

**CITY OF HOLLYWOOD  
AND  
HOLLYWOOD COMMUNITY REDEVELOPMENT  
AGENCY**

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**Operational Audit**



## **MAYOR, VICE MAYOR, COMMISSION MEMBERS, AND CITY MANAGER**

City of Hollywood Mayor, Vice Mayor, Commission Members, and City Manager who served during the period October 2010 through January 2012 are listed below:

### Mayor

Peter Bober

### Vice Mayor

Patty Asseff (District 1) from 2-16-2011

Heidi O'Sheehan (District 3) to 2-15-2011

### Commissioners

Patty Asseff (District 1)

Quentin "Beam" Furr (District 2)

Heidi O'Sheehan (District 3)

Dick Blattner (District 4)

Fran Russo (District 5)

Linda Sherwood (District 6)

### City Manager

Cathy Swanson-Rivenbark, Interim City  
Manager, from June 16, 2011

Cameron D. Benson to June 15, 2011

## **COMMUNITY REDEVELOPMENT AGENCY CHAIRPERSON, VICE CHAIRPERSON, AND BOARD MEMBERS**

The Hollywood Community Redevelopment Agency (CRA) Board consists of seven members who also serve as the Mayor, Vice Mayor, and City Commission. The Mayor and Vice Mayor also serve as the CRA Board Chairperson and Vice Chairperson, respectively. The CRA Executive Director and Deputy Director who served during the period October 2010 through January 2012 are listed below:

### Executive Director

Jorge Camejo from 1-3-2011

Vacant to 1-3-2011

### Deputy Director

Bryan Cahen

The audit team leader was Enrique A. Alonso, CPA, and the audit was supervised by Randy R. Arend, CPA. Please address inquiries regarding this report to Marilyn D. Rosetti, CPA, Audit Manager, by e-mail at [marilynrosetti@aud.state.fl.us](mailto:marilynrosetti@aud.state.fl.us) or by telephone at (850) 487-9031.

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CITY OF HOLLYWOOD AND  
HOLLYWOOD COMMUNITY REDEVELOPMENT AGENCY

SUMMARY

Our operational audit of the City of Hollywood and Hollywood Community Redevelopment Agency disclosed the following:

CITY OF HOLLYWOOD

FINANCIAL URGENCY DECLARATION

Finding No. 1: The City did not consider all available funds in its determination to declare a financial urgency.

FINANCIAL CONDITION

Finding No. 2: The City needed to develop a formal plan to replenish General Fund fund balance reserves, as required by its fund balance policy.

Finding No. 3: The City needed to establish minimum target levels of working capital that should be maintained for its Water and Sewer Utility Fund.

Finding No. 4: The City had not adopted a funding policy for its defined benefit pension plans to ensure that sufficient resources would be available to fund benefits promised to employees. Additionally, scheduled wage increases and rising costs of pension benefits pursuant to collective bargaining agreements, most of which were funded by the General Fund, may have been unsustainable in the long run.

Finding No. 5: The City’s financial management and monitoring could be improved to avoid budget shortfalls due to ineffective revenue projections and overexpenditures.

Finding No. 6: The City’s adopted budgets did not include prior year balances brought forward and budgets were not adopted for its special revenue or capital projects funds, contrary to law.

OTHER ADMINISTRATIVE MATTERS

Finding No. 7: The City did not provide for timely bank account reconciliations.

Finding No. 8: The City’s fuel and fleet management systems used for numerous City-owned vehicles were ineffective for monitoring and investigating significant fluctuations in miles per gallon by vehicle.

PUBLIC RECORDS

Finding No. 9: Minutes of City Commission meetings and workshops were not timely prepared and approved.

HOLLYWOOD COMMUNITY REDEVELOPMENT AGENCY (CRA)

BUDGET PREPARATION

Finding No. 10: The CRA’s adopted budget did not include prior year balances brought forward, contrary to law.

USE OF CRA FUNDS

Finding No. 11: Several CRA expenditures were not in accordance with law or the approved CRA plans, and the Downtown District and Beach District CRA plans had not been updated since 1995 and 1997, respectively.

Finding No. 12: Some salaries and benefits costs and other expenditures were not allocated using time records documenting actual effort or another systematic and rational approach.

**Finding No. 13: CRA records did not demonstrate compliance with Section 163.387(7), Florida Statutes, regarding the disposition of unexpended CRA trust fund moneys.**

**BACKGROUND**

The City of Hollywood, incorporated in 1925, is located in Broward County on the southeastern coast of the State of Florida. The City comprises 30 square miles of land, including 6 linear miles of Atlantic Ocean beaches. The City’s permanent population is approximately 141,000, with the seasonal peak approaching 200,000. The City operates under a Commission-manager form of government. The City Commission is composed of a Mayor elected at large and six Commissioners elected by district. The seven members of the City Commission serve four-year terms. The City Commission determines policy, adopts local legislation, approves the City’s budget, sets taxes and fees, and appoints the City Manager and City Attorney. The day-to-day operations of the City are under the leadership of the City Manager. The City Commission also serves as the governing board of the Hollywood Community Redevelopment Agency, with the Mayor and Vice Mayor serving as the CRA Board Chairperson and Vice Chairperson, respectively.

In addition to general government services, the City also provides community planning and development, public safety, public works, culture, and recreation services to its residents.

**FINDINGS AND RECOMMENDATIONS**

**CITY OF HOLLYWOOD**

**Financial Urgency Declaration**

Chapter 447, Part II, Florida Statutes, governs public employee labor organizations. Sections 447.205 and 447.207, Florida Statutes, provide for creation of the Public Employees Relations Commission (PERC) for the purpose of handling public employee labor and employment disputes. Section 447.403, Florida Statutes, provides the required procedures for resolving impasses when a dispute exists between a public employer and a bargaining agent. Section 447.4095, Florida Statutes, provides that in the event of a financial urgency requiring modification of an agreement, the chief executive officer or his or her representative and the bargaining agent or its representative shall meet as soon as possible to negotiate the impact of the financial urgency. This Section further provides that, if after a reasonable period of negotiation not to exceed 14 days, a dispute exists between the public employer and the bargaining agent, an impasse shall be deemed to have occurred, and one of the parties shall so declare in writing to the other party and to the PERC, and the parties shall then proceed to impasse resolution pursuant to the provisions of Section 447.403, Florida Statutes. Chapter 447, Part II, Florida Statutes, does not define the term “financial urgency” nor does it establish criteria for determining whether a financial urgency exists.

The City’s 2010-11 fiscal year budget provided funding for 1,340 positions, including 483 in the Police Department; 268 in the Fire Department; 54 in the Parks, Recreation, and Arts Department; 294 in Public Works and Public Utilities Departments; and 241 in various other administrative and support departments. The majority of City employees are represented by three unions, comprised of five bargaining units, as follows: Hollywood Fire Fighters Local No. 1375, International Association of Fire Fighters, Inc. (Local No. 1375), representing the City’s fire fighters; Broward County Police Benevolent Association, Inc., representing the City’s police officers; and Hollywood, Florida, City Employees, Local 2432, American Federation of State, County, and Municipal Employees, American Federation of Labor and Congress Industrial Organizations, representing the general employees, professional employees, and

supervisory employees bargaining units. The City also maintains separate defined benefit pension plans covering general employees, fire fighters, and police officers.

According to the July 7, 2010, City Commission minutes, the City projected a General Fund budget shortfall<sup>1</sup> of \$13 million for the 2010-11 fiscal year as determined by City personnel. Because of the projected budget shortfall, on September 1, 2010, the City Commission passed Resolution No. R-2010-260, declaring a financial urgency pursuant to Section 447.4095, Florida Statutes, and indicating the need to modify the negotiated agreements with its bargaining units (unions). The City subsequently increased the millage rate by 11 percent from 6.0456 to 6.71 mills and the City's unions voluntarily entered into negotiations and agreed to concessions in wages and benefits, resulting in the approval of a balanced budget effective for the 2010-11 fiscal year. Thus, the financial urgency was not pursued through impasse.

In April 2011, City personnel performed a mid-year budget review for the 2010-11 fiscal year and determined that there was a projected General Fund budget shortfall of \$8.6 million due to an increase in expenditures of \$1.2 million and a revenue shortfall of \$7.4 million (see additional discussion in finding No. 5). In addition, the mid-year budget review projected a General Fund budget shortfall of \$25 million for the 2011-12 fiscal year. On May 18, 2011, the City Commission passed Resolution No. R-2011-117 declaring a financial urgency for the remainder of the 2010-11 fiscal year, and Resolution No. R-2011-118 declaring a financial urgency for the 2011-12 fiscal year. Further, through two budget resolutions, R-2011-062 and R-2011-111, the City cut operational expenditures by several million dollars, including nonpersonnel expenditures and the following personnel expenditures: nonrepresented employees received pay cuts of 7.5 percent, as well as reductions in paid holidays; and the Mayor, Commissioners, City Manager, and City Attorney voluntarily took 10 percent pay cuts.

The City's proposal for the fire fighters included a 12.5 percent wage reduction, elimination of merit increases, and other changes in workweek hours and overtime provisions for the remainder of the 2010-11 fiscal year, as well as changes to health insurance, pension, and other benefits for the 2011-12 fiscal year. Changes for the police initially included a 10 percent wage reduction, later amended to a 12.5 percent reduction, and included elimination of merit increases. Changes for general employees included a 7.5 percent wage reduction and elimination of pay for the July 4<sup>th</sup> and Labor Day holidays. According to City records, the City Commission imposed the 2010-11 fiscal year changes in wage reductions, workweek hours, and overtime, to be effective for the pay period ending June 25, 2011. Employees paid from funds in the Water and Sewer Utility, Stormwater Utility, Parking, and Sanitation Funds (Enterprise Funds) were exempted from the changes. Pursuant to the City of Hollywood Code of Ordinances, benefit changes to the City's defined-benefit pension plans required either (1) approval of the electorate via referendum or (2) a majority plus one vote of the City Commission and 50 percent plus one vote of the voting members of the retirement plan.

In June 2011, the projected 2011-12 fiscal year General Fund budget shortfall was increased to \$38 million due to a further decline in projected revenues and increasing pension costs. To address the shortfall, on July 18, 2011, the City Commission approved holding a referendum on September 13, 2011, to amend the three pension plans and, on September 7, 2011, approved amending City pension ordinances to freeze the pension plans effective September 30, 2011, and creating new pension plans effective October 1, 2011, with reduced benefits. In the referendum held on September 13, 2011, the electorate approved the new pension plans with reduced benefits. On September 21, 2011, the City Commission approved modifying and extending the June 25, 2011, changes to employee wages, workweek

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<sup>1</sup> Expenditures and transfers out to other funds in excess of revenues and transfers in from other funds.

hours, and overtime to the 2011-12 fiscal year based on the financial urgency declaration for the 2011-12 fiscal year (Resolution No. R-2011-118).

As a result of the declarations of financial urgency, actions brought by the unions representing the City's bargaining units have resulted in numerous proceedings with PERC and the courts. The City generally prevailed in its PERC cases regarding the existence and appropriateness of declaring the financial urgencies; however, several cases were ongoing in the judicial system.

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**Finding No. 1: Financial Urgency Determination**

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**PERC Hearings**

On August 1, 2011, the fire fighters union (Local No. 1375) filed an unfair labor practice charge<sup>2</sup> with PERC alleging, among other things, that the City violated Section 447.501(1)(a) and (c), Florida Statutes, by declaring financial urgencies for the 2010-11 and 2011-12 fiscal years without there being bona fide financial urgencies<sup>3</sup>. Local No. 1375 did not dispute the City's budgetary projections but asserted that the City had other available options for balancing its budget than to reopen the collective bargaining agreements, including an ad valorem tax increase and layoffs.

