

CITY OF PALM SPRINGS

Revised Audit Report

SPECIAL GAS TAX STREET IMPROVEMENT FUND

July 1, 2007, through June 30, 2008



JOHN CHIANG
California State Controller

July 2011



JOHN CHIANG
California State Controller

July 13, 2011

The Honorable Steve Pougnet
Mayor of the City of Palm Springs
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262

Dear Mayor Pougnet:

The State Controller's Office audited the City of Palm Springs' Special Gas Tax Street Improvement Fund for the period of July 1, 2007, through June 30, 2008. We also audited the Traffic Congestion Relief Fund (TCRF) allocations recorded in the Special Gas Tax Street Improvement Fund for the period of July 1, 2002, through June 30, 2008.

Our audit disclosed that the city accounted for and expended its Special Gas Tax Street Improvement Fund in compliance with requirements, and that no adjustment to the fund is required.

We issued an audit report dated December 10, 2010. Subsequently, the city submitted a written representation letter regarding the city's responsibility for the proper administration and stewardship of the Special Gas Tax Street Improvement Fund. In addition, the city contacted the California Department of Transportation (Caltrans) office in San Bernardino, California, and requested a technical review of the project in question (City Project No. 05-07). In a letter dated February 8, 2011 (Attachment C), Mr. Savat Khamphou, Caltrans Local Assistance Engineer, indicates he reviewed City Project No. 05-07 and determined it was associated with roadway reconstruction projects on Ramon Road, Sunrise Way, Farrell Drive, and East Palm Canyon Drive. Based on receipt of the management representation letter and the Caltrans engineer's assessment, we are withdrawing the findings and issuing a revised audit report.

If you have any questions, please contact Steven Mar, Chief, Local Government Audits Bureau, at (916) 324-7226.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/sk

cc: David H. Ready, Esq., Ph.D.
 Manager of the City of Palm Springs
Geoffrey S. Kiehl, Director of Finance and Treasurer
 City of Palm Springs

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Revised Audit Report

Summary

The State Controller's Office audited the City of Palm Springs' Special Gas Tax Street Improvement Fund for the period of July 1, 2007, through June 30, 2008. We also audited the Traffic Congestion Relief Fund (TCRF) allocations recorded in the Special Gas Tax Street Improvement Fund for the period of July 1, 2002, through June 30, 2008.

Our audit disclosed that the city accounted for and expended its Special Gas Tax Street Improvement Fund in compliance with requirements, and that no adjustment to the fund is required.

Background

The State apportions funds monthly from the highway users tax account in the transportation tax fund to cities and counties for the construction, maintenance, and operation of local streets and roads. The highway users taxes derive from state taxes on the sale of motor vehicle fuels. In accordance with Article XIX of the California Constitution and Streets and Highways Code section 2101, a city must deposit all apportionments of highway users taxes in its Special Gas Tax Street Improvement Fund. A city must expend gas tax funds only for street-related purposes. We conducted our audit of the city's Special Gas Tax Street Improvement Fund under the authority of Government Code section 12410.

Government Code section 14556.5 created a Traffic Congestion Relief Fund in the State Treasury for allocating funds quarterly to cities and counties for street or road maintenance, reconstruction, and storm damage repair. Cities must deposit funds received into the city account designated for the receipt of state funds allocated for transportation purposes. The city recorded its TCRF allocations in the Special Gas Tax Street Improvement Fund. We conducted our audit of the city's TCRF allocations under the authority of Revenue and Taxation Code section 7104.

Objective, Scope, and Methodology

Our audit objective was to determine whether the city accounted for and expended the Special Gas Tax Street Improvement Fund in compliance with Article XIX of the California Constitution, the Streets and Highways Code, and Revenue and Taxation Code section 7104. To meet the audit objective, we determined whether the city:

- Properly deposited highway users tax apportionments and other appropriate revenues in the Special Gas Tax Street Improvement Fund;
- Expended funds exclusively for authorized street-related purposes; and
- Made available unexpended funds for future expenditures.

