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February 29, 2012

Employer Code: 0704
Job Number: P10-039

City of Rio Vista
Hector De La Rosa, City Manager
One Main Street
Rio Vista, CA 94571

Dear Mr. De La Rosa:

Enclosed is our final report on the results of the public agency review completed for the City of Rio Vista. Your agency's written response, included as an appendix to the report, indicates agreement with the issues noted in the report. In accordance with our resolution policy, 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: Risk and Audit Committee Members, CalPERS
Peter Mixon, General Counsel, CalPERS
Karen DeFrank, Chief, CASD, CalPERS
Mary Lynn Fisher, Chief, BNSD, CalPERS
Honorable City Council Members, City of Rio Vista

Office of Audit Services

Public Agency Review

City of Rio Vista

Employer Code: 0704
Job Number: P10-039

February 2012

CITY OF RIO VISTA

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CITY OF RIO VISTA

RESULTS IN BRIEF

The Office of Audit Services (OAS) reviewed the City of Rio Vista'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 three of this report. Specifically, the following findings were noted during the review:

- Compensation earnable was incorrectly reported.
- Special compensation was incorrectly included in the reported base payrate and regular earnings.
- Work schedule codes were incorrectly reported.
- Excluded hourly-paid employees were enrolled in CalPERS membership.
- Retired annuitant's payrate exceeded that paid to other employees performing comparable duties.
- Elected officials were not offered optional CalPERS membership.
- Incorrect amounts of unused sick leave were certified to CalPERS.
- Eligibility documentation for dependents enrolled in CalPERS Health Benefits Program was not provided.

The pertinent sections of the Government Code and California Code of Regulations for each finding are listed in Appendix C.

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

CITY BACKGROUND

The City of Rio Vista was chartered in 1893, as a municipal corporation operating under the general laws of the State of California. The City operates under a Council-Manager form of government. The City provides public safety, streets, sanitation, culture, recreation, public improvements, planning and zoning, general administrative services, utilities, transit and airport. Memoranda of Understanding (MOU), personnel rules and regulations, and employment agreements outline City employees' salaries and benefits and state the terms of employment agreed upon between the City and its employees.

The City contracted with CalPERS effective October 1, 1967, to provide retirement benefits for local safety (police and fire) and miscellaneous

employees. 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 August 1, 1993, 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 January 1, 2008, through December 31, 2010. The on-site fieldwork for this review was conducted from May 16, 2011, through May 19, 2011, and July 28, 2011. The review objectives and a summary of the procedures performed, sample sizes, sample periods and findings are listed in Appendix B.

CITY OF RIO VISTA

OFFICE OF AUDIT SERVICES REVIEW RESULTS

Finding 1: The City incorrectly reported compensation earnable to CalPERS.

Recommendations:

The City should ensure compensation earnable is reported correctly to CalPERS.

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

Conditions:

Fair Labor Standard Act (FLSA) Premium Pay was not Reported

The City's firefighters' normal work period was 28 consecutive days. The FLSA threshold for firefighters working a 28-day work period was 212 hours. Therefore, all FLSA premium pay for normally scheduled hours worked between 212 and 240, during the 28-day work period, was reportable to CalPERS as special compensation. During service period 12/10-4, two sampled employees worked over the 212-hour FLSA threshold and received FLSA premium pay. One sampled employee was paid four hours of FLSA premium pay and the other employee was paid 24 hours of FLSA premium pay. However, the City failed to report the FLSA premium pay as special compensation to CalPERS.

Holiday Pay was Over-Reported

The MOUs for police and fire employees provided that employees who were required to work on a City-observed holiday would be paid for the holiday in lieu of accumulating holiday hours. One hundred and twenty hours of holiday pay was pro-rated and paid each pay period at a rate of 4.62 hours of straight time. However, the 120 hours of holiday pay included eight hours of non-reportable personal holiday plus an extra eight hours that was the result of merging two holidays into one (Lincoln's and Washington's birthdays were combined into a single holiday becoming President's day). The City's official holiday schedule listed a total of 13 observed holidays. Therefore, OAS found the City over-reported holiday pay for these employees and should have reported the maximum of 104 hours (13 x 8 = 104) of holiday pay per year or four hours of holiday pay in each of the 26 pay periods.

Uniform Allowance was Incorrectly Reported or not Reported

OAS reviewed service period 7/09-5 to determine whether the City correctly reported uniform allowance to CalPERS for employees required to wear a uniform. OAS found that the City correctly reported employees' uniform allowance with the exception of its police safety and public works employees.