The PERC hearing officer (hearing officer) noted that the financial urgency provision of Section 447.4095, Florida Statutes, is an evolving area of law and that no case or PERC final order had clearly determined what constituted a financial urgency. Therefore, the hearing officer looked for guidance to three recommended orders addressing the application of the financial urgency statute then pending before PERC, including one she had authored. The hearing officer then adopted her earlier language from one of the pending opinions that noted the statute was lacking in any definition of, or criteria for, a financial urgency. Based on the plain meaning of the statutory language, the hearing officer determined that a financial urgency was a financial condition calling for immediate attention, not necessarily the condition of financial emergency or bankruptcy. Consequently, in the hearing officer's recommended order, dated March 27, 2012, she rejected the union contention that modification of the contract can only occur when all other possible means to resolve a financial urgency have been exhausted and concluded that the City had demonstrated it had a financial urgency for the 2010-11 and 2011-12 fiscal years. In Final Order 12U-176 (Delgado, Concurring in part, Dissenting in part), issued July 12, 2012, PERC adopted the hearing officer's recommended order. The Final Order has been appealed to the Fourth District Court of Appeals in Case Number 4D12-2861 and was pending as of February 5, 2013.

In making the determination that the City's declaration of financial urgency was valid, the hearing officer stated the City had demonstrated that it faced a projected General Fund budget shortfall; established that raising the ad valorem tax rate for the 2010-11 fiscal year to meet its budget shortfall was not a legally available option after the start of the fiscal year, and that raising it enough to close the budget gap for the 2011-12 fiscal year would reasonably be expected to have an adverse effect on its businesses and residents; that laying off a sufficient number of fire fighters to close the budget gap was not feasible in view of the reduction in services that would result; and that funds could not be drawn from the City's enterprise funds or from the Hollywood Community Redevelopment Agency.

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<sup>2</sup> The Broward County Police Benevolent Association, Inc., Chartered by the Florida Police Benevolent Association and the Hollywood City Employees Local 2432, AFSCME, each filed similar charges with PERC.

<sup>3</sup> Section 447.501(1)(a) and (c), Florida Statutes, provides that public employers, and their agents and representatives are prohibited from interfering with, restraining, or coercing public employees in the exercise of any rights guaranteed under Part II of Chapter 447, Florida Statutes, and from refusing to bargain collectively, failing to bargain collectively in good faith, or refusing to sign a final agreement agreed upon with the certified bargaining agent for the public employees in the bargaining unit.

The City provided the hearing officer with excerpts from City Ordinance No. O-91-44 (Ordinance), enacted to authorize the issuance and refunding of bonds to pay for improvements to the water and sewer utility, to evidence that funds could not be drawn from its enterprise funds to offset shortfalls in the General Fund. However, Ordinance provisions not provided to the hearing officer indicated that moneys available after funding water and sewer utility expenses and required reserves could be used for any lawful City purpose. As further discussed below, the City had significant available funds in the Water and Sewer Utility Fund that potentially could have been used to help offset General Fund shortfalls.

#### **Water and Sewer Utility Fund Net Assets Available for General Fund**

The City's Water and Sewer Improvement Revenue Bonds are subject to the terms and conditions of City Ordinance No. O-91-44, which establishes various funds and accounts for the receipt and disbursement of revenues collected from the water and sewer utility operations. In addition to a Construction Fund, the Ordinance establishes an Enterprise Fund consisting of a Revenue Account; Renewal, Replacement and Improvement Account; General Reserve Account; Sinking Fund Account; Reserve Account; Subordinated Indebtedness Account; Rate Stabilization Account; and Impact Fee Account. The Ordinance requires that all revenues collected from the water and sewer utility operations be initially deposited to the Revenue Account and then withdrawn in such amounts as required by the Ordinance to fund current expenses of the water and sewer utility and the various other accounts. Any balance remaining after making these deposits shall be deposited to the General Reserve Account.

In general, the City deposited the amounts necessary to the Sinking Fund Account to make the periodic principal and interest payments; purchased a reserve account insurance policy to satisfy the Reserve Account requirement; had no debt requiring deposits to the Subordinated Indebtedness Account; maintained a \$10,000,000 deposit to the Rate Stabilization Account as determined by the City Commission in connection with the issuance of Water and Sewer Revenue Bonds, Series 1991; budgeted annually the amount to be deposited to the Renewal, Replacement, and Improvement Account based, in part, on a Water and Sewer Utility Fund capital improvement plan developed in conjunction with recommendations of a consulting engineer; and deposited certain specified fees collected to the Impact Fee Account. As provided in the Ordinance, any balance remaining after making these deposits was deposited to the General Reserve Account within the Water and Sewer Utility Fund.

In response to our inquiries regarding the City's understanding of the limitations on its authority to transfer moneys from the Water and Sewer Utility Fund, the Deputy City Attorney advised that Section 707 of the Ordinance requires the City to keep the funds and accounts of the Water and Sewer Utility Fund separate from all other funds and accounts of the City or any of its departments; that allowing transfers from the Water and Sewer Utility Fund to the General Fund with no repayment obligation would destroy the integrity of the Water and Sewer Utility Fund; and that unconditional transfers to the General Fund would violate Section 707 of the Ordinance and would therefore be unlawful. However, while Section 707 of the Ordinance requires that water and sewer utility funds be separately accounted for and not commingled with other City funds, Section 513 of the Ordinance provides that moneys deposited into the General Reserve Account may be used "for any other lawful purpose of the City, including loans to the general fund of the City." Accordingly, transfers may be made to the General Fund from the General Reserve Account with or without a repayment obligation.

According to the net assets balances in the Water and Sewer Utility Fund reported by the City in its Comprehensive Annual Financial Report (CAFR), the City had significant amounts of unrestricted net assets available in the Water and Sewer Utility Fund as of September 30, 2010, and 2011. As further discussed in finding No. 3, a certain level of working capital should be retained in the Water and Sewer Utility Fund. Using a conservative 90-day working capital requirement, the City had \$10.6 million and \$20.5 million in excess working capital potentially available as of

September 30, 2010, and 2011, respectively, as shown in Table 1, that could have been used to help offset the General Fund budget shortfalls.

Table 1

	Fiscal Year Ended	
	9/30/2010	9/30/2011
Current Assets	\$ 36,664,586	\$ 50,111,733
Rate Stabilization (noncurrent Asset) (1)	10,000,000	10,000,000
Current Liabilities	<u>(19,560,788)</u>	<u>(23,223,289)</u>
Total Working Capital	27,103,798	36,888,444 (A)
Annual Operating Expenses	57,853,871	57,615,827
Interest Expenses	<u>9,044,394</u>	<u>8,835,352</u>
Total Expenses	<u>66,898,265</u>	<u>66,451,179</u>
90 Days' of Expenses (Expenses/365 x 90)	<u>16,495,463</u>	<u>16,385,222 (B)</u>
Excess Working Capital	<u>\$ 10,608,335</u>	<u>\$ 20,503,222 (A - B)</u>
<p>Note (1): Pursuant to Section 510 of Ordinance O-91-44, the rate stabilization fund may be used to pay current expenses. Further, the rate stabilization fund was used by the City's rate consultant in its calculations of working capital available.</p>		

As a result of its interpretation of Ordinance provisions, the City had not considered the accumulating net assets balance in the Water and Sewer Utility Fund in addressing its General Fund budget shortfalls. Insofar as a portion of the financial resources in the Water and Sewer Utility Fund are not legally restricted, these moneys were available for consideration by the City Commission for other lawful City purposes. However, the availability of funds in the Water and Sewer Utility Fund to offset a portion of the General Fund shortfalls may have had limited impact on the City's determination that a financial urgency existed due to the underlying problems contributing to its deteriorating financial condition, as further discussed under the **Financial Condition** heading.

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**Recommendation:** Prior to declaring a financial urgency or taking actions to address General Fund budget shortfalls, the City should consider available funds on a City-wide basis, including those available in the Water and Sewer Utility Fund.

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**Follow-up to Management's Response**

*In its response, the City refers to certain rules of statutory construction to argue that the phrase "any other lawful purpose of the City" should be interpreted to mean something other than what it clearly and plainly states. However, where the language of an ordinance conveys a clear and definite meaning, such statutory construction techniques are not necessary and the ordinance instead must be given its plain and obvious meaning.*

*The City also indicated that our calculation of excess working capital in Table 1 should be adjusted to include other postemployment benefits (OPEB). However, as reported in the City's CAFR, OPEB is a*

*noncurrent liability and the GFOA's recommended calculation of working capital includes only current assets and liabilities; therefore, including OPEB would not be appropriate.*

*The City further indicated that the Bond Feasibility Study (dated January 2010) included in its 2010 bond offering represented that, using the 90-day operating reserve, the City would not have had any resources available to transfer to the General Fund. However, the Bond Feasibility Study referenced by the City used amounts reported in the City's 2007-08 fiscal year CAFR and includes unexplained adjustments whereas our determinations of available working capital were based on the City's 2009-10 and 2010-11 fiscal year CAFRs, more recent information. Further, the City fails to take into consideration the fact that reported revenues in its Water and Sewer Utility Fund have increased by 38 percent (from \$60.6 million to \$83.8 million) while operating expenditures, including interest expenses, have increased by only 4 percent (from \$64 million to \$66.5 million) from the 2007-08 to the 2010-11 fiscal years, resulting in considerably more available funds.*

*Finally, the City's response indicated that in November 2011, Fitch upgraded its rating of the City's Water and Sewer Revenue Bonds and that transferring amounts from its Water and Sewer Utility Fund to its General Fund would have resulted in no upgrade to this rating. However, such an assertion is speculative as it is not possible to determine whether the City would not have received a rating upgrade had it used excess working capital in the Water and Sewer Utility Fund to address the General Fund projected shortfalls. We believe the City should have considered the availability of excess working capital in determining what actions to take to address the projected shortfalls, even if the City would have had to take some additional actions to strengthen its financial condition.*

<b>Financial Condition</b>
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A municipality's financial condition affects its ability to provide services, on a continuing basis, at the level and quality required for the health, safety, and welfare of its citizens. In connection with local government financial audits conducted pursuant to Section 218.39, Florida Statutes, external auditors are required to conduct financial condition assessments. In evaluating a local government's financial condition, the assessment should be made on an entity-wide basis. If deteriorating financial conditions are noted, auditors are required to include a finding in the audit report and to discuss the existence of deteriorating financial conditions with each member of the governing body.

In the management letter for the City's 2009-10 fiscal year audit, the external auditors included a finding relating to the City's significant unfunded pension liability and recommended that the City perform a comprehensive assessment of its pension plans to determine their future viability, and what the City's future funding obligations will be and how they will impact the City's future operating budgets. In the management letter for the City's 2010-11 fiscal year audit, the external auditors noted deteriorating financial conditions and indicated such conditions were caused by significant declines in the City's key revenue streams and continued increases in operating expenditures, including but not limited to, increasing levels of required contributions to its pension funds.

We reviewed the City's policies and procedures, and selected actions taken before and after the declarations of financial urgency, that affect the City's financial condition. As discussed below, our audit disclosed actions the City could take to better monitor its financial condition and to help prevent the occurrence of deteriorating financial conditions.

**Finding No. 2: General Fund Fund Balance**

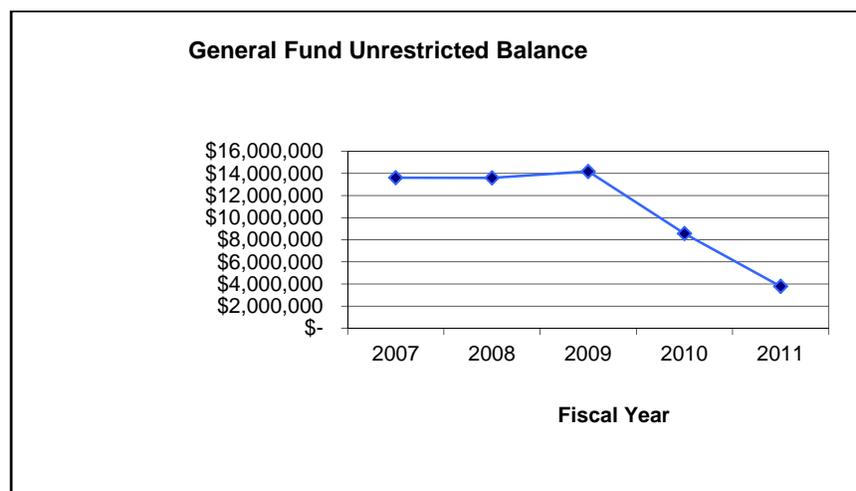
The General Fund serves as the City’s chief operating fund and accounts for all financial resources of the general government, except those required to be accounted for in another fund. City administration, such as the City Attorney’s office, budget and procurement services, financial services, human resources, and growth management, as well as public safety (police and fire), community development, and public works, are all funded from the General Fund. Revenues supporting general government operations include property, utilities service, and franchise taxes; licenses and permits; and various service charges.