We conducted this performance 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 did not audit the city's financial statements. We limited our audit scope to planning and performing the audit procedures necessary to obtain reasonable assurance that the city accounted for and expended the Special Gas Tax Street Improvement Fund in accordance with the requirements of the Streets and Highways Code and Revenue and Taxation Code section 7104. Accordingly, we examined transactions, on a test basis, to determine whether the city expended funds for street purposes. We considered the city's internal controls only to the extent necessary to plan the audit.

Conclusion

Our audit disclosed that the City of Palm Springs accounted for and expended its Special Gas Tax Street Improvement Fund in compliance with Article XIX of the California Constitution and the Streets and Highways Code for the period of July 1, 2007, through June 30, 2008.

Our audit also disclosed that the city accounted for and expended its TCRF allocations recorded in the Special Gas Tax Street Improvement Fund in compliance with Article XIX of the California Constitution, the Streets and Highways Code, and Revenue and Taxation Code section 7104 for the period of July 1, 2002, through June 30, 2008.

Follow-Up on Prior Audit Findings

Our prior audit report, issued on September 5, 2003, disclosed no findings.

Views of Responsible Officials

We issued an audit report dated December 10, 2010. Subsequently, the city submitted a written representation letter regarding the city's responsibility for the proper administration and stewardship of the Special Gas Tax Street Improvement Fund. In addition, the city contacted the California Department of Transportation (Caltrans) office in San Bernardino, California, and requested a technical review of the project in question (City Project No. 05-07). In a letter dated February 8, 2011 (Attachment C), Mr. Savat Khamphou, Caltrans Local Assistance Engineer, indicates he reviewed City Project No. 05-07 and determined it was associated with roadway reconstruction projects on Ramon Road, Sunrise Way, Farrell Drive, and East Palm Canyon Drive. Based on receipt of the management representation letter and the Caltrans engineer's assessment, we are withdrawing the findings and issuing a revised audit report. The city's responses and the Caltrans engineer's letter are included in this revised final audit report.

Restricted Use

This report is intended for the information and use of the City of Palm Springs 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
Chief, Division of Audits

July 13, 2011

**Revised Schedule 1—
Reconciliation of Fund Balance
July 1, 2007, through June 30, 2008**

	Special Gas Tax Street Improvement Fund ^{1,2}
Beginning fund balance per city	\$ 479,634
Revenues	<u>1,630,320</u>
Total funds available	2,109,954
Expenditures	<u>(833,221)</u>
Ending fund balance per city	1,276,733
SCO audit adjustment	<u>—</u>
Ending fund balance per audit	<u><u>\$ 1,276,733</u></u>

¹ The city receives apportionments from the state highway users tax account, pursuant to Streets and Highways Code sections 2105, 2106, 2107, and 2107.5. The basis of the apportionments for sections 2105, 2106, and 2107 varies, but the money may be used for any street purpose. Streets and Highways Code section 2107.5 restricts apportionments to administration and engineering expenditures, except for cities with populations of fewer than 10,000 inhabitants. Those cities may use the funds for rights-of-way and for the construction of street systems.

² Government Code section 14556.5 created a Traffic Congestion Relief Fund (TCRF) in the State Treasury for allocating funds quarterly to cities and counties for street and road maintenance, reconstruction, and storm damage repair. The TCRF allocations were recorded in the Special Gas Tax Street Improvement Fund. The audit period was July 1, 2002, through June 30, 2008.

Revised Findings and Recommendations

FINDING 1— Unallowable TCRF expenditures

The city expended moneys from its fiscal year (FY) 2006-07 Traffic Congestion Relief Fund (TCRF) allocation, totaling \$303,028, on a signal conversion project. Signal conversions are not eligible expenditures under Revenue and Taxation Code section 7104.

Recommendation

The city should reimburse \$303,028 to the TCRF allocations. As the TCRF moneys are recorded in the State Gas Tax Fund and signal conversions are allowed under the State Gas Tax Program, we recommend that the State Gas Tax Program moneys be used for the reimbursement.