Public Safety Employees: Public safety employees received a yearly uniform allowance of $850, plus a $250 boot allowance, and a $500 safety equipment allowance. However, the City incorrectly included the boot allowance and safety equipment allowance in the annual uniform allowance that was reported to CalPERS ($1,600). Boot allowance and safety equipment allowance are excluded from the definition of reportable uniform allowance and should not be reported to CalPERS as compensation.

Public Works Employees: The City's public works miscellaneous employees were required to wear uniforms provided and maintained by the City through a uniform service. However, the City did not report the monetary value of the uniforms, including maintenance, to CalPERS for its public works employees. If the purchase, rental and/or maintenance of required clothing which is a ready substitute for personal attire the employee would otherwise have to acquire and maintain, then the monetary value is a reportable item of special compensation and must be reported to CalPERS.

Criteria:

Government Code: § 20636(c)(1), § 20636(c)(2), § 20636(c)(6)

California Code of Regulations: § 571(a)(5)

CITY OF RIO VISTA

Finding 2: The City incorrectly included special compensation (longevity pay) in the reported base payrate and regular earnings.

Recommendation:

The City should report all items of special compensation, including longevity pay, separately from payrate and regular earnings.

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

Condition:

The City's Personnel Rules and Regulations provided employees with a five percent longevity step increase after each ten year period of service if consistent, satisfactory performance was exhibited by the employee. OAS reviewed service period 12/10-4 and identified three employees that received longevity pay and found that the longevity pay was incorrectly added to the employees' reported base payrate and regular earnings. Longevity pay, an item of special compensation, must be reported separately from base payrate and regular earnings.

Criteria:

Government Code: § 20636(a), § 20636(b)(1), § 20636(c)(1), § 20636(c)(3)

Finding 3: The City incorrectly reported work schedule codes for employees normally required to work an average of 56 hours per week.

Recommendation:

The City should ensure that correct work schedule codes are reported to CalPERS.

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

Condition:

OAS found that the City incorrectly reported a work schedule code of 230, instead of 243, for two sampled fire employees who worked an average of 56 hours per week. Specifically, the fire employees worked an average of 212 hours in a 28-day normal work period; therefore, the employees normally worked an average of 56 hours per week. However, the City's computation incorrectly utilized only the pre-FLSA hours (53) to determine the work schedule code (53 hours x 52 weeks / 12 months = 230 hours per month), instead of the hours worked (56) during the normal work period (56 hours x 52 weeks / 12 months = 243 hours per month). As a result, the City incorrectly reported the work schedule code as 230 instead of 243.

Criteria:

CalPERS Procedures Manual: Page 99

Finding 4: The City reported excluded hourly-paid employees to CalPERS.

Recommendation:

The City should ensure employees excluded from CalPERS membership are not enrolled for retirement benefits.

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

Condition:

The City's contract with CalPERS excluded all hourly rated and hourly basis employees. In early 1999, CalPERS implemented an "Hourly Exclusion Resolution Project" (HERP) that permitted employers to identify specific groups of hourly paid classification to be excluded from membership. CalPERS notified the City of its obligation under HERP as it pertained to its hourly-related or hourly-basis employees. The City responded that the exclusion "Applied to hourly employees working less than 40 hours per week." During OAS' review, the City stated that it intended to exclude any hourly employees working less than 40 hours per week from CalPERS membership as provided in the City's contract exclusion.

OAS found that the City incorrectly enrolled a part-time, hourly-paid employee into CalPERS membership. The employee was excluded from membership pursuant to the City's contract with CalPERS and should not have been enrolled.

In addition, the City incorrectly continued active membership for two employees who no longer qualified for CalPERS membership. The employees were initially hired to work on a full-time, salaried basis and the City appropriately enrolled the employees into membership. The City later reclassified the employees to work on a part-time, hourly-paid basis; however, the City continued to report the employees as active CalPERS members. Once reclassified as hourly-paid, the employees were excluded from membership. The City should have immediately separated the employees from membership.

Criteria:

Government Code: § 20305(a)

CITY OF RIO VISTA

Finding 5: One retired annuitant's rate of pay exceeded the rate paid to other City employees performing comparable duties.

Recommendation:

The City should ensure that retired annuitants' rates of pay do not exceed rates paid to other employees performing comparable duties.

The City should work with CalPERS BNSD to assess the impact of this payrate issue and determine what adjustments are needed.