Fund balance in a governmental fund represents the net financial resources available in the fund. The Governmental Accounting Standards Board (GASB), through issuance of GASB Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*, established classifications of fund balance based on the extent to which the funds are bound by external and internal constraints. Fund balance classified as nonspendable and restricted represent funds that cannot be spent or must be spent for specific purposes based on external or legal constraints. Fund balance classified as committed is restricted for specified purposes based on formal action of the City Commission using its highest level of decision-making authority (i.e., by ordinance for municipalities), and fund balance classified as assigned or unassigned is essentially available to the City for any lawful City purpose. GASB Statement No. 54 was effective for the City’s 2010-11 fiscal year. Prior to the 2010-11 fiscal year, the resources available to the City to fund its operations were classified as unreserved fund balance.

The Government Finance Officers Association (GFOA) recommends that governments establish a formal policy on the level of unrestricted<sup>4</sup> fund balance that should be maintained for the General Fund, although financial resources available in other funds should also be considered in assessing the adequacy of unrestricted fund balance in the General Fund. GFOA recommends that, at a minimum, general-purpose governments maintain no less than two months (17 percent) of regular General Fund operating revenues or regular General Fund operating expenditures.

From the 2006-07 through 2010-11 fiscal years, the City’s General Fund unreserved or unrestricted (i.e., sum of committed, assigned, and unassigned) fund balance declined significantly as noted in Table 2.

**Table 2**



Source: City records

<sup>4</sup> In its best practice, *Appropriate Level of Unrestricted Fund Balance in the General Fund*, the term “unrestricted” refers to those amounts classified as committed, assigned, and unassigned.

The significant decrease was due primarily to declining revenues, ineffective financial management and budget practices, and increasing pension funding costs, as further discussed in finding Nos. 4 and 6. As discussed previously, the City declared financial urgencies for the 2010-11 and 2011-12 fiscal years due to projected General Fund budget shortfalls.

In response to the significant fund balance decline, the City took various actions including the City Commission's adoption of a fund balance policy in September 2011 for its General Fund to secure and maintain investment-grade credit ratings, meet seasonal shortfalls in cash flow, and reduce susceptibility to emergency or unanticipated expenditures. The fund balance policy sets a target unrestricted<sup>5</sup> balance of 17 percent of General Fund operating expenditures based on GFOA recommendations and was intended to assist the City in stabilizing its long-term financial position. Based on General Fund operating expenditures for the 2010-11 fiscal year, the target unrestricted fund balance would be \$26.4 million. The policy also provides for a restricted fund balance pursuant to debt covenants of five percent of General Fund expenditures (\$7.8 million based on 2010-11 fiscal year expenditures) and a committed fund balance of five percent of General Fund expenditures for an economic stabilization reserve to "protect the City from adverse financial impacts in the event of unexpected economic events."

The General Fund fund balance policy states "if unrestricted fund balance reserves are drawn down below the established targets, the City Manager will develop and submit to the City Commission a plan for restoring the level of unrestricted fund balance." The City's reported committed fund balance of \$4.3 million as of September 30, 2011, is considered unrestricted fund balance as contemplated by the City's fund balance policy. Although this amount was well below the target level established in the fund balance policy, as of November 5, 2012, the City Manager had not, of record, submitted to the City Commission a plan for restoring unrestricted fund balance to the targeted level. In response to our inquiry, the Director of Financial Services stated that "there is no plan for restoring the fund balance to the targeted level as the targeted level (17 percent) of reserves has not been reached and then drawn upon. The City's Fund Balance policy requires a restoration plan only in the event that reserves are drawn upon." However, the fund balance policy does not support the Director of Financial Services' assertion. Nor is it apparent why the City's policy would not require a plan for reaching targeted levels regardless of the reason(s) why fund balance is below the targeted level.

Although the City did not have a formal plan for replenishing its fund balance reserves, the City raised its millage rate for the 2010-11 and 2011-12 fiscal years in part to replenish the General Fund unrestricted fund balance reserves. Based on its 2012-13 fiscal year budget, estimated fund balance brought forward from the 2011-12 fiscal year was \$10.8 million.

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**Recommendation:** The City should develop a formal plan for replenishing General Fund fund balance reserves and continue its efforts to build General Fund fund balance reserves to the established target level.

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#### **Follow-up to Management's Response**

*In its response, the City reiterated its belief that its fund balance policy only requires that a formal plan be developed when the target has been reached and then drawn down, and that its fund balance policy is reflective of GFOA's recommended best practices. However, if its fund balance policy were to be applied in the manner interpreted by the City, it would not be effective until the City has fully recovered and reached its target levels and, therefore, would not be an effective tool for financial management of the City's reserves,*

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<sup>5</sup> Pursuant to the City's fund balance policy, the term "unrestricted" refers to those amounts classified as committed, assigned, and unassigned.

*and would not be consistent with the GFOA's recommended best practices, which indicate that a fund balance policy should provide for specific plans for increasing or decreasing the level of unrestricted fund balance if the unrestricted fund balance is not consistent with the policy's target level. While we agree that establishing target levels of reserves is a prudent financial practice, given the City's weak financial condition at September 30, 2011, when the City was \$22.1 million below the target level, the failure to establish a formal plan to replenish its reserves was not prudent. Given the fund balance policy's apparent lack of clarity as to whether or not a formal plan is required whenever the unrestricted fund balance falls below the target level, the City should consider amending its fund balance policy so as to clearly require that a formal plan be developed to replenish fund balance reserves whenever they are less than the target level regardless of the reasons therefor.*

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### **Finding No. 3: Water and Sewer Utility Fund Working Capital**

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GFOA, in its best practice titled *Appropriate Levels of Working Capital in Enterprise Funds*, recommends that local governments adopt a target amount of working capital to maintain in each enterprise fund and include such targets in a formal financial policy or plan. GFOA further recommends that to arrive at the target amount, local governments should start with a baseline of 90 days of working capital and adjust the target based on the particular characteristics of the enterprise fund (using 45 days as the minimum acceptable level). In its best practice advisory, GFOA presents various characteristics that should be considered.

Although on September 21, 2011, the City established a fund balance policy with minimum fund balance requirements through formal resolution for its General Fund, it had not established similar requirements for its Water and Sewer Utility Fund. Establishing such minimum requirements will help ensure that the City has sufficient funds to operate the water and sewer utility, and provide a basis for determining available funds that may be used for other lawful City purposes.

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**Recommendation:** The City Commission should, by formal resolution, establish a policy indicating minimum target levels of working capital funds that should be maintained for its Water and Sewer Utility Fund.

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### **Follow-up to Management's Response**

*In its response, the City indicated that our finding Nos. 1 and 3 are conflicting but does not indicate why or otherwise support this assertion.*

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### **Finding No. 4: Unsustainable Wage and Pension Benefit Increases**

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GFOA, in its best practice titled *Sustainable Funding Practices of Defined Benefit Pension Plans*, indicates that a fundamental financial objective of a municipality's defined benefit pension plan is to fund the long-term cost of benefits promised to plan participants, and the appropriate way to attain reasonable assurance that pension benefits will remain sustainable is for the municipality to accumulate sufficient resources for benefit payments in a systematic and disciplined manner. Long-term funding is accomplished through contributions from the employer and employee, and from investment earnings, which typically provide the largest component of funding. GFOA believes that sustainability requires that governments that sponsor or participate in defined benefit plans contribute the full amount of their actuarially determined annual required contribution (ARC) each year and adopt a funding policy targeting a 100 percent or more funded ratio (i.e., full funding). According to GFOA, failure to fund the ARC during

recessionary periods impairs investment returns by depriving the fund of its opportunity to invest when stock prices are low and long-term investment performance will suffer and will ultimately require higher contributions.

Pursuant to its agreements with the employee unions, the City provided its unions and employees with scheduled wage increases and pension benefits, most of which were funded from the City’s General Fund, that may have been unsustainable in the long run considering the economic climate (e.g., declining property values). For example, in 2009:

- The City’s agreement with the Police Benevolent Association provided for 2 percent cost of living salary increases every six months beginning October 1, 2009, through April 1, 2012, and longevity increases for continuous service of 5 percent after 10 and 15 years and 2.5 percent after 20 years of employment. Similarly, the City’s agreement with Local No. 1375 provided for 2.5 percent annual cost of living salary increases effective October 1, 2009, 2010, and 2011; longevity increases for continuous service of 5 percent after 10, 15, and 20 years employment for most employees; and potential merit increases of 5 percent annually. The City’s agreements with most other union employees anticipated 2 or 2.5 percent annual cost of living salary increases in 2009 and 2010; longevity increases for continuous service ranging from 2 to 5 percent after 10, 15, and 20 years employment; and potential merit increases ranging from 1.5 to 5 percent annually.
- The City provided pension benefits for most employees that were generally based on the average final compensation calculated based on the highest 3 or 4 years of earnings, including overtime and leave payouts for certain employee groups, multiplied by 3 to 3.3 percent per year of City employment.

The City’s annual pension costs and its unfunded actuarial accrued liability increased substantially in recent years, as shown in Table 3:

Table 3

Pension Plan	As of October 1, 2004	As of October 1, 2009	Increase	Percent Increase
Unfunded Pension Liability:				
General Employees	\$ 77,440,712	\$ 149,370,467	\$ 71,929,755	92.88
Fire Fighters	69,270,000	126,209,903	56,939,903	82.20
Police Officers	76,415,232	140,766,537	64,351,305	84.21
Total	\$ 223,125,944	\$ 416,346,907	\$ 193,220,963	86.60
Funded Ratio (1)	<u>65.3 percent</u>	<u>53.2 percent</u>		
	2004-05 Fiscal Year	2009-10 Fiscal Year	Increase	Percent Increase
Annual Pension Cost:				
General Employees	\$ 8,825,956	\$ 16,411,715	\$ 7,585,759	85.95
Fire Fighters	3,724,852	8,914,396	5,189,544	139.32
Police Officers	6,337,359	11,380,073	5,042,714	79.57
Total	\$ 18,888,167	\$ 36,706,184	\$ 17,818,017	94.33
Note (1): The actuarial value of assets expressed as a percentage of the actuarial accrued liability.				

Source: City CAFRs

As noted above, the overall unfunded pension liability and annual pension cost increased 86.60 and 94.33 percent, respectively, from October 1, 2004, to October 1, 2009, whereas General Fund revenues only increased 14.5 percent, from \$129,112,916 for the 2004-05 fiscal year to \$147,864,760 for the 2009-10 fiscal year. The increases in pension costs were caused by lower than anticipated investment returns and the increased cost of pension benefits.

The City had not adopted a pension funding policy to ensure that sufficient resources will be accumulated to fund benefits promised to its employees. Although since at least 2005, the City had generally fully funded its pension plans with the actuarially determined ARC amounts, as noted in Table 3, the funded ratio decreased from October 1, 2004, to October 1, 2009, and it will take considerably more resources to approach full funding of the pension plans. GFOA recommends that governments take measures to reduce the volatility in the ARC to create a more predictable operating budget and enhance the ability to meet funding obligations. One of the measures discussed in GFOA's best practice is to carefully consider all benefit increases for members and beneficiaries, and present the actuarially determined value of such benefit enhancements to the board of trustees of the pension plan, plan sponsor, and appropriate legislative body before they are adopted so the effects on the pension fund's actuarial accrued liability, funded ratio, and contribution rates are fully understood.