City's Response

Pursuant to your January 5, 2011 teleconference with Dave Barakian, Director of Public Works, Tom Wilson, Assistant City Manager and Geoffrey Kiehl, Director of Finance, of our staff, this letter shall serve to confirm that City Project Nos. 02-14, 03-15, 05-12 and 05-19 were road reconstruction projects that were to also include upgrading the intersections to current City standards for traffic and pedestrian safety. Sufficient funds did not exist at that time to complete the ramp and signal work so the City had to defer the associated ramp and signal work until further funds were available. When Traffic Congestion Relief funds became available, the City completed the construction through City Project No. 05-07 as associated work. The project numbers are different only because our accounting system requires separate numbers for individual projects in different Fiscal Years.

SCO's Comment

Based on the Caltrans engineer's assessment, City Project No. 05-07 (Signal Protective-Permissive Conversion) is directly associated with four other street reconstruction projects; therefore, it is eligible for funding under the Traffic Congestion Relief Fund program. As a consequence, the city does not need to reimburse the \$303,028 to the TCRF allocations.

**FINDING 2—
TCRF expenditure
requirement not met**

The city spent \$303,028 of its FY 2006-07 TCRF allocations on an ineligible project, as noted in Finding 1. Ineligible costs do not qualify toward meeting the requirement that a city expend TCRF allocations within the fiscal year following the fiscal year in which the allocations were made, as required by Streets and Highways Code section 2182.1(g) and Revenue and Taxation Code section 7104. The codes state, “. . . funds not expended within that period shall be returned to the Controller. . . .”

Recommendation

The city must return the unexpended TCRF allocations, in the amount of \$303,028, to the State Controller’s Office, Division of Accounting and Reporting, ATTN: Bill Byall, P.O. Box 942850, Sacramento, CA 94250-5874.

City’s Response

Pursuant to your January 5, 2011 teleconference with Dave Barakian, Director of Public Works, Tom Wilson, Assistant City Manager and Geoffrey Kiehl, Director of Finance, of our staff, this letter shall serve to confirm that City Project Nos. 02-14, 03-15, 05-12 and 05-19 were road reconstruction projects that were to also include upgrading the intersections to current City standards for traffic and pedestrian safety. Sufficient funds did not exist at that time to complete the ramp and signal work so the City had to defer the associated ramp and signal work until further funds were available. When Traffic Congestion Relief funds became available, the City completed the construction through City Project No. 05-07 as associated work. The project numbers are different only because our accounting system requires separate numbers for individual projects in different Fiscal Years.

SCO’s Comment

Based on the Caltrans engineer’s assessment, City Project No. 05-07 (Signal Protective-Permissive Conversion) is directly associated with four other street reconstruction projects; therefore, it is eligible for funding under the Traffic Congestion Relief Fund program. As a consequence, the city does not need to reimburse the \$303,028 to the State Controller’s Office.

**Attachment A—
City's Response to
Draft Audit Report, dated September 15, 2010**



City of Palm Springs

Department of Public Works and Engineering
3200 E. Tahquitz Canyon Way • Palm Springs, California 92262
Tel: (760) 323-8253 • Fax: (760) 322-8360 • Web: www.palmspringsca.gov

September 23, 2010

Steven Mar
Local Government Audit Bureau
State Controller's Office
Division of Audits
P.O. Box 942850
Sacramento, CA 94250-5874

Dear Mr. Mar:

This letter is in response to Jeffrey Brownfield's September 15, 2010 letter to City Manager David H. Ready concerning the State Controller's Office audit of the City's Special Gas Tax Street Improvement Fund and Traffic Congestion Relief Fund (TCRF) performed in 2009.

City Project #05-07, Signal Protective-Permissive Conversion utilized TCRF from fiscal years 03-04, 04-05 and 05-06. The construction contract was awarded on December 13, 2006. We utilized the "Guidelines Relating to TCRF" published by the State Controller in November 2003. On page 5 of those guidelines it specifically says that "Upgrading of traffic control devices..." (5th bullet point) are associated costs which are eligible for use of TCRF.

