank, irrespective of the duties to which they are assigned.

Government Code § 20635, states:

When the compensation of a member is a factor in any computation to be made under this part, there shall be excluded from those computations any compensation based on overtime put in by a member whose service retirement allowance is a fixed percentage of final compensation for each year of credited service. For the purposes of this part, overtime is the aggregate service performed by an employee as a member for all employers and in all categories of employment in excess of the hours of work considered normal for employees on a full-time basis, and for which monetary compensation is paid.

Government Code § 20636, subdivision (a), defines compensation as:

The payrate and special compensation of the member.

Government Code § 20636, subdivision (b)(1), defines payrate, in part, as:

Payrate means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules.

Government Code § 20636, subdivision (c)(6), states:

The board shall promulgate regulations that delineate more specifically and exclusively what constitutes 'special compensation' as used in this section.

Government Code § 20636, subdivision (d), states:

Notwithstanding any other provisions of law, payrate and special compensation schedules, ordinances, or similar documents shall be public records available for public scrutiny.

Government Code § 20636, subdivision (e)(2), states:

Increases in compensation earnable granted to any employee who is not in a group or class shall be limited during the final compensation period applicable to the employees, as well as the two years immediately preceding the final compensation period, to the average increase in compensation earnable during the same time period reported by the employer for all employees who are in the same membership classification.

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# CITY OF OXNARD

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Government Code § 20899, states:

In computing the amount of service to be credited to a member who is entitled to credit under this part for service as an elective officer, a year of service shall be credited for each year of tenure in the office. A person serving in the office shall be deemed to be serving on a full-time rather than a part-time basis for all purposes of this part.

Government Code § 20965, states:

A local miscellaneous member and local safety member of a contracting agency who has contracted for this provision, and whose effective date of retirement is within four months of separation... shall be credited at the time of retirement with 0.004 years of service credit for each unused day of sick leave certified to the board by his employer. The certification shall report only those days of unused sick leave that were accrued by the member during the normal course of his or her employment and shall not include any additional days of sick leave reported for the purpose of increasing the member's retirement benefit. Reports of unused days of sick leave shall be subject to audit and retirement benefits may be adjusted where improper reporting is found.

Government Code § 21220.5, states:

A retired person who has not attained the normal retirement age shall have a bona fide separation in service to the extent required by the Internal Revenue code and the regulations promulgated thereunder, before working after retirement pursuant to this article.

Government Code § 21224, subdivision (a), states:

A retired may serve without reinstatement from retirement or loss of interruption of benefits... during an emergency to prevent stoppage of public business or because the retired employee has skills needed in performing work of limited duration. These appointments shall not exceed a total for all employers of 960 hours in any fiscal year.

Government Code § 22775, defines family member as:

Family member means an employee's or annuitant's spouse or domestic partner and any unmarried child, including an adopted child, a stepchild, or recognized natural child. The board shall, by regulation, prescribe age limits and other conditions and limitations pertaining to unmarried children.

California Code of Regulation § 571 provides a list that exclusively identifies and defines special compensation items for members employed by contracting agency and school employers that must be reported to CalPERS if they are contained in a labor policy or agreement.



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# CITY OF OXNARD

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California Code of Regulations § 571, subdivision (b), states, in part:

The Board has determined that all items of special compensation listed in subsection (a) are:

- (1) Contained in a written labor policy or agreement;
- (2) Available to all members in the group or class;
- (3) Part of normally required duties;
- (4) Performed during normal hours of employment...

California Code of Regulations § 571, subdivision (c), states,

Only items listed in subsection (a) have been affirmatively determined to be special compensation. All items of special compensation reported to PERS will be subject to review for continued conformity with all of the standards listed in subsection (b).

California Code of Regulations § 599.500, contains definitions that apply to the Public Employees' Medical and Hospital Care Act, including the following pertinent provisions:

- (f) "Enroll" means to file with the employing office a properly completed Health Benefits Plan Enrollment Form electing to be enrolled in a health benefits plan....
- (k) "Eligible" means eligible under the law and this subchapter to be enrolled....
- (n) A child attains the status of "family member" at birth.... "family member" includes any unmarried child who is economically dependent upon the employee or annuitant, when there exists a parent-child relationship with the employee or annuitant....