Certain pension benefits were revised for certain employees hired on or after July 15 or 16, 2009. In addition, the pension changes approved in the September 13, 2011, referendum reduced the annual pension contribution by more than \$8.5 million. The approved changes and improved investment performance contributed toward an overall reduction in the unfunded pension liability of over \$60 million from the October 1, 2009, actuarial valuation to the October 1, 2010, actuarial valuation, and an increase in the funded ratio from 53.2 percent to 58.3 percent. These changes, and the previously noted salary and benefit reductions implemented pursuant to the financial urgencies, allowed the City to balance its General Fund budget for the 2010-11 and 2011-12 fiscal years. However, regardless of whether the City declared a financial urgency or not, it would have been necessary to address the increasing salary and pension benefit costs to ensure the future financial stability of the City's General Fund and sustainability of the City's pension plans.

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**Recommendation:** The City should adopt a funding policy for its defined benefit plans. In doing so, the City should consider GFOA's best practice recommendations to ensure sustainable funding. For collective bargaining purposes, the City should carefully evaluate the impact of projected salary and benefit package costs provided to employees over time to ensure sufficient resources will be available to fund future expenses.

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#### Follow-up to Management's Response

*In its response, the City indicated that our finding, by mentioning GFOA's recommended practice that governments should fund the full amount of their actuarially determined ARC, creates the impression that the City has not made its ARC. While we indicated in the finding that the City has generally fully funded its ARC since 2005, the point of our finding is the City should adopt a funding policy for its defined benefit plans to ensure sustainable funding of those plans.*

#### **Finding No. 5: Financial Management and Monitoring**

Section 166.241(2), Florida Statutes, requires governing bodies of municipalities to adopt a budget each fiscal year, provides that the budget must regulate expenditures of the municipality, and provides that it is unlawful for any officer of a municipal government to expend or contract for expenditures in any fiscal year except in pursuance of budgeted appropriations. According to the GFOA's *Recommended Budget Practices of the National Advisory Council on State*

*and Local Budgeting* (1998), regular monitoring of budgetary performance provides an early warning of potential problems, gives decision makers time to consider actions that may be needed if major deviations in budget-to-actual results become evident, and is essential to demonstrating accountability.

On May 17, 2011, a budget-to-actual projection for the General Fund was furnished to the City Commission as of March 31, 2011, for the 2010-11 fiscal year, showing a projected net budget shortfall of \$8.6 million. Additional General Fund projections as of April 30 and May 31, 2011, indicating net budget shortfalls of \$10.2 million and \$5.4 million were furnished to the City Commission on June 9 and July 6, 2011, respectively. On September 21, 2011, the City Commission was provided interim financial statements with no budgetary data for all funds as of June 30, 2011. No budget-to-actual information was provided for the General Fund prior to May 17, 2011, and was not provided for the months of July 2011 through September 2011, and interim financial statements were not provided for other funds for any months prior to September 21, 2011. As a result, the City Commission may not have been timely apprised of General Fund revenue shortfalls and budget overexpenditures, or of the financial status of the City's other funds.

In response to the budget shortfalls, the City contracted with a consultant to perform a budget review, which included a review of the budgetary performance of the City's various funds and identification of areas with deficiencies. The City implemented some of the consultant's recommendations. The consultant's report, dated June 23, 2011, indicated that the City's General Fund revenue forecast was not conservative enough in light of the City's deteriorating financial condition and limited reserves. For example, the consultant found that the City had historically budgeted more than the minimum required 95 percent of property taxes and fire assessments fees (which are levied on property tax bills), and routinely collected less than the amount budgeted. The City's mid-year budget review also disclosed projected shortfalls of approximately \$1.3 million in franchise fees, \$1.5 million in occupational licenses and building permit fees, and \$1.3 million for a new red light camera program. At fiscal year-end, the City's actual revenue shortfall was \$6,943,692, or five percent of total actual revenues. In addition, the City initially budgeted employee benefits expenditures of negative \$2,201,624, increased that amount during the fiscal year by \$6,064,233 to \$3,862,609, and overspent the final budget by \$12,998. In response to our inquiry regarding the negative expenditures budget, we were advised that a negative appropriation was included in the General Fund for the gross amount of the expected wages and benefit reductions to be agreed to and, once the specific line item savings were determined based on the concessions made by the unions, the individual appropriation line items in the departmental operating budgets were reduced with the corresponding offsetting budget adjustment against the negative appropriation budget amount.

In an email dated May 25, 2012, to City Commission members, the Director of Financial Services provided a General Fund mid-year projection (budget-to-actual comparison) based on data as of March 31, 2012, and indicated that during the development of the 2011-12 fiscal year budget, staff identified a goal of providing monthly financial updates to the City Commission; that numerous obligations had prevented providing monthly updates and the goal may have been overly ambitious; and that additional interim projections would be distributed as more actual data became available over the course of the fiscal year. An additional projection based on data as of May 31, 2012, was provided to City Commission members by email on July 19, 2012; however, our review and inquiries disclosed that no other projections for the General Fund or any other City funds were provided as of September 11, 2012, and the two projections provided were not included in City Commission agendas or minutes. Subsequent to our inquiries, on September 28, 2012, the Director of Financial Services emailed to the City Commission members interim financial statements without budgetary data as of March 31 and June 30, 2012, for the General Fund, all enterprise funds, Central Services Fund, and Self-insurance Fund. Additionally, in an email dated October 2, 2012, to City Commission members, the Director of Financial Services provided a projection for the General Fund as of July 31, 2012.

The lack of timely, comprehensive interim financial statements, including budgetary data, clearly presenting the City's financial condition leaves the City Commission members without information necessary to gain an understanding of the City's financial status, and could lead to instances of financial mismanagement, including denying expenditures when funds are available, authorizing purchases when funds are not available, and not identifying or remedying critical budget shortfalls in a timely manner. Interim financial statements that provide practical and understandable statements of summary financial information, such as total revenues and expenditures by fund, comparisons with approved budgets, and current anticipated ending fund equity amounts, would allow the City Commission to more closely monitor the City's financial condition and provide information for financial decision-making.

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**Recommendation:** The City should continue its efforts to improve revenue projections and ensure that future expenditures do not exceed budgetary authority. In addition, budget-to-actual comparisons for all budgeted funds should be prepared and submitted to the City Commission on a more frequent basis, such as monthly, and included in City Commission agendas and minutes.

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#### Follow-up to Management's Response

*In its response, the City indicated that there were several presentations made to City decision makers as part of the budget process and Executive Sessions held prior to the start of the 2009-10 through 2012-13 fiscal years and that our finding creates the inaccurate impression that insufficient financial information has been provided to the City Commission. As noted in our finding, the City's consultant identified deficiencies in the City's revenue forecasting. Additionally, providing no financial information to the City Commission until May, or eight months into the fiscal year, allows the Commission limited time to take action affecting the expenditures of that fiscal year. Further, providing financial information as of June 30 to the City Commission on September 21 or later does not allow sufficient time for the City Commission to take any action affecting the expenditures of that fiscal year.*

*The City's response further indicates that our finding fails to acknowledge that financial monitoring by the Financial Services Department led to the City uncovering budget shortfalls in the 2010-11 fiscal year and subsequently to the declaration of financial urgency. In the Financial Urgency Declaration section of our report, we have acknowledged City personnel's role in identifying the budget shortfalls that lead to the financial urgency declaration. However, providing the City Commission budget-to-actual comparisons for all budgeted funds on a more frequent basis may allow the City Commission more time to take actions needed to avoid a financial urgency declaration.*

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#### **Finding No. 6: Budget Preparation and Adoption**

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Section 166.241(2), Florida Statutes, regarding a municipality's adopted budget, states that the amount available from taxation and other sources, including balances brought forward from prior fiscal years, must equal the total appropriations for expenditures and reserves. Our review of the City's approved budget resolutions disclosed that, contrary to law, in preparing the City's 2010-11 and 2011-12 fiscal year budgets, balances brought forward from prior fiscal years were not included in determining the amounts available for appropriations for the funds shown in Table 4:

Table 4

Fund	Balances Available to be Brought Forward From Prior Fiscal Years	
	2010-11	2011-12
Governmental: (1)		
General Fund	\$ 9,234,246	\$ 4,263,765
Debt Service Fund	58,438	194,617
General Obligation Bonds Series 2005 (2)	131,885	894,569
Gas Tax Capital Projects (2)	458,305	326,567
Proprietary:		
Water and Sewer Utility	51,886,783	69,739,053
Stormwater Utility	7,020,963	7,337,158
Golf Enterprise	(346,634)	(364,639)
Sanitation Enterprise	170,672	2,054,839
Parking Enterprise	(1,222,794)	863,515
Records Preservation	124,042	118,520
Central Services	494,718	90,716
Insurance	8,758,358	5,540,036
Note (1): Budgets were not adopted for the City's capital projects funds or special revenue funds (see discussion below).		
Note (2): Debt service fund		

Source: City Records

On June 6, 2012, the City Commission approved a budget amendment for the 2011-12 fiscal year General Fund budget to include the balance brought forward from the 2010-11 fiscal year.

Failure to consider balances brought forward in the budget diminishes the usefulness of the budget as a financial management tool and limits the City’s ability to determine appropriate increases and decreases in revenues or expenditures that may be needed for the fiscal year for which the budget is being adopted. In addition, failure to consider balances brought forward could result in the amount of taxes or other revenue sources contemplated in the proposed budgets being increased beyond the amounts necessary to carry out planned expenditures or to establish reserves.

Section 166.241(2), Florida Statutes, also requires that the adopted budget show the budgeted revenues and expenditures for each fund and that the budget regulate expenditures of the municipality, and provides that it is unlawful for any officer of a municipal government to expend or contract for expenditures in any fiscal year except in pursuance of budgeted appropriations. Accordingly, it is unlawful for the City to expend moneys for purposes not contemplated by the budget. The City received various Federal, State, and local grants, which were accounted for in the special revenue funds. Although the City Commission approves grant agreements that are the basis for grant related expenditures, the budgets adopted by the City Commission for the City’s 2010-11 and 2011-12 fiscal years did not include budgets for the special revenue funds. The City also accounts for capital projects revenues and expenditures in its capital projects funds. Although the City approves a capital improvement plan that is the basis for capital projects appropriations, the budgets adopted by the City Commission for the 2010-11 and 2011-12 fiscal years did not include budgets for the capital projects funds and the capital improvement plan did not include all elements required to be included pursuant to Section 166.241(2), Florida Statutes. As provided in Table 5, the City reported

balances brought forward, revenues and transfers in, and expenditures and transfers out in the special revenue and capital projects funds for the 2010-11 fiscal year.

Table 5

Fund	2010-11 Fiscal Year		
	Balances Brought Forward	Revenues and Transfers In	Expenditures and Transfers Out
Special Revenue:			
Special Programs	\$ 2,166,623	\$ 22,223,857	\$ 4,821,079
Law Enforcement Forfeiture	2,628,659	569,418	998,930
Police Grants	(286,136)	1,940,981	1,812,606
Emergency and Disaster	183,291	758	21
Housing Loan	13,983,548		13,983,548
Local Housing Assistance (S.H.I.P.)	10,170,774	545,629	230,191
Hurricane Housing Relief	128,386		128,386
Capital Projects:			
General Obligation Bond Projects	7,325,621	6,376	3,502,921
General Capital Projects	9,720,651	2,326,419	7,344,133

Source: City CAFRs

We are unaware of any exemption from the budgeting requirements of Section 166.241(2), Florida Statutes, for revenues and expenditures accounted for in special revenue and capital projects funds.

**Recommendation:** The City should ensure that future annual budgets include all balances brought forward from prior fiscal years and that budgets are adopted for all funds as required by law.