When Matt Miranda was here last July, I explained that we did not use an 06/07 allocation, only the 03/04 thru 05/06 allocations and further used the Guidelines provided by the controller's office. Mr. Miranda said he followed our argument but suggested we provide this written response. Attached is a copy of the Guidelines upon which we relied for our project expenditures. I therefore disagree with the draft finding that the City expended funds on an ineligible project and further that the City should not be required to reimburse \$303,028 to TCRF allocations.

Thank you for the opportunity to provide this response. Please contact me with any questions or a response to this letter.

Sincerely,

David Barakian
Director of Public Works
City Engineer

Attachments: State Controller Letter; Guidelines Relating to Traffic Congestion Relief Funds

cc: Geoffrey Kiehl
David H. Ready

Post Office Box 2743 • Palm Springs, California 92263-2743

ATTACHMENT



JOHN CHIANG
California State Controller

September 15, 2010

Received
9-20-10 ✓
CR
by [signature]

CR [signature]
[signature]
Date 9/20/10

CERTIFIED MAIL—RETURN RECEIPT REQUESTED

David H. Ready, Esq., Ph.D.
City Manager
City of Palm Springs
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262

Dear Mr. Ready:

The State Controller's Office audited the City of Palm Springs' Special Gas Tax Street Improvement Fund for the period of July 1, 2007, through June 30, 2008. We also audited the Traffic Congestion Relief Fund (TCRF) allocations recorded in the Special Gas Tax Street Improvement Fund for the period of July 1, 2002, through June 30, 2008.

Our audit disclosed that the city accounted for and expended its Special Gas Tax Street Improvement Fund in compliance with requirements, except that it overstated the highway users tax allocations balance by \$303,028 and understated the TCRF allocations balance by \$303,028 as of June 30, 2008. The city overstated the fund balance primarily because it expended moneys from its fiscal year 2006-07 TCRF allocation on a signal conversion project, which is a non-eligible use of these funds. These costs are allowed under the State Gas Tax Program; therefore, the TCRF should be reimbursed \$303,028.

Please submit any comments concerning the draft report within 15 calendar days after you receive this letter. In particular, you should address the accuracy of the audit findings. We may modify the report based on your comments or additional data that develops as we complete the audit. We will also include your comments in the final report.

Please send your response to Steven Mar, Chief, Local Government Audits Bureau, at the State Controller's Office, Division of Audits, Post Office Box 942850, Sacramento, California 94250-5874. If we do not receive your comments within the specified time, we will release the report as final.

MAILING ADDRESS P.O. Box 942850, Sacramento, CA 94250-5874
SACRAMENTO 300 Capitol Mall, Suite 518, Sacramento, CA 95814 (916) 324-8907
LOS ANGELES 600 Corporate Pointe, Suite 1000, Culver City, CA 90230 (310) 342-5656

David H. Ready

-2-

September 15, 2010

This draft audit report is confidential. We limit report access and distribution to those referenced in this letter. However, when we issue the final audit report, it becomes a public record.

If you have any questions, please contact Mr. Mar at (916) 324-7226.

Sincerely,



JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/sk

Attachment

cc: Geoffrey S. Kiehl, Director of Finance and Treasurer
City of Palm Springs

**Guidelines Relating to
Traffic Congestion Relief Funds
For Cities and Counties**



STEVE WESTLY
California State Controller

November 2003

EXPENDITURES OF ALLOCATIONS**380**

Funds allocated to a city or county under *Streets and Highways Code* Section 2182 and *Revenue and Taxation Code* Section 7104 must be expended for maintenance or reconstruction of public streets and roads. However, the streets and roads must be part of the city's or county's street or road system as defined in *Streets and Highways Code* Sections 1805 and 1806 for cities and Section 941 for counties. Allowable costs may include related engineering, administration, and inspection costs. For FY 2001-02 through FY 2005-06, storm damage repair, as defined on page 6, is allowable.

These funds may also be used for the cost of work that is associated with and incidental to a street or road maintenance or reconstruction project within the street or road right of way, provided the work is necessary and/or required to bring the street or road to current design standards. For widening projects, a city or county (or the city and county) should maintain documentation supporting why an existing street or road does not meet current design standards.