Condition:

OAS reviewed the hours worked for five retired annuitants who worked for the City in fiscal years 2008/2009 and 2009/2010 to determine if retired annuitants who worked over the 960-hour fiscal year threshold were reinstated in a timely manner.

OAS determined the sampled retired annuitants did not exceed the 960-hour threshold during the fiscal years tested. However, one retired annuitant received a rate of pay that exceeded the compensation paid to another employee who performed comparable duties. Specifically, the retired annuitant worked for the City as the Interim City Clerk since September 6, 2007, and was compensated at the payrate of $90.00 per hour during the 2008/2009 and 2009/2010 fiscal years; however, the prior City Clerk's contract stated that the City Clerk earned an annual salary of $90,000, or an hourly payrate of $43.27. Government Code Section 21224(a) requires that the rate of pay for the employment of retired annuitants not be less than the minimum or exceed that paid by the employer to other employees performing comparable duties. The City stated that the retired annuitant was an independent contractor; however, after conducting a review of the common law control factors, OAS determined the retired annuitant was working in an employer/employee relationship and as such, the retired annuitant was subject to the rate-of-pay limitation under Government Code Section 21224(a).

Criteria:

Government Code: § 21224(a)

CITY OF RIO VISTA

Finding 6: The City failed to offer optional CalPERS membership to elected officials.

Recommendation:

The City should inform eligible council members of their right to elect optional membership with CalPERS.

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

Condition:

The City's elected officials are eligible for optional CalPERS membership. OAS selected two City council members to determine whether optional membership was offered to the council members. OAS found the City was not aware of the optional membership rights of its elected officials and did not offer optional membership to elected officials when elected or at any time thereafter.

Criteria:

Government Code: § 20322(c)

CalPERS Procedure Manual, Page 46

CITY OF RIO VISTA

Finding 7: The City did not certify the correct amount of unused sick leave to CalPERS.

Recommendation:

The City should ensure the correct amount of unused sick leave is certified to CalPERS so that a retiree receives the appropriate amount of service credit upon retirement. An amended certification form (PERS-BSD-200) should be submitted to CalPERS BNSD in order to adjust incorrect certifications.

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

Condition:

The City's contract with CalPERS included the mandated provision of Government Code Section 20965, credit for unused sick leave, for all City employees effective July 1, 2005.

OAS reviewed a sample of three members who retired during the review period and found that while the City properly converted 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 two of the sampled members. Specifically, the City certified the unused sick leave balance of 29.6 days for one member and no unused sick days for the other member. However, documentation provided by the City showed that the number of days of unused sick leave at retirement for the members were 13.92 and 15.74 respectively.

Criteria:

Government Code: § 20965

CITY OF RIO VISTA

Finding 8: The City did not provide documentation to verify eligibility for dependents enrolled in CalPERS Health Benefits Program.

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 our final report. The CalPERS CASD may be contacted at 1-888-CalPERS (1-888-227-7377) with any questions.

The City should work with CalPERS CASD to obtain the missing documentation and to cancel enrollment of any person who is found to be ineligible to participate in the CalPERS Health Benefits Program.

Condition:

The City contracted with CalPERS to provide health benefits to all eligible employees, effective August 1, 1990. The City was responsible for providing employees with enrollment information and had the authority to request documentation needed to determine the eligibility of health dependents.

OAS reviewed a sample of seven employees to assess the health benefits eligibility and enrollment of the members and their dependents. OAS was unable to determine whether enrollments for all dependents were proper because the City did not provide certain requested documentation such as marriage certificates and various dependent child documents. Specifically, the following exceptions were noted:

- The City was unable to provide the marriage certificates for two members that had their spouses enrolled to receive health benefits.

- The City was unable to provide birth certificates verifying the eligibility of thirteen dependent children enrolled under five sampled members' health benefits.

Criteria:

Government Code: § 20085, § 22775, § 22797

California Code of Regulations: § 599.500

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: February 2012
Staff: Matt Espenshade, CFE, Supervising Manager
Michael Dutil, CIA, Senior Manager
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Diana Thomas, CIDA, Manager
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Jose Martinez

APPENDIX A

BACKGROUND

CITY OF RIO VISTA

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. In addition, 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. CalPERS 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.

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

CITY OF RIO VISTA

OBJECTIVES

The objectives of this review were limited to the determination of:

- 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.

- Whether 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 January 1, 2008, through December 31, 2010.

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

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

CITY OF RIO VISTA

- ✓ Reviewed City payroll records and compared the records to data reported to CalPERS to determine whether the City reported non-reportable compensation.