**Follow-up to Management’s Response**

*In its response, the City indicated that the 2010-11 fiscal year amount included for the General Fund in Table 4 is incorrect and indicated the amount should be \$9,162,755. However, the amount we used in Table 4 includes encumbrances and, since all balances are required to be brought forward, the amount in Table 4 is correct. The City also indicated that because many of the amounts included in Table 4 do not represent new revenue sources to the City, are restricted for future capital projects or insurance claims, or are not available as a funding source, and that our finding characterizing the budget as a diminished financial management tool is inaccurate. However, the point of our finding is that Florida law requires the City to include balances brought forward from prior fiscal years, and including all such amounts provides full disclosure and transparency to the taxpayers concerning all City resources.*

**Other Administrative Matters**

**Finding No. 7: Bank Account Reconciliations**

An essential element of control over assets entrusted to a governmental organization is the periodic comparison of such assets actually determined to be on hand with the recorded accountability for the assets. Because of the

susceptibility of cash to loss, this is particularly important for cash on deposit with banking institutions. Accountability for such deposits is accomplished by the preparation, review, and approval of bank account reconciliations as soon as possible after the receipt of monthly bank statements. In the event of a loss of cash, failure to reconcile bank accounts to the accounting records could result in a failure to detect and recover the loss.

The City has two master bank accounts that control cash disbursements for checks clearing in the City's nine operating accounts. Our tests of five monthly bank account reconciliations from one master account and three from the other for the period October 2010 through January 2012 disclosed that the reconciliations were prepared from 84 to 142 days after the bank statement date, and 42 to 100 days after the six-week guideline provided in the City's policies and procedures. Effective internal control policies and procedures require that bank account reconciliations be promptly prepared on a routine basis and reviewed by supervisory personnel. Such procedures provide reasonable assurance that cash assets agree with recorded accountability and facilitate the prompt detection and correction of unrecorded or improperly recorded transactions. A similar finding was reported as a significant deficiency in the independent auditor's reports on internal control and compliance for the fiscal years ended September 30, 2009, 2010, and 2011.

The lack of timely bank account reconciliations increases the risk that errors or fraud could occur without being promptly detected.

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**Recommendation:** The City should ensure that its established policies and procedures are followed regarding the timely preparation of bank account reconciliations.

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**Finding No. 8: Vehicle Maintenance and Fuel Usage**

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As of September 30, 2011, the City owned numerous police cars, passenger cars, light, medium, and heavy duty trucks, emergency trucks, fire trucks, dump trucks, and garbage trucks. Most City vehicles, except for fire and sanitation vehicles, are accounted for in the City's Central Services Fund. For the 2010-11 fiscal year, the City reported expenditures in its Central Services Fund for fuel and automotive supplies of \$1,721,947 and \$449,963, respectively. Implementing a vehicle maintenance program, which includes preparing vehicle maintenance logs that identify vehicle miles, fuel usage, preventative maintenance services and repairs, and dates of such services, provides vehicle cost information regarding the operating efficiency of the vehicle. Preventative maintenance is necessary to help minimize vehicle repair or replacement costs.

The City maintained a fuel management system for monitoring fuel usage and a fleet management system for monitoring preventative maintenance services and repairs for the police and general fleet vehicles. A separate system was utilized by the City for fire and sanitation vehicles and was not included in our review. Employees were required to record the odometer mileage in the fuel management system when refueling, and the fuel management system was designed to update the odometer mileage in the fleet management system on a daily basis. Our review of the City's procedures and records over fuel and fleet management disclosed the following:

- The City did not utilize the fuel management system for monitoring miles per gallon by vehicle. According to City personnel, the correct mileage was not always recorded in the fuel management system when City-owned vehicles were refueled.
- Because the fuel management system updated the mileage in the fleet management system each day, and the mileage in the fuel management system was not considered reliable, the fleet management system was limited for mileage-based preventative maintenance monitoring purposes. The fleet management system was designed to generate numerous reports to reflect the labor hours and cost, cost of parts, and history of repair work, etc.;

however, some of the reports were of limited use for monitoring purposes because of the inaccurate odometer readings and because the system only maintained five years of detailed historical repair information.

Because the fuel management and fleet management system reports were not reliable regarding mileage, City personnel utilized a manual scheduling system for routine vehicle maintenance for all City owned vehicles, with police pursuit vehicles scheduled for routine maintenance every three months and all other vehicles every six months. However, absent routine monitoring and investigation of significant fluctuations in miles per gallon by vehicle, there is an increased risk that unauthorized use of fuel would not be timely detected. In response to our inquiry, City personnel indicated the City is in the process of obtaining a new automated fuel and fleet management software system that will more accurately collect and report odometer readings and improve monitoring capabilities.

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**Recommendation:** The City should continue its efforts to obtain a new automated fuel and fleet management software system and ensure that the new system accurately collects vehicle odometer readings. Once implemented, the City should develop procedures for monitoring vehicle maintenance, repair, and fuel usage records to ensure the economic and efficient use of City resources.

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<b>Public Records</b>
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**Finding No. 9: City Commission Minutes**

Section 286.011(2), Florida Statutes, requires that the minutes of City Commission (Commission) meetings be promptly recorded and open to public inspection. As a good business practice, to ensure that minutes accurately reflect all action and proceedings of the Commission, the minutes of each meeting should be reviewed, corrected if necessary, and approved at a subsequent Commission meeting.

The *Government-in-the-Sunshine Manual* (2011) prepared by the Office of the Attorney General indicates, in Part I, Section C.1., that the Sunshine Law extends to any gathering, whether formal or casual, of two or more members of the same board or commission to discuss some matter on which foreseeable action may be taken by the public board or commission. In addition, the *Government-in-the-Sunshine Manual* (2011), in Part I, Section D, indicates that the Sunshine Law specifically applies to informal discussions and workshops and refers to the Florida Supreme Court’s statement that “collective inquiry and discussion stages” are embraced within the terms of the statute.

Meeting agendas and results indicating whether agenda items passed were recorded and posted to the City’s Web site by the City Clerk; however, the City did not have a policy or procedure providing guidelines for timely recording, reviewing, and approving meeting minutes by the Commission. During the period October 2010 through January 2012, the Commission held 48 meetings, generally comprised of two regular meetings per month and occasional special meetings and workshops. Our review disclosed that, for meetings held from October 2010 through February 2011, minutes were approved, on average, about 90 days after the meetings were held; however, for meetings held from March 2011 through January 2012, minutes were approved, on average, more than 200 days after the meetings were held. In addition, as of September 20, 2012, minutes had not been presented to the Commission for review and approval for meetings held after January 18, 2012, or for 4 workshop meetings and a financial retreat held during the 2011 calendar year.

In response to our inquiry, the City Clerk indicated that the City was unaware workshop meetings and retreats required approved minutes, and that the delays were due to inadequate staffing in the City Clerk’s office. While the law does not require that minutes for workshop meetings and retreats be reviewed and approved, such review and approval helps ensure the accuracy of the minutes in the City’s public records.

**Recommendation:** The City should develop guidelines for the timely recording, review, and approval of City Commission minutes, and enhance its procedures to ensure that minutes are timely recorded, approved, and available for public inspection.

**HOLLYWOOD COMMUNITY REDEVELOPMENT AGENCY**

Chapter 163, Part III, Florida Statutes, also known as the “Community Redevelopment Act of 1969” (Act), authorizes the creation of a redevelopment agency for the purpose of redeveloping slums and blighted areas that are injurious to the public health, safety, morals, or welfare of the residents of the State. The Act further provides for additional requirements, including, but not limited to, the manner in which such an agency may be established, the powers of the agency, and the funding of the agency. It requires the establishment of a redevelopment trust fund and restricts the use of those funds to redevelopment activities.

Pursuant to the Act, the City requested that the Broward County Board of County Commissioners (County) delegate to the City the right and authority to exercise the power to create a community redevelopment agency. Upon County approval, the City Commission adopted Resolution R-79-46, creating the Hollywood Community Redevelopment Agency (CRA), and provided for the City Commission to be the CRA’s governing body.

The Act requires the establishment of a CRA plan and requires approval of the plan by the CRA’s governing body. Funding for the CRA is accomplished through tax increment revenues provided by each taxing authority, and expenditures of the CRA must be made in accordance with the approved CRA plan.

The CRA has designated two areas within its boundaries, the Downtown District and the Beach District. Two separate CRA plans were prepared as follows: (1) the Downtown District’s Community Redevelopment Plan for the Central City Area (last amended June 7, 1995) and (2) the Beach District’s Hollywood Beach Community Redevelopment Plan (approved June 25, 1997; no amendments). In addition, subsequent to the approval of the CRA plans, separate trust funds were established to account for the revenues and expenditures of the respective CRA districts. City ordinances and bond covenants require that the tax increment funding generated in each district be deposited to the respective trust fund and used to pay expenditures for the projects and activities identified in that district’s CRA Plan.

Section 163.356(3)(c), Florida Statutes, authorizes a CRA to employ an executive director, technical experts, and other such agents and employees, permanent and temporary, as it requires. The CRA directly employs an executive director, deputy director, code enforcement officers, maintenance supervisors and technicians, and about 13 other employees.

**Budget Preparation**

**Finding No. 10: Budget Preparation**

The CRA is a special district as defined in Section 189.403, Florida Statutes. Section 189.418(3), Florida Statutes, requires that the governing body of each special district adopt a budget by resolution each fiscal year and states that the total amount available from taxation and other sources, including balances brought forward from prior fiscal years, must equal the total of appropriations for expenditures and reserves. Our review of the CRA’s approved budget resolutions disclosed that, contrary to law, in preparing its 2010-11 and 2011-12 fiscal year budgets, the balances brought forward from prior fiscal years were not included in determining the amounts available for appropriations. For the 2010-11 fiscal year, the CRA did not include \$36,478,475 and \$2,341,197 available from the

2009-10 fiscal year for the Beach Community Redevelopment Fund (Beach District Trust Fund) and Downtown Community Redevelopment Fund (Downtown District Trust Fund), respectively. For the 2011-12 fiscal year, the CRA did not include the \$34,242,905 available from the 2010-11 fiscal year for the Beach District Trust Fund.

Failure to include balances available from prior fiscal years in the CRA trust funds budgets limits the transparency in total resources available to the CRA trust funds, as well as the planned uses of those funds. Additionally, as further discussed in finding No. 13, the failure to appropriate balances remaining in the CRA trust funds at the end of a fiscal year may be contrary to law, if those funds are not otherwise used as indicated in Section 163.387(7), Florida Statutes.

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**Recommendation:** The CRA should ensure that balances brought forward from prior fiscal years are included in the adopted budgets for the CRA trust funds.

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**Follow-up to Management’s Response**

*In its response the CRA indicated that our finding “misconstrues the total fund balance number which makes it seem as though the CRA has more money ‘available’ than is actually represented as audited by independent auditors.” The CRA also noted that it “has interpreted balances brought forward to mean those funds that are unreserved. Notwithstanding the fact that the separate audits of the CRA districts indicated that significant amounts were reported as unrestricted or unreserved, the point of our finding is that, pursuant to Section 189.418, Florida Statutes, all balances are required to be brought forward from prior fiscal years, including amounts that are reserved or restricted.*

*The CRA further noted that the budget must be adopted prior to the end of the fiscal year and finalization of ending fund balances. While we agree that balances brought forward from prior fiscal years must be estimated for budget adoption, these amounts should be revised through a budget amendment once final amounts are known.*

Use of CRA Funds
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**Finding No. 11: CRA Plans and CRA Expenditures**

Section 163.387(1)(a), Florida Statutes, requires that funds allocated to, and deposited in, the CRA trust fund be used to finance or refinance community redevelopment pursuant to an approved CRA plan. “Redevelopment” is defined in Section 163.340(9), Florida Statutes, as undertakings, activities, or projects in a community redevelopment area for the elimination and prevention of the development or spread of slums and blight; the reduction or prevention of crime; for the provision of affordable housing; or the rehabilitation and revitalization of coastal resort and tourist areas that are deteriorating and economically distressed. Section 163.387(6), Florida Statutes, provides that moneys in the CRA trust fund may be expended for undertakings of the CRA as described in the CRA plan, including, but not limited to:

- Administrative and overhead expenses necessary or incidental to the implementation of the CRA Plan.
- Expenses of redevelopment planning, surveys, and financial analysis.
- Acquisition costs of real property in the redevelopment area.
- Clearance and preparation costs of the redevelopment area for redevelopment and relocation of site occupants.
- Repayment of principal and interest or any redemption premium for any form of indebtedness.