Associated costs may include:

- Restriping of pedestrian crosswalks or bike lanes
- Curb and gutter work
- Sidewalk repairs and median changes because of grade changes
- Repair or reconstruction of handicap ramps or driveway approaches when bringing the street or road to current design standards (e.g., handicap ramp work when improving an intersection turning radius)
- Upgrading of traffic control devices or lighting when bringing the street or road to current design standards

General street surveys and median improvements (both hardscape and landscape) are not allowed. Purchases of fixed assets are not allowed; however, equipment usage (rental rate) costs are allowable.

Maintenance means the preservation and upkeep of a street or road, including all of its elements, in as nearly as practicable its original condition or its subsequently improved condition. Maintenance includes the following:

- Patching (including base restoration), repairing, surface treating, and joint filling
- Pothole repair
- Overlay and joint sealing
- Scarifying, reshaping, and restoration of material losses
- Repair of traveled way and shoulders
- Repainting of pavements, striping, and marking pavements
- Bridge repair

**Attachment B—
City's Response to
Final Audit Report, dated December 10, 2010**



City of Palm Springs

Office of the City Manager

3200 E. Tahquitz Canyon Way • Palm Springs, California 92262
Tel: (760) 322-8362 • Fax: (760) 323-8207 • Web: www.palmsprings-ca.gov

January 13, 2011

Art Luna CPA, Audit Manager
State Controller's Office
600 Corporate Pointe, Suite 1000
Culver City, CA 90230

Subject: Gas Tax Audit

Dear Mr. Luna:

Pursuant to your January 5, 2011 teleconference with Dave Barakian, Director of Public Works, Tom Wilson, Assistant City Manager and Geoffrey Kiehl, Director of Finance, of our staff, this letter shall serve to confirm that City Project Nos. 02-14, 03-15, 05-12 and 05-19 were road reconstruction projects that were to also include upgrading the intersections to current City standards for traffic and pedestrian safety. Sufficient funds did not exist at that time to complete the ramp and signal work so the City had to defer the associated ramp and signal work until further funds were available. When Traffic Congestion Relief funds became available, the City completed the construction through City Project No. 05-07 as associated work. The project numbers are different only because our accounting system requires separate numbers for individual projects in different Fiscal Years.

Thank you for the opportunity to provide this clarification letter.

Sincerely,

David H. Ready, Esq, PhD
City Manager

David J Barakian
Director of Public Works

xc: Geoffrey Kiehl
David J. Barakian
Tom Wilson
Steve Mar

**Attachment C—
Caltrans Engineer's Letter,
Dated February 8, 2011**

DEPARTMENT OF TRANSPORTATION

PLANNING (MS 760)
464 WEST 4th STREET, 6th FLOOR
SAN BERNARDINO, CA 92401
PHONE (909) 383-4825
www.dot.ca.gov



*Flex your power!
Be energy efficient!*

February 8, 2011

Art Luna, CPA
Audit Manager
State Controller's Office
600 Corporate Pointe, Suite 1000
Culver City, CA 90230

Dear Mr. Luna:

In reference to the City of Palm Springs Gas Tax Audit, this letter shall serve as supporting documentation per the State Controller's Office. At my meeting and field review with the City of Palm Springs on January 28, 2011, I have reviewed the City of Palm Springs Project No. 05-07 and find that it is a signal modification project directly associated with their previously constructed roadway reconstruction projects on Ramon Road, Sunrise Way, Farrell Drive, and East Palm Canyon Drive. The previous roadway reconstruction projects did not include the associated work of bringing intersections up to City standards. The associated work was completed as part of the aforementioned City Project 05-07.

Sincerely,

A handwritten signature in black ink, appearing to read "Savat Khamphou".

SAVAT KHAMPHOU
District Local Assistance Engineer

c: David Barakian, Director of Public Works, City of Palm Springs
Steve Mar, Chief, Local Governments Audit Bureau

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

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