  Sample Size and Period: Reviewed 11 employees covering two sampled service periods - the first service period in August 2009 (8/09-3), and the second service period in December 2010 (12/10-4).

  See Finding 1: The City incorrectly reported compensation earnable.

- ✓ Reviewed City payroll records and compared the records to data reported to CalPERS to determine whether the City accurately reported compensation earnable.

  Sample Size and Period: Reviewed 11 employees covering two sampled service periods - the first service period in August 2009 (8/09-3), and the second service period in December 2010 (12/10-4).

  See Finding 2: The City incorrectly included longevity pay in the reported base payrate and regular earnings.

- ✓ Reviewed payrates reported to CalPERS and reconciled the payrates to City public salary records to determine whether base payrates reported were accurate, pursuant to publicly available pay schedules that identify 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 11 employees in the second service period in December 2010 (12/10-4).

  No Finding

- ✓ Reviewed PERS listing reports to determine whether the following payroll reporting elements were reported correctly: contribution code, pay code, work schedule code, service period, and member contributions.

Sample Size and Period: Reviewed 11 employees in the second service period in December 2010 (12/10-4).

See Finding 3: The City incorrectly reported work schedule codes.

✓ Reviewed the City's enrollment practices pertaining to optional members, temporary/part-time employees, retired annuitants, and independent contractors to determine whether individuals met CalPERS membership requirements.

Temporary/Part-time Employees Sample Size and Period: Reviewed three temporary/part-time employees in fiscal years 2008/2009 and 2009/2010.

See Finding 4: The City enrolled ineligible temporary/part-time employees into CalPERS membership.

Retired Annuitants Sample Size and Period: Reviewed five retired annuitants working during fiscal years 2008/2009 and 2009/2010.

See Finding 5: The City paid a retired annuitant a rate of pay that exceeded that paid to another employee who performed comparable duties.

Independent Contractors Sample Size and Period: Reviewed five independent contractors that worked for the City in calendar years 2009 and/or 2010.

No Finding

Elected Officials Sample Size and Period: Reviewed two elected City officials.

See Finding 6: The City did not offer optional membership to council members.

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

Sample Size and Period: Three members that retired during the review period were selected for review.

See Finding 7: The City did not certify the correct amount of unused sick leave days to CalPERS.

CITY OF RIO VISTA

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

  Sample Size and Period: Reviewed seven employees and their dependents covering the review period.

  See Finding 8: The City did not provide documentation to verify eligibility for dependents enrolled in CalPERS Health Benefits Program.

APPENDIX C

CRITERIA

CITY OF RIO VISTA

CRITERIA

Government Code § 20085, states:

(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.

Government Code § 20322, states, in part:

(a) An elective officer is excluded from membership in this system unless the officer files with the board an election in writing to become a member. Upon electing to become a member, the officer may further elect at any time prior to retirement to receive service credit for his or her prior, excluded service by making the contributions as specified in Sections 21050 and 21051.
(c) Notwithstanding any other provision of subdivision (a) or (b), elected or appointed officers of a county superintendent of schools, school district, or community college district, or of a contracting agency, who serve on public commissions, boards, councils, or similar legislative or administrative bodies are excluded from membership in this system. This exclusion shall only apply to those elected or appointed officers, other than city or county officers, who are first elected or appointed to an office on or after July 1, 1994, or who are elected or appointed to a term of office not consecutive with the term of

office held on June 30, 1994. For city or county elected or appointed officers, this exclusion shall only apply to those officers who are first elected or appointed to an office on or after January 1, 1997, or who are elected or appointed to a term of office not consecutive with the term of office held on December 31, 1996. This exclusion shall not apply to persons elected to a city council or county board of supervisors.

Government Code § 20636, subdivision (a), defines compensation earnable by a member as, “the payrate and special compensation of the member.”

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

"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)(1), states:

Special compensation of a member includes a payment received for special skills, knowledge, abilities, work assignments, workday or hours or other work conditions.

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

Special compensation shall be limited to that which is received by a member pursuant to a labor policy or agreement or as otherwise required by state or federal law, to similarly situated members of a group or class of employment that is in addition to payrate. If an individual is not part of a group or class, special compensation shall be limited to that which the board determines is received by similarly situated members in the closest related group or class that is in addition to payrate, subject to the limitations of paragraph (2) of subdivision (e).