- Expenses incidental to, or connected with, the issuance, sale, redemption, retirement, or purchase of any form of indebtedness, including funding accounts provided for in related ordinances or resolutions authorizing the indebtedness.
- Costs for the development of affordable housing within the community redevelopment area.
- Costs for the development of community policing innovations.

Section 163.370(3)(a) through (c), Florida Statutes, set forth the prohibited uses of CRA funds, which include general government operating expenses unrelated to the planning and carrying out of a CRA plan.

Our review of selected CRA expenditures for the 2010-11 fiscal year, totaling \$5,123,346, disclosed the following:

- **Community Policing.** As noted above, certain expenditures, including community policing innovations, are authorized if they are described in the CRA plan. Section 163.340(23), Florida Statutes, defines “community policing innovation” as a policing technique or strategy designed to reduce crime by reducing opportunities for, and increasing the perceived risks of engaging in, criminal activity through visible presence of police in the community, including, but not limited to, community mobilization, neighborhood block watch, citizen patrol, citizen contact patrol, foot patrol, neighborhood storefront police stations, field interrogation, or intensified motorized patrol. Although neither of the CRA district plans contained community policing innovations, we noted that the CRA paid \$1.5 million to the City’s General Fund for a community policing program. The Beach District Trust Fund paid \$1,289,000 for one police sergeant and eight police officers and the Downtown District Trust Fund paid \$211,000 for one police sergeant and three police officers. In response to our inquiry regarding the justification for these expenditures in the CRA plans, the CRA Deputy Director indicated the costs were for an enhanced level of police services over the normal baseline and generally referred to the slum and blight findings necessary for creating a CRA, and identified several areas in the CRA plan’s objectives and functions that mentioned public safety, security, policing, or safe and sanitary conditions. However, no specific community policing innovation techniques or strategies were included in the CRA plans and, therefore, community policing expenditures would not be authorized pursuant to Section 163.387(6), Florida Statutes.
- **Hollywood Station Incentive.** The Downtown District Trust Fund paid \$300,000 to a developer, which was the second of eight such payments totaling \$2.8 million, as an incentive for constructing 600 residential housing units and commercial space in the Downtown District. Although there was an agreement between the CRA, City, and developer for the project and incentives, the project was not specifically identified in the Downtown District CRA Plan. In response to our inquiry, the CRA Deputy Director indicated that new development and redevelopment of blighted sites is at the core of what CRAs are encouraged to do. The Downtown District CRA Plan provided specific projects in a central target area, which consisted of six designated areas in the central portion of the Downtown District boundaries. However, since this project was located outside the target area and was not included in the Downtown District CRA Plan, these expenditures were not authorized pursuant to Section 163.387(6), Florida Statutes.
- **Capital Improvement Plan Operating Support.** The Beach District Trust Fund paid \$2 million to the City’s Central Services Fund which, according to the City’s budget narrative, was to pay the costs of City Design and Construction Management Department personnel in support of both the Beach and Downtown CRA districts. Although redevelopment planning, surveys, and financial analysis would be authorized CRA expenditures for projects included in the Beach District’s CRA Plan, it would not be appropriate for the Beach District Trust Fund to pay for expenditures related to CRA projects of the Downtown District.
- **Enhanced Maintenance Program.** The Downtown District Trust Fund paid \$187,885 to the City’s General Fund to reimburse the City for costs of an enhanced maintenance program. The CRA’s 2011 Annual Report indicates that the CRA funded a portion of the salaries and benefits of a three-member City public works crew that was focused city-wide. As a result, these expenditures appear to be general operating expenditures and prohibited pursuant to Section 163.370(3)(c), Florida Statutes.
- **Hollywood Office of Tourism.** The Beach District Trust Fund utilized funds, totaling \$759,362, for activities and programs of the Hollywood Office of Tourism (HOT). HOT is the official tourism marketing office for the City of Hollywood and the Beach District funds the office. Expenditures for HOT programs

and activities included: \$495,383 for advertising; \$126,757 for a cruise line marketing program; \$53,876 for travel related to training and promotional activities; and \$83,346 for other miscellaneous HOT supply, printing, and postage charges. In response to our inquiry regarding the justification for the advertising and cruise line marketing program expenditures, the CRA Deputy Director indicated the CRA works to protect and grow Hollywood's share of destination travel through integrated sales, marketing and advertising programs that drive visitation to and within Hollywood, and the Beach District CRA Plan outlines redevelopment objectives that speak directly to tourism, including enhancing Hollywood Beach as a tropical destination and re-establishing tourism as a vital industry. However, the Beach District CRA Plan did not specifically provide funding for an office of tourism, advertising, or a cruise line marketing program. Further, while expending moneys to fund events to promote completed CRA projects would appear to be authorized in the Act, expenditures for general promotion of City tourism, not just the CRA area, would not be authorized.

- **Chamber of Commerce Agreement.** The Beach District Trust Fund paid \$42,800 to the Greater Hollywood Chamber of Commerce (Chamber) pursuant to an agreement for the Chamber to promote tourism, business, and economic development in the City of Hollywood and its CRA districts. The scope of services provided with the agreement generally indicated the Chamber would continue to do its normal activities to promote business, tourism, and economic development in the City by informing and educating the business community, continuing to coordinate quarterly and other periodic seminars, creating a business guide for navigating City departments, and preparing its annual printed and online directories. The Attorney General, in Attorney General Opinion No. 2010-40, indicated that "Promoting the use of a redeveloped area would appear to fall within the purposes of the community redevelopment act. Use of community redevelopment funds to pay entities promoting tourism or providing socially beneficial programs, however, does not have an apparent nexus to carrying out the purposes of the community redevelopment act." Because these expenditures were to promote general tourism, business, and economic development in the City of Hollywood, these expenditures would not be authorized.

Section 163.362, Florida Statutes, provides requirements for the contents of CRA plans. As previously noted, the Downtown District's CRA Plan was last amended June 7, 1995, and the Beach District's CRA Plan was approved June 25, 1997, and has not been amended. The capital improvement projects listed in the Downtown and Beach Districts' CRA Plans were to be started from 1986 through 1997, and 1997 through 2003, respectively, and included dollar estimates that have likely become outdated. Further, several of the projects listed in the CRA Plans have been completed and, as noted above, the CRA expended trust fund moneys on projects that were not specifically included in its CRA plans. The Florida Redevelopment Association, a not-for-profit organization dedicated to assisting in community revitalization efforts, recommends that CRA plans be updated about every five years. More frequent updating of CRA plans allows for resetting goals and objectives and establishing the specific projects and activities to be undertaken toward meeting such goals and activities, thus providing more current guidelines establishing the authorized expenditures under the CRA plans.

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**Recommendation:** The CRA should adopt procedures to ensure that CRA trust fund expenditures are authorized pursuant to Chapter 163, Part III, Florida Statutes, and only made pursuant to its CRA plans. In addition, the CRA should revise its CRA plans to include current projects in sufficient detail to demonstrate that expenditures of CRA funds are in accordance with Section 163.387(6), Florida Statutes. The CRA plans should include information in sufficient detail so that taxing authorities required to contribute to the CRA, and the general public, will be properly informed as to the CRA's intentions and how the CRA will accomplish its redevelopment objectives. The CRA should also request reimbursement from the City for the \$1,500,000 in CRA funds expended on community policing activities and the \$187,885 in CRA funds expended on the enhanced maintenance program. Additionally, the CRA should determine the portion of the capital improvement plan operating support paid by the Beach District Trust Fund that was applicable to the Downtown District and transfer the appropriate amount from the Downtown District Trust Fund to the Beach District Trust Fund.

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**Follow-up to Management's Response**

*In its response, the CRA stated that it refutes our finding that CRA expenditures were not in accordance with law or the approved CRA plans and does not believe the law requires all expenditures to be specifically referenced verbatim in the plan. However, Section 163.387(6), Florida Statutes, provides that CRA expenditures are only allowable if included in the CRA plan. Accordingly, one should be able to make a reasonable connection between expenditures and the plan. For example, the CRA plan included an objective to “enhance Hollywood Beach as a tropical destination and reestablish tourism as a vital industry in Hollywood Beach;” however, funding the City’s office of tourism, particularly when the promotion includes events outside the CRA district, would not appear allowable or consistent with the CRA plan.*

**Finding No. 12: CRA Salary and Other Expenditure Allocations**

Salaries and benefit costs totaling \$1.8 million for the 2010-11 fiscal year for 18 full-time and 21 part-time CRA employees, including the CRA Executive Director, Deputy Director, code enforcement officers, maintenance supervisors, and technicians, were paid by both CRA trust funds. Ideally, time records should be maintained to document the actual time and effort spent by employees on each CRA district’s activities. Absent records to document the actual time and effort spent, a systematic and rational approach should be employed to allocate salary and benefit costs of employees that work with both districts. Salary and benefit costs for employees that worked entirely in one CRA district were charged to that district and salary and benefit costs for employees that worked for both districts were charged 80 percent to the Beach District and 20 percent to the Downtown District. These percentages were based upon the relative amount of revenues each District generates. However, because the relative percentages of total revenues may bear no relation to the actual time and effort spent for each district, this allocation method is not a systematic and rational approach. Thus, the CRA did not document that salaries and benefit costs were reasonably allocated between the separate CRA trust funds.

For the 2010-11 fiscal year, the Beach and Downtown Districts also paid amounts, totaling \$4,030,092 and \$478,663, respectively, to the City to reimburse it for the costs of various administrative services provided to the CRA, such as City Manager, City Clerk, legal, budget, finance, treasury, etc., and for services provided by the police and design and construction management departments. The amounts paid were agreed-upon by the City and CRA and were not supported by time records documenting actual time and effort spent by City employees on CRA activities, or allocated to the CRA using a systematic and rational approach.

**Recommendation:** Procedures should be implemented to ensure that expenditures for CRA activities are supported by documentation evidencing proper cost allocations for City or CRA employees providing direct time to CRA projects or activities, such as time records or activity logs, or a systematic and reasonable approach used to allocate time spent on CRA projects or activities.

**Follow-up to Management's Response**

*In its response, the CRA indicated that the method of allocating costs between the Beach and Downtown Districts based on relative revenues is just as efficient and balanced as using time records. Based on the revenues reported by each district for the 2010-11 fiscal year, 99 percent of the revenues for each district were comprised of tax increment funding. Although it is logical that the Beach District would generate more tax revenues than the Downtown District, it is not apparent how this relates in any way to the time and effort spent by City or CRA employees on each CRA district’s activities. The CRA also indicated that it disagrees that a time record method should be utilized and that many of the administrative services provided by the*

*City would be difficult to track using time records. While the CRA's method of allocating costs to each district may be an easy method, we do not believe it to be a rational allocation method. While we believe that a method using time records is the best approach, we recognize that there are other systematic and rational approaches that could be used to allocate these costs. For example, the cost of the City's purchasing function could be allocated among City departments and each CRA district based on the purchase orders issued.*

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**Finding No. 13: Ending Balances in CRA Trust Funds**

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Section 163.387(7), Florida Statutes, provides that on the last day of a CRA's fiscal year, any money remaining in the CRA trust fund after the payment of expenses described in the CRA plan for such year must be either returned to each taxing authority that paid the increment in the proportion that the amount of the payment of such taxing authority bears to the total amount paid into the trust fund by all taxing authorities for that year; used to reduce the amount of any indebtedness to which increment revenues are pledged; deposited into an escrow account for the purpose of later reducing any indebtedness to which increment revenues are pledged; or appropriated to a specific redevelopment project pursuant to an approved community redevelopment plan, which project will be completed within three years from the date of such appropriation.