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**CITY OF OXNARD**

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# **APPENDIX D**

## **STATUS OF PRIOR REVIEW**

**FOLLOW UP ON PRIOR REVIEW FINDINGS  
CITY OF OXNARD EMPLOYER CODE 0315  
PRIOR REVIEW P03-013, DATED FEBRUARY 2004**

| <i>Prior Review Finding</i>                                    | <i>Prior Review Recommendation</i>  | <i>Status of Prior Recommendation</i>   |
|--|---|---|
| <p>1. The City may not accurately compensation to CalPERS.</p> | <p><u>Uniform Allowance</u></p> <p>The City should ensure that uniform allowances are reported for all employees who are required to wear a uniform.</p> <p><u>Holiday Pay</u></p> <p>The City should immediately begin reporting holiday pay, paid to employees who are required to work on holidays.</p> <p><u>Employer Paid Member Contributions (EPMC)</u></p> <p>The City should not report EPMC until appropriate resolutions have been filed by the City and approved by CalPERS.</p> <p><u>Canine Pay</u></p> <p>The City should stop reporting “Handler pay: and ensure that special compensation reported to CalPERS is contained in a written labor policy or agreement and meets the definition of special compensation.</p> <p><u>Salary Schedules</u></p> <p>The City should ensure that the employees’ payrates are reported within the amounts listed in salary schedules. Also, all employees’ salaries should be listed in publicly available schedules or documents.</p> | <p>Implemented. No similar observations were noted.</p> <p>Implemented. No similar observations were noted.</p> <p>Implemented. No similar observations were noted.</p> <p>Implemented. No similar observations were noted.</p> <p>Similar finding noted in the current report. Two employees’ payrates were not within the published salary schedules.</p> |

**FOLLOW UP ON PRIOR REVIEW FINDINGS  
CITY OF OXNARD EMPLOYER CODE 0315  
PRIOR REVIEW P03-013, DATED FEBRUARY 2004**

| <i>Prior Review Finding</i>   | <i>Prior Review Recommendation</i>  | <i>Status of Prior Recommendation</i>   |
|---|---|---|
| <p>2. The City may not accurately report payroll information to CalPERS.</p>      | <p><u>Payrates</u></p> <p>The City incorrectly reported payrates for four employees, due to a financial software problem. We recommended that the City work with CalPERS ERSD to assess the impact of the incorrect reporting and determine what adjustments, if any were needed.</p> <p><u>Payroll Information Not Reported Timely</u></p> <p>The City should implement payroll procedures to ensure that payroll information was reported and remitted timely to CalPERS.</p> | <p>Implemented. No similar observations were noted.</p> <p>This test was removed from the review guidelines and was not tested during this review.</p>  |
| <p>3. The City may not enroll all eligible employees into CalPERS membership.</p> | <p><u>Temporary Employee Not Enrolled Into Membership.</u></p> <p>The City should monitor the hours worked by temporary/part-time employees and enroll the employees when membership requirements are met.</p> <p><u>Temporary Employees Incorrectly Enrolled Into Membership.</u></p> <p>The City should stop enrolling temporary/part-time employees into CalPERS membership until membership requirements are met.</p>   | <p>Similar finding noted in the current report. Temporary/Part-time employees not enrolled in a timely manner.</p> <p>Similar finding noted in the current report. The City enrolled temporary/part-time employees into CalPERS membership before membership requirements were met.</p> |

**FOLLOW UP ON PRIOR REVIEW FINDINGS  
CITY OF OXNARD EMPLOYER CODE 0315  
PRIOR REVIEW P03-013, DATED FEBRUARY 2004**

| <i>Prior Review Finding</i>   | <i>Prior Review Recommendation</i>   | <i>Status of Prior Recommendation</i>   |
|---|--|---|
| <p>4. The City may not appropriately reinstate eligible retired annuitants into CalPERS membership.</p> | <p><u>Retired Annuitant Not Reinstated</u></p> <p>The City should identify retired annuitants; monitor their working hours and when the individual reaches 960 hours worked in a calendar year the retired annuitant should be reinstated from retirement.</p> <p><u>Retired Annuitant with Earnings Reported.</u></p> <p>The City should stop reporting earnings for individuals working as retired annuitants.</p> | <p>Similar finding noted in the current report. Retired annuitants were not reinstated into CalPERS membership when the 960-hour threshold was met.</p> <p>Implemented. No similar observations were noted.</p> |

**Conclusion:** The City did not implement all of the recommendations of our prior review as noted in the status of prior recommendation column.