Government Code § 20636, subdivision (c)(3), states:

Special compensation shall be for services rendered during normal working hours and, when reported to the board, the employer shall identify the pay period in which the special compensation was earned.

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. A uniform allowance, the monetary value of employer-provided uniforms, holiday pay, and premium pay for hours worked within the normally scheduled or regular working hours that are in excess of the statutory maximum workweek or work period applicable to the employee under

Section 201 et seq. of Title 29 of the United States Code shall be included as special compensation and appropriately defined in those regulations.

Government Code § 20965, states:

A local miscellaneous member and a local safety member, whose effective date of retirement is within four months of separation from employment with the employer which granted the sick leave credit, shall be credited at his or her retirement with 0.004 year of service credit for each unused day of sick leave certified to the board by his or her 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 § 21224, subdivision (a), states:

A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system upon appointment by the appointing power of a state agency or public agency employer either 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, and the rate of pay for the employment shall not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.

Government Code § 22775, defines family member as:

An employee's or annuitant's spouse or domestic partner and any 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 children.

Government Code § 22797, states:

The board or an authorized representative may perform audits of each employer and may, at a specified time and place, require the employer to provide information or make available for examination and copying books, papers, data, and records, including, but not limited to, personnel and payroll records, as deemed necessary by the board to determine compliance with the provisions of this part. The information obtained from an employer shall remain confidential.

California Code of Regulations § 571, subdivision (a)(5), defines uniform allowance as:

> Compensation paid or the monetary value for the purchase, rental and/or maintenance of required clothing, including clothing made from specially designed protective fabrics, which is a ready substitute for personal attire the employee would otherwise have to acquire and maintain. This excludes items that are solely for personal health and safety such as protective vests, pistols, bullets, and safety shoes.

California Code of Regulations § 571, subdivision (a)(5), defines holiday pay as:

> Additional compensation for employees who are normally required to work on an approved holiday because they work in positions that require scheduled staffing without regard to holidays. If these employees are paid over and above their normal monthly rate of pay for approved holidays, the additional compensation is holiday pay and reportable to PERS.
>
> For those employees with written labor agreements providing holiday credit and allowing employees to cash out accumulated holiday credit, the cash out must be done at least annually and reported in the period earned. If a written labor agreement allows an employee to accumulate holiday pay beyond the year in which it is earned and an employee later elects to cash out accumulated holiday credit, it is not compensation for PERS purposes.

California Code of Regulations § 571, subdivision (a)(5), defines Fair Labor Standards Act (FLSA) as:

> Compensation paid for normal full-time work schedule including premium pay required by FLSA. For example, a firefighter's normal work schedule is 56 hours per week. FLSA states premium pay must be paid on all hours worked above 53 hours per week up to what is considered normal for employees on a full-time basis…. Any work performed above 56 hours per week would be considered overtime and would not be reported to PERS.

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

> (k) "Eligible" means eligible under the law and this subchapter to be enrolled.
> (n) A "child", as described in Government Code section 22775, means an adopted, step, or recognized natural child until attainment of age 26, unless the child is disabled as described in section 599.500, subdivision (p).
> (o) In addition to a "child" as described in Government Code section 22775, "family member" also includes any child for whom the employee or annuitant has assumed a parent-child relationship, in lieu of a parent-child relationship described in subdivision (n), as indicated by intentional assumption of

> parental status, or assumption of parental duties by the employee or annuitant, as certified by the employee or annuitant at the time of enrollment of the child, and annually thereafter up to the age of 26 unless the child is disabled as described in section 599.500, subdivision (p). This section should not be construed to include foster children.

CalPERS Procedure Manual, Page 46, requires that the optional member be advised of CalPERS rights when first eligible for membership, but the election can be made at any time during the qualifying employment. The optional member must receive compensation in order for membership to be reported and service credit earned.

CalPERS Procedure Manual, page 99, describes the work schedule code as a 3-digit numeric code, used in calculating both the employer rate and the member's retirement benefit. It identifies what the employer considers to be full-time employment for employees in the same work group, such as by department or duties, but not by individual employee. Approved work schedule codes range from 34 to 60 hours per week. The work schedule code typically will not vary from report to report.

APPENDIX D

CITY'S WRITTEN RESPONSE

CITY OF RIO VISTA

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February 9, 2012

Jose Martinez, Field Auditor
California Public Employees' Retirement System
Lincoln Plaza North
Office of Audit Services
P.O. Box 942701
Sacramento, CA 94229

RE: City of Rio Vista Public Agency Review; Job # P10-039

Dear Mr. Martinez,

The City is in receipt of the California Public Employees' Retirement System (CalPERS) public agency review audit for the City of Rio Vista dated December 2011. Let me first say, that I appreciate your professionalism during the audit, your willingness to educate City staff and myself on proper CalPERS processing procedures, and the time you have taken to answer follow up questions.