In response to our inquiry, dated August 8, 2012, regarding the CRA's compliance with Section 163.387(7), Florida Statutes, CRA personnel provided us with the CRA's five-year capital improvement plans. The June 2011 five-year capital improvement plan, approved by the CRA Board, included capital improvements costing approximately \$50 million over the subsequent three years. Although the CRA maintained two CRA trust funds, the majority of activity was reported in the Beach District Trust Fund. For the fiscal years ended September 30, 2010, and 2011, the Beach District Trust Fund had accumulated net assets totaling \$20,283,543 and \$14,663,449, respectively, which were not restricted by bond covenants or other obligations and, therefore, available for appropriation by the CRA Board.

As noted in finding No. 10, the CRA's 2010-11 and 2011-12 fiscal year budgets did not include balances brought forward from the prior fiscal year. As shown in Table 6, our analysis of the CRA's estimated revenues and budgeted and actual expenditures for the Beach District Trust Fund for the 2008-09, 2009-10, and 2010-11 fiscal years disclosed that while the CRA Board amended its budgets, significantly increasing budgeted expenditures for each fiscal year, only \$6.1 million, \$1.2 million, and \$2.2 million, respectively, was effectively expended from bond proceeds or balances brought forward from the prior fiscal years.

Table 6

2008-09 Fiscal Year	Budget		Actual
	Original	Final	
Revenues and Other Financing Sources	\$ 19,524,042	\$ 19,524,042	\$ 19,616,825
Expenditures and Other Financing Uses	19,524,042	44,288,972	25,723,020
Amounts used from Prior Fiscal Years			
Balances Brought Forward	<u>\$ 0</u>	<u>\$ (24,764,930)</u>	<u>\$ (6,106,195)</u>

2009-10 Fiscal Year	Budget		Actual
	Original	Final	
Revenues and Other Financing Sources	\$ 15,414,196	\$ 15,267,454	\$ 15,540,635
Expenditures and Other Financing Uses	6,149,311	33,046,802	16,755,756
Amounts used from Prior Fiscal Years			
Balances Brought Forward	<u>\$ 9,264,885</u>	<u>\$ (17,779,348)</u>	<u>\$ (1,215,121)</u>

2010-11 Fiscal Year	Budget		Actual
	Original	Final	
Revenues and Other Financing Sources	\$ 17,254,545	\$ 17,539,595	\$ 17,703,191
Expenditures and Other Financing Uses	16,460,061	52,035,992	19,938,761
Amounts used from Prior Fiscal Years			
Balances Brought Forward	<u>\$ 794,484</u>	<u>\$ (34,496,397)</u>	<u>\$ (2,235,570)</u>

Source: City CAFRs

Thus, although the CRA’s five-year capital improvement plans indicated scheduled projects, and the CRA Board “appropriated” amounts that would have required the use of accumulated prior year resources in the Beach Fund, the CRA did not have procedures to monitor the accumulated prior year resources on a project-by-project basis in its budget and expended very little from those resources over the 2008-09, 2009-10, and 2010-11 fiscal years. Consequently, CRA records did not demonstrate compliance with Section 163.387(7), Florida Statutes, regarding the disposition of unexpended trust fund moneys.

On September 5, 2012, the CRA Board and City Commission approved using \$23 million from the Beach District Trust Fund for a loan to a developer for a resort hotel, effectively changing the approved capital improvement plan.

**Recommendation:** The CRA should ensure that capital improvement plans and amounts appropriated are based on realistic goals and time frames. The CRA should also take steps to ensure that its records document compliance with Section 163.387(7), Florida Statutes, including returning funds to the taxing authorities if such funds are not otherwise used in accordance with law.

**OBJECTIVES, SCOPE, AND METHODOLOGY**

The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida’s citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations. The Legislative Auditing Committee directed us to conduct this audit to address financial-related issues and concerns facing the City,

including policies and procedures that the City has established in response to the findings included in the report issued on the City's revenue forecasting practices or the recommendations of the firm hired to provide consulting services related to the City's budget development process and financial management.

We conducted this operational audit from February 2012 to September 2012 in accordance with applicable 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.

The objectives of this operational audit were to:

- Evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, rules, regulations, contracts, grant agreements, and other guidelines.
- Examine internal controls designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, reliability of records and reports, and the safeguarding of assets.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, deficiencies in management's internal controls, instances of noncompliance with applicable laws, rules, regulations, contracts, grant agreements, and other guidelines, and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

For those programs, activities, and functions included within the scope of our audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; exercising professional judgment in considering significance and audit risk in the design and execution of the research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit's findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

The scope and methodology of this operational audit are described in Exhibit A. Our audit included the selection and examination of various records and transactions occurring from October 2010 through January 2012, and selected actions taken subsequent thereto. Unless otherwise indicated in this report, these records and transactions were not selected with the intent of statistically projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

An audit by its nature does not include a review of all records and actions of agency management, staff, and vendors, and, as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, waste, abuse, or inefficiency.

**AUTHORITY**

Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.



David W. Martin, CPA  
Auditor General

**MANAGEMENT'S RESPONSE**

Management's response is included as Exhibit B. The response, including attachments provided with the response, may be viewed on the Auditor General's Web site.

**EXHIBIT A  
AUDIT SCOPE AND METHODOLOGY**

Scope (Topic)	Methodology
Organizational Issues	Reviewed organizational structure of the City and CRA and assessed the functional responsibilities within the organizational structure to determine whether they were adequately separated to provide effective internal controls. Examined and reviewed documentation such as organization charts and minutes of the City’s Commission and CRA Board meetings.
Written Policies and Procedures	Determined whether the City and CRA had written policies and procedures in place for major functions. Determined whether the City maintained public records in accordance with Chapter 119, Florida Statutes.
Financial Urgency	Reviewed Section 447.4095, Florida Statutes. Obtained and reviewed the resolutions passed by the City Commission on declaring financial urgency and relevant documentation. Determined whether negotiations between the City and its labor unions took place as required by Chapter 447, Florida Statutes. Evaluated the financial position of the City’s major funds and the availability of fund balances and net assets to address General Fund revenue shortfalls.
Budgetary Controls	Reviewed a consultant’s report issued in June 2011 regarding the City’s revenue forecasting practices. Determined what actions the City had taken to address the recommendations made in that report and perform tests, as applicable. Assessed adequacy of the City and CRA’s budgetary procedures.
Cash Management	Reviewed the City’s procedures related to cash. Reviewed bank account reconciliations for completeness and supervisory approval. Evaluated basis for classifying cash amounts reported as “Restricted.”
Investments	Reviewed City policies governing investments to determine compliance with applicable laws, ordinances, resolutions, and other guidelines.
Tangible Personal Property	Compared City subsidiary ledgers with control accounts, reviewed tangible personal property inventory procedures, and reviewed procedures for disposing of surplus property.
Long-Term Debt	Reviewed City and CRA policies and procedures for issuing debt to determine compliance with applicable provisions of law. Determined whether the City and CRA complied with applicable debt covenants.
Revenue and Cash Receipts	Reviewed City policies and procedures for assessing and collecting permit fees, taxes, and other revenue sources to determine compliance with applicable provisions of law. Also, tested the accuracy of amounts collected and the timeliness of cash receipts deposited in the bank.
Payroll and Personnel	Tested City payroll disbursements and performed tests to determine whether expenditures were made in accordance with applicable laws, rules, policies and procedures, and other guidelines.

**EXHIBIT A (CONTINUED)**  
**AUDIT SCOPE AND METHODOLOGY**

Procurement of Goods and Services	Tested City and CRA disbursements and performed tests to determine whether expenditures were in accordance with applicable laws, ordinances, resolutions, and other guidelines. Tested transactions to determine whether City purchasing cards were administered in accordance with ordinances, resolutions, and other guidelines. Tested City travel expenses to determine if employee reimbursements were paid in accordance with ordinances, resolutions, and Section 112.061, Florida Statutes.
Contracts	Tested City and CRA contractual services payments to determine whether expenditures were in accordance with applicable laws, ordinances, contracts, and other guidelines.
Insurance	Reviewed the administration of the City’s self-insurance program and methods used for acquiring excess commercial coverage to determine compliance with applicable laws, ordinances, and other guidelines.
Communication Expenditures	Reviewed City policies and procedures related to communication expenditures and performed tests to determine compliance with applicable laws, ordinances, and other guidelines.
Motor Vehicle Assignment and Use	Determined whether the City maintained adequate vehicle utilization, maintenance, and repair records for all vehicles except fire and sanitation vehicles, and whether City ordinances, resolutions, and other guidelines were followed.
Restricted Resources	Determined whether proceeds from restricted City and CRA revenue sources were properly accounted for. Tested expenditures of City and CRA grant proceeds and evaluated disposition of unexpended balances.
Community Redevelopment Agency	Determined compliance of CRA plans, expenditures, and unexpended balances with Part III, Chapter 163, Florida Statutes.

**EXHIBIT B  
MANAGEMENT'S RESPONSE**

**FINANCIAL URGENCY DECLARATION**

**Finding No. 1**

**Financial Urgency Determination**

Notes:

- The City Commission approved two midyear budget resolutions (R-2011-062 and R-2011-111, attached as [Exhibits 1-A](#) and [1-B](#)) to reduce various operating expenditures (non-personnel) and increase reserves in the amounts of \$481,851 and \$2,105,201 respectively.
- Table 1 revised by City to reduce figures to reflect OPEB liabilities. Amounts “available” revised to \$2.99 million (from \$10.61 million) for FY 2010 and to \$9.97 million (from \$20.50 million) for FY 2011 (revised table attached as [Exhibit 1-C](#)).

City Response:

In Finding 1, the Auditor General’s Office asserts that the City Commission was improperly advised regarding the availability of funds from the Utility Enterprise Fund (“Fund 42”) as a potential source to close the budget gap that led to the assertion by the City of Financial Urgency under Florida Statutes Sec. 447.4095, first in September of 2010 and again on May 18, 2011 (for the remainder of FY 2011 and separately for FY 2012). Specifically the Auditor General’s Office determined that funds reflected in the “Unrestricted (Deficit)” line (plus a portion of the amount allocated to RR&I capital projects) of the Comprehensive Annual Financial Report (“CAFR”) were potentially available for Fund 42 to “grant” (as opposed to “loan”) to the City’s General Fund (“GF”).

BRIEF ANSWER:

- I) The City continues to assert that the Rule of Statutory Construction known as “*Ejusdem generis*” mandates that the phrase in bond covenant Sec 513 allowing that moneys held for the credit of the General Reserve Account may be applied “(f) for any other lawful purpose of the City, including loans to the general fund of the City” is limited by the preceding five enumerated allowed uses to “lawful purposes” of the same general nature as the preceding five and not grants to the general fund.
- II) Even assuming that Fund 42 was free to grant funds to the general fund, it could only have done so from unrestricted “cash on hand.” For the following reasons, the moneys reflected in the “Unrestricted (Deficit)” line of the CAFR were not all unrestricted cash on hand and thus not an accurate measure of what might have been available for transfer to the general fund:
  - a. The Fund 42 Other Postemployment Benefits Obligation (“OPEB”) must also be funded out of cash on hand and reduces the amount potentially available for transfer to the general fund by \$7,617,000 on September 30, 2010 and \$10,528,000 on September 30, 2011.
  - b. The “Bond Feasibility Study” included in the 2010 bond offering materials represented that Fund 42 would maintain no less than a 90 day operating reserve. Had Fund 42 transferred any money to the general fund (beyond the approximately \$7,000,000 already being

transferred for general administrative expenses and payments in lieu of taxes), it would not come close to the 90 day minimum.

- III) On November 28, 2011, the Fitch Ratings Service (“Fitch”) upgraded the rating of the City’s Water and Sewer Revenue Bonds from A+ to AA- citing as a “key rating driver” the financial performance of Fund 42 and, in particular, the Fund’s total available resources. If the City had transferred in excess of \$10,000,000 to the general fund (as suggested in Finding 1) to stave off the declaration of financial urgency in April of 2011 (or \$20,000,000 in September of 2011), those “total available resources” would have been reduced by 1/3 to 2/3 and the bonds would certainly have lost the rating upgrade.