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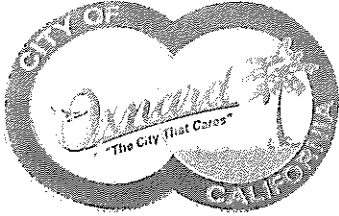
**CITY OF OXNARD**

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# **APPENDIX E**

## **CITY'S WRITTEN RESPONSE**

MICHELLE H. TÉLLEZ  
Human Resources Director



Human Resources Department  
300 West Third Street • Oxnard, CA 93030 • (805) 385-7590 • Fax (805) 385-8352

15 July 2011

CalPERS  
Office of Audit Services  
P.O. Box 942701  
Sacramento, CA 94229-2701

RE: EMPLOYER CODE 0315/YOUR JOB NUMBER P10-018 - DRAFT REPORT

Dear Ms. Junker;

Please allow the following writing to serve as the City's official response to the Draft Public Agency Review the Office of Audit Services for CalPERS recently provided to us.

CalPERS Finding 1 allegations: The City erroneously reported non-reportable compensation in the form of stipends, confidential pay, the value of Employer Paid Member Contributions (EPMC) and statutory duties pay to CalPERS.

City's Response: All allegations UNFOUNDED.

**Stipends** – The City is a member of several joint powers authorities, regional districts and similar governmental groups. The presiding officer, with concurrence of the City Council, periodically appoints one or more members of the City Council to represent the City's interests in each group. Attendance at the meetings of these groups falls squarely within the articulated duties of each member of the City Council. Meetings may be during the day, they may be in the evening, they occasionally may occur on weekends. There are NO "normal hours of work" for a City Council member. Each Council member is 'on-the-job' twenty-four hours a day, seven days a week. City Council meetings normally occur in the evening hours. Special meetings are held and scheduled whenever necessary. Each Council member's attendance at each and every meeting of the groups to which they are appointed as representatives is for the purpose of representing the City and furthering the City's interest. The Council's pay for the attendance at each of these meetings is compensation for performance of ordinary duties. That the compensation is a set fee exemplifies the City's fiscal responsibility, as the member is paid for attendance only, unlike some Cities that include presumed attendance at meetings such as these in the salary of each Council member. The City of Oxnard chose to provide remuneration on an 'as attended' basis, thereby saving the taxpayers money since presumed attendance is not included as part of an overall salary package. Therefore, the payment for attendance at meetings of regional districts and similar

groups falls squarely within the meaning of reportable, compensable "PERSable" income.

**Confidential Pay** – (Attachments 'A', 'B' & 'C') – Pursuant to a negotiation memorandum from the Confidential Group to the Assistant City Manager, [REDACTED], the group asked for and subsequently received a five (5%) percent differential for Confidential employees independent of salary range. As evidenced by the implementation date when this group of employees began receiving the differential pay (February 2000), the City had codified and resolved its negotiations with this group in January 2000. CalPERS' assertion that there was no written agreement regarding this LONG STANDING pay (there have been audits since the pay was implemented and CALPERS has never found the pay to be inappropriate before) is erroneous, as the group is not represented by certified collective bargaining agent, hence no collective bargaining agreement. As well, documentation indicates that there was an initial approval of a two and one half (2.5%) percent increase in January 2000, however, all pay records validate that Management had approved all the requested proposals set forth in the August 1999 memo from the Confidential Group to the Assistant City Manager. Subsequently, in 2001, when the City Manager put forth the Management and Confidential Compensation and Benefits for FY 2001-2002, no mention was made of the five (5%) percent confidential pay as an addition to the package as the pay had been agreed to and implemented in prior negotiations. Obvious from the dates of the respective memorandum, August 1999 and August 2001, late summer has always been that time period when City Management has considered adjustments to Confidential employee pay. Therefore, the five (5%) percent confidential pay is both appropriate as reportable PERSable income and MUST remain reportable compensable PERSable income for this group of employees.