I have thoroughly reviewed the audit findings and have discussed the finding with City staff. Be assured that all necessary steps will be taken to pledge proper CalPERS processing procedures are followed.

Below are the City's responds to the eight (8) finding listed in the audit.

Finding #1 – Incorrectly reported compensation earnable to CalPERS.

FLSA Premium Pay – Effective immediately, any hours paid to fire personnel in excess of 212 hours (otherwise known as overtime) within a 28-day cycle will be reported to CalPERS as "special compensation". Furthermore, the appropriate share of PERS will be calculated on the overtime total and remitted to CalPERS as required. City owes CalPERS its fair share for not properly calculating the PERS on overtime earned.

Holiday Pay – Effective immediately, only the thirteen (13) approved City Holidays paid to Police and Fire employees on a per pay period basis (13 x 8 = 104/26 pp = 4 hours) or 4 hours per pay period will be used to calculate the City's share of reportable PERS. The two (2) floating holidays or .62 hours per pay period are not PERSable. City is due a credit from CalPERS for overpayment.

Public Safety Uniform Allowance – Effective immediately, the City will calculate its share of PERS on only the uniform portion paid to the Public Safety employees. For calculation of the City's share of PERS, boot allowance and safety equipment will not be used. City is due a credit from CalPERS for overpayment.

Public Works Uniforms – the City currently provides public works employees with uniforms and their cleaning. This is done via an external contract. In the past, the City has not included the cost per uniform as compensation to employees. Since it is considered compensation, the City will calculate the appropriate PERS portion by employee and remit it to CalPERS. City owes CalPERS its fair share for not properly calculating the PERS on uniforms provided to public works employees.

Finding #2 – Incorrectly included special compensation (longevity pay) in base pay rate.

In the past, the City has included longevity pay as part of the employee's base pay rate or regular earnings when calculating the PERS amount due. Longevity pay is required to be reported separately from base pay rate. Staff will make the appropriate changes to our reporting requirements. In either case, longevity pay earned is PERSable. No impact to the City other than a change on how it reports longevity pay.

Finding #3 – Incorrectly reporting work schedule codes.

CalPERS calculated an employee's service hours by the number of hours worked in a year. Cities are required to report the hours by a code. The City had failed to properly provide accurate codes to CalPERS. Staff will commence submitting proper codes, by employees, as required in the CalPERS Procedures Manual, page 99. No financial impact to the City.

Finding #4 – Hourly Paid employees

City has an "hourly exclusion" provision in its contract, which states any employee who is hired to work less than forty (40) hours a week shall not be a member of PERS. With recent staffing changes due to the economy, employees who were full time and reduced to part-time continued o be included as PERS members. In the future, employees hired or required to work less than 40 hours a week will not be enrolled in PERS. City is due a credit from CalPERS for overpayment.

Finding #5 – Retired annuitant's rate of pay exceeds pay for comparable duties

In compliance with Government Code 21224(a), any retired annuitant hired to assist the City in a position, which has an approved salary range, will not be paid more than the hourly rate of that positions top range. The City has corrected the pay for the annuitant in question. No financial impact to the City.

Finding #6 – City failed to offer optional CalPERS membership to elected officials

Once made aware and to assure compliance with Government Code 20322(c), all elected officials were offered optional CalPERS membership. The City has corrected the issue. No financial impact to the City.

Finding #7 – City did not certify the correct amount of unused sick leave to CalPERS

City staff has confirmed the incorrect reporting of sick leave for the individual's referenced in the audit and will submit an amended certification report within the next month to correct the matter. Each future employee's unused sick leave at termination will be accurately reported to CalPERS. No financial impact to the City.

Finding #8 – City did not provide documentation to verify eligibility for depended enrolled in the Health Benefit Program

Once made aware and to assure compliance with Government Code 20085, 22775, and 2797, the City has immediately required that an employee requested to add a dependent on to their health plan provide proper documentation. If a spouse is to be included, a marriage certificate will be required and if a child is to be included, a birth certificate will be required. The City has corrected this issue. No financial impact to the City.

Thank you for this opportunity to respond to the audit findings.

Sincerely,

Hector De La Rosa
City Manager
City of Rio Vista