**Value of EPMC** – (Attachment 'C') – In a memorandum promulgated and signed by the City Manager, [REDACTED], delineating benefits for all Management and Confidential employees, specifically paragraph 3, Management and Confidential employees were approved to receive EPMC as reportable compensable PERSable income. Again, you have made an erroneous assertion that such language was not codified in a 'labor agreement', as neither the Confidential employees or Management employees are represented by a certified collective bargaining agent, hence no collective bargaining agreement. Based upon the documentation provided, as well as the fact that the City has been reporting this income as reportable, compensable and PERSable through two other audit cycles without any identified problems from CalPERS in the past, PERS MUST continue to report this income as PERSable and the effected employees MUST continue to receive the value of EPMC as all requirements have been satisfied pursuant to CalPERS rules.

**Statutory Duty Pay** – (Attachment 'D') – As set forth by the City Council in Ordinance number 2350, both the City Treasurer and the City Clerk are to receive "salaries" that amount to \$207.69 per pay period. Given that there is a written City Ordinance regarding the appropriateness of the pay and, again, as Department Heads, these individuals are not represented by a certified collective bargaining agent, hence no collective bargaining agreement, this pay MUST continue to be paid as reportable,



compensable PERSable income as it has been since 1994 when the Ordinance was enacted.

CalPERS Finding 2 allegation: The City did not report compensation earnable for all employees enrolled into CalPERS membership in fiscal year 2009/2010.

City Response: Allegation *may* have merit

The City will continue to work with CalPERS CASD to determine how best to look into and correct, if necessary, addressing this issue.

CalPERS Finding 3 allegations: The City reported pay rates that were not included in a publicly available salary schedule.

City Response: Allegations partially founded, partially UNFOUNDED

██████████ – On or about 30 June 2007 ██████████ received an authorized increase of five (5%) percent above his base salary. The salary range was not moved, thereby placing his salary out of the posted range for his job classification. However, since moving the range was within the control of City Management and not the fault of the employees', those effected should not be punished by prohibiting the reportability of the income.

██████████ – On or about 30 June 2007 ██████████ received an authorized increase of five (5%) percent above his base salary. The salary range was not moved, thereby placing his salary out of the posted range for his job classification. However, since moving the range was within the control of City Management and not the fault of the employees', those effected should not be punished by prohibiting the reportability of the income.

██████████ – Full transparency was achieved, as the percentage of the increase was provided in a public forum and the prior salary upon which the percentage was calculated was publically known. It would be impossible to publish the City Manager's or City Attorney's salary schedule as these are the only two individuals who work under a contract, which is negotiated with their employer, the City Council. Each time the Council hires a new City Attorney or City Manager, they negotiate the pay rate and give increases at their discretion or as proscribed in multi-year contracts, which may or may not occur depending on Council's preference.

CalPERS finding 4 allegation: The City incorrectly reported pay rate increases that were not available to all employees in the group or class.

City Response: Allegation UNFOUNDED

██████████ – (Attachment ‘E’) – As the former City Attorney, ██████████ was in a class all by himself; there were no other City Attorneys under contract. ██████████ was one of two City Council employees who entered into a contractual relationship and the benefits and salary were negotiated pursuant to agreement. All other Management employees do NOT fall under the provisions of contractual relationships, thereby making it impossible to have them track any increases to salary or benefits received by the two employees covered under contracts. As evidenced in the November 2007 document, the abolition of vehicle allowance, coupled with the increase to annual base salary was approved by Council and signed off by the City Manager, thereby insuring the changes to ██████████ contract were reportable, compensable PERSable income.

CalPERS Finding 5 allegations: The City did not comply with CalPERS membership eligibility and enrollment requirements for temporary/part-time employees.

City Response – Allegation *may* have merit

The City will continue to work with CalPERS CASD to determine how best to look into and correct, if necessary, addressing this issue.

CalPERS Finding 6 allegation: The City did not reinstate retired annuitants who exceeded the 960 hour threshold in a fiscal year.

City Response: Allegation UNFOUNDED

The City remains diligent in disallowing retiree annuitants to work more than 960 hours in any fiscal year. The three examples provided had one annuitant exceeding the threshold by four (4) hours, another by five (5) and the last by seven (7). Clearly there were MINOR miscalculations in the hours worked. These de minimis overages spread over a three year period of time does not constitute a violation of CalPERS rules.

CalPERS Finding 7 allegation: The City misclassified and incorrectly reported miscellaneous employees under the safety coverage group code.

City Response – UNFOUNDED - Attachment packet ‘F’

The classifications of Fire Environmental Specialist I and II, EMS Coordinator and CUPA Coordinator were properly reported as Safety employees within the meaning of CalPERS rules. As evidenced by the CalPERS Amendment to the parties’ contract, which is part of the Attachment packet ‘F’ provided, the classifications were reported properly to CalPERS. Specifically reference Section 8, subsections j. and k. for CalPERS approving language that included these classifications and covers the employees who work in these classifications in 1 January 2005 amendment to the original November 1951 contract between the parties as being reported appropriately as Safety employees.

CalPERS Finding 8 allegation: The City incorrectly certified and reported the unused sick leave balance for a retiring CalPERS member.

City Response – Allegation *may* have merit

Currently, we are reviewing our processes. Effective immediately the payroll department will add to the current procedure their responsibility for verifying all information prior to submitting same to CalPERS.

CalPERS Finding 9 allegation: The City did not provide eligibility verifications for dependents enrolled in CalPERS Health Benefits Program nor maintain required health forms on file.

City Response - Allegation *may* have merit – Attachment 'G'

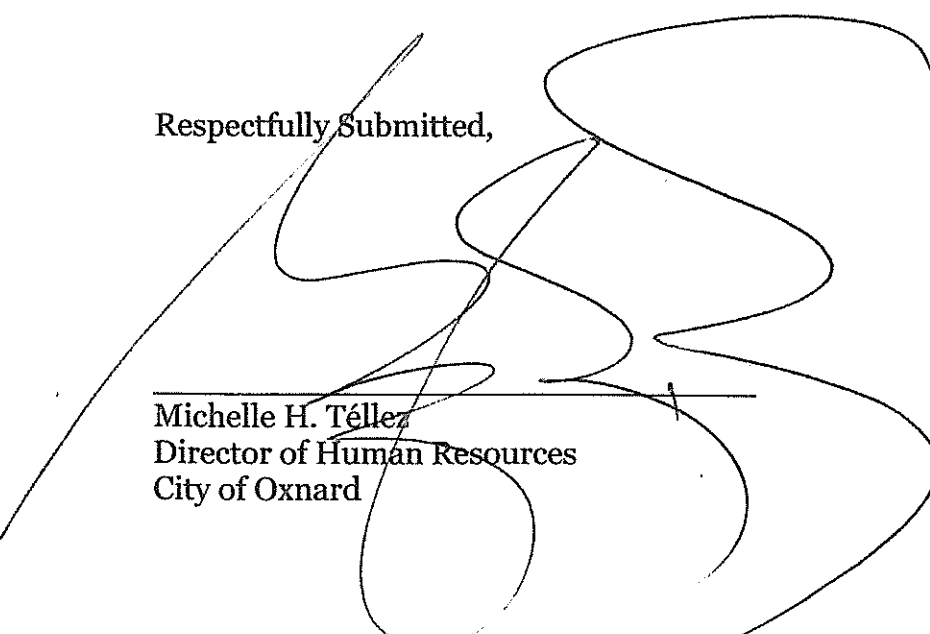
The City has begun to remedy the matter – see attachment 'G'.

### CONCLUSION

The City has provided information refuting Findings 1, 3 (in part), 4, 6 and 7. Findings 2, 5, 8 and 9 *may* have merit and have been addressed and the City will continue to work with CalPERS to make any corrections, if necessary.

Dated this 15<sup>th</sup> day of July 2011.

Respectfully Submitted,



Michelle H. Téllez  
Director of Human Resources  
City of Oxnard