#### EXPLANATION:

- I) I am including, as [Exhibit 1-D](#), the full text of Section 513 of the Bond Ordinance, O-91-44. Subsection (f), relied on by the Auditor General in reaching the conclusion that the funds reflected in the “Unrestricted (Deficit)” line of the “NET ASSETS” section of the CAFR (both FY 2010 and FY 2011 CAFR pages for Fund 42 are also attached as [Exhibits 1-E](#) and [1-F](#)) were available for a non-repayable transfer to the general fund, is preceded by subsections (a) – (e), which describe other allowable uses for funds within this General Reserve Account. There is a rule of statutory construction known as “*ejusdem generis*.” This rule states that where the enumeration of specific things is followed by a more general word or phrase, the general phrase is construed to refer to a thing of the same nature as the preceding specific things (see 48A Fla. Jur 2d Statutes Sec.126, attached as [Exhibit 1-G](#)).

The common thread among subsections (a) – (e) of Section 513 is that each describes a use of funds that benefits, or is at least intended to benefit, the City’s water and sewer utility directly. Of course, a non-repayable transfer to the general fund does not benefit the City’s water and sewer utility in any direct way. One could perhaps argue that the City’s water and sewer utility benefits when the City as a whole is in a strong financial position, but such benefit cannot under any circumstances be characterized as a direct benefit to the utility. To the extent that a reader of subsection (f) may read “for any lawful purpose of the City” to supersede the rule of *ejusdem generis*, the remainder of subsection (f) should serve to remind the reader that the allowable uses of the General Reserve Account are limited to uses that directly benefit the water and sewer utility.

In the case of Florida Department of Revenue v. James B. Pirtle Construction Company, Inc., 690 So.2d 709, (Fla. 4<sup>th</sup> DCA 1997), the court used “*ejusdem generis*” to interpret a Florida Statute that read “[a]ll notes, bonds, and other obligations issued by the State of Florida ... and other taxing districts....” Pirtle had construction contracts with a taxing district and argued that its accounts receivable generated by such contracts were other obligations issued by the taxing district. The court disagreed, reasoning that accounts receivable arising from a government contract are not of the same nature as notes and bonds. When the government issues notes and bonds, its commitment is absolute. On the other hand, when the government executes a construction contract, disputes concerning the contractor’s performance can vitiate the government’s payment obligation.

In Brown v. Saint City Church of God of the Apostolic Faith, Inc., 717 So.2d 557 (Fla. 3d DCA 1998), a local ordinance prohibited the deposit of waste “or other material of any kind.” Brown argued that the church violated the ordinance when it deposited loose gravel on public swale area for parking purposes. However, the court, relying on *ejusdem generis*, held that the ordinance

prohibited the depositing of waste or waste-like materials, not loose gravel deposited for parking purposes. This case is particularly significant, because the ordinance includes the word “any,” just as Section 513(f) does, and because it applies *ejusdem generis* to a local ordinance.

There is an additional rule of statutory construction that holds that a statute shall not be interpreted in a manner that renders any of its provisions useless. If Section 513(f) were to be interpreted as the Auditor General suggests (i.e. allowing funds in the General Reserve account to be used for “any other lawful purpose of the City” without limitation), the previous five enumerated uses would be completely unnecessary, as they would be subsumed within the general statement. Finally, if subsection (f) meant that Fund 42 could simply give money in the General Reserve account to the general fund, why would it be necessary to say that it could also loan such money to the general fund?

In Heart of Adoptions, Inc. v. J.A., 963 So.2d 189 (Fla. 2007), the Supreme Court of Florida fully expressed this rule in the following paragraph:

The word “may” contained in section 63.062(3)(a) cannot be construed in isolation if to do so would render other sections of the chapter meaningless. We are required to give effect to “every word, phrase, sentence, and part of the statute, if possible, and words in a statute should not be construed as mere surplusage.” .... Moreover, “a basic rule of statutory construction provides that the Legislature does not intend to enact useless provisions, and courts should avoid readings that would render part of a statute meaningless.” .... “[R]elated statutory provisions must be read together to achieve a consistent whole, and .... ‘[w]here possible, courts must give full effect to all statutory provisions and construe related statutory provisions in harmony with one another.’ ”

For the foregoing reasons, the interpretation of Section 513(f) of O-91-44 suggested by the Auditor General is not supported by the accepted rules of statutory construction applied in Florida law.

- II) In order for the Auditor General’s Finding 1 to be meaningful, Fund 42 would have to actually be able to transfer money to the general fund. Money that is merely reflected as a “book asset,” but has no actual cash to back it up, would be of no assistance in balancing the general fund budget. For the following reasons, the values reflected in the “Unrestricted (Deficit)” line of the “NET ASSETS” section of the 2010 and 2011 CAFRs is either not in the form of funds available for transfer or is otherwise accounted for despite the “Unrestricted” heading.
- a. While the City has not yet created an OPEB Trust Fund (“OPEB Fund”), the requirement to provide for that fund is nonetheless a current obligation and Fund 42 must accrue funds in an available cash account to pay its liability and hold those funds until the OPEB Fund is created. Since no restricted funds are booked against the OPEB liability, it must be covered out of the unrestricted net assets. For the 2010 CAFR that reduces the amount available for transfer by \$7,617,000 and for 2011 by \$10,528,000.
  - b. Since any transfer to the general fund from Fund 42 must be covered by a current cash asset, in order to determine what might reasonably be available for transfer we must also consider other current demands against such funds. Currently payable obligations of Fund 42 include “Vouchers Payable” and “Accrued Wages and Leave”. As reflected in the 2010 CAFR these total \$2,817,000 and in the 2011 CAFR \$3,721,000. In addition, in accordance with the

November 2009 Rate Study, the water and sewer rates that were implemented (via Ordinances O-2009-36 & 37 for FY 2010 – 2014), were to fund, in addition to current operating expenses, \$203 million of a 5-year priority listed capital improvement program in keeping with the water and wastewater master plans. The excess RRI funding mentioned in the Auditor’s report was not truly excess funding, but rather a shift in how the \$203 million CIP was funded (See Table “3” below). The second planned bond issue (planned for September 2011) in the Rate Study was replaced with lower cost State Revolving Fund (SRF) loans and Renewal, Replacement and Improvement (RRI) and Sewer Reserve Capacity (SRC) cash funding. Table “4” below shows the projects originally scheduled with the second bond issue and how the funding was shifted to RRI, SRF and SRC. If this change had not been made, and we had gone forward with the \$37,300,334 FY 2012 Bond Issue, it would have added approximately \$35 million in additional interest costs to the program.

**City of Hollywood, FL**

**Table 3**

**Project Funding Sources Comparison  
FY 2009 to FY 2013**

<b>Funding Sources</b>	<b>Original Budget</b>	<b>Revised</b>	<b>Change</b>
SRF	33,953,444	49,661,198	15,707,754
RRI	57,217,074	80,555,903	23,338,829
SRC	9,566,900	9,060,999	(505,901)
WRC	4,619,289	3,966,169	(653,120)
Grant	561,229	414,500	(146,729)
Sewer Replacement	1,622,341	1,677,588	55,247
ARRA Stimulus	2,550,000	1,524,039	(1,025,961)
Existing Bond	7,520,760	7,731,341	210,581
2010 Bond	48,645,937	48,645,937	-
2012 Bond	37,300,332	-	(37,300,332)
<b>Total</b>	<b>203,557,306</b>	<b>203,237,674</b>	<b>(319,632)</b>

City of Hollywood, FL  
2nd Bond Funding Reallocation

Table 4

Project Name	Proj #	2nd Bond Budget	Reallocated To			Difference
			RRI	SRF	SRC	
Energy Master Plan	1306	-	300,000.00			300,000.00
Develop collection/transmission system hydraulic model	1600	493,500.00	93,500.00			(400,000.00)
Water Conservation Phase 2	3061	138,915.00	138,915.00			-
Water Conservation Phase 3	3063	57,881.00	57,881.00			-
DIW for MS/RO concentrate disposal	4031	15,406,657.00		14,636,364.00		(770,293.00)
Retrofit Train A	4230	1,680,000.00		1,760,700.00		80,700.00
HSP upgrades related to VFDs	4233	1,157,625.00	1,157,625.00			-
Distribution piping upgrades for short-term scenario	5104	718,819.00	718,819.00			-
Large Meter Replacement	5105	405,169.00	405,169.00			-
Water Distribution Upgrades at the North End of A1A	5106	578,813.00	1,130,063.00			551,250.00
Install US 441/State Road 7 Corridor sewer	7042	882,233.00	882,233.00			-
Install Dixie Highway Corridor Sewer	7047	327,910.00	-		327,910.00	-
Construct McKinley Street parallel interceptor	7059	394,369.00	394,369.00			-
De-grit Oxygenation Trains	7414	911,630.00	911,630.00			-
Replace PS E-02 pumps	8052	629,207.00	629,207.00			-
Replace PS E-02 and E-03 force main and ICW crossing	8524	1,792,875.00	1,792,875.00			-
Continue gravity system condition assessment and renewal/replacement (Level 2)	8528	1,215,506.00	1,215,506.00			-
I.W. System Upgrades	9078	752,456.00	752,456.00			-
Bar screens rehabilitation and repairs	9214	855,500.00	855,500.00			-
Influent pump station repairs	9302	17,364.00	17,364.00			-
Rehabilitation of Clarifier Nos.5-8 flow distribution box	9519	2,291,230.00	2,291,230.00			-
Sludge cake pumps replacement and miscellaneous repairs	9615	4,329,518.00	4,329,518.00			-
Effluent pump station - Gravity disposal system replacement and other repairs	9731	1,736,438.00	1,736,438.00			-
Switchgear, Cleaning and Recalibrating	9924	144,703.00	144,703.00			-
Mech Integrity Test	9931	382,016.00	249,271.00			(132,745.00)
Computer Control Sys (PLC) Upgr	9933	-	165,256.00			165,256.00
Maint-for WWTP and WTP		-	205,832.00			205,832.00
<b>Total</b>		<b>37,300,334.00</b>	<b>20,575,360.00</b>	<b>16,397,064.00</b>	<b>327,910.00</b>	<b>-</b>

Funding Alternatives	Revenue Bond	RRI-Cash	SRF - Loan	SRC - Cash	Total
30 year bond with level semi-annual P&I PMTS 5.5%	\$ 76,585,114.00				\$ 76,585,114.00
20 year SRF Loan with level semi-annual P&I PMTS 2.25%			\$ 20,452,707.00		
Total Cost of SRF Loan and Cash Funding		\$ 20,575,360.00	\$ 20,452,707.00	\$ 327,910.00	\$ 41,355,977.00
<b>Savings in interest</b>					<b>\$ 35,229,137.00</b>

A schedule is attached ([Exhibit 1-I](#)) that shows all the projects budgeted with RRI funds and the amount expended and contracted as of September 30, 2011. The projects not encumbered with contracts were awaiting design to be completed, bidding processes to be completed or they were awaiting sufficient RRI funds to be accumulated. We have attached a schedule ([Exhibit 1-J](#)) that shows the RRI projects with notations concerning their critical nature in meeting our Bond Ordinance requirement to properly maintain our water and sewer systems.

- c. Finally, as pointed out in Auditor General Finding 3, the Government Finance Officers Association (“GFOA”) recommends that entities such as the City’s Utilities Enterprise maintain a minimum reserve of 90 days of working capital. In fact, the same Bond Feasibility Report mentioned above, under tab 3 of the 2010 Bond Book, incorporates the 90 reserve as a management goal (see page C-20 of the Official Statement relating to the Series 2010 Bonds dated January 20, 2010, attached as [Exhibit 1-K](#)). According to the Rate Consultant, using the numbers reflected in the 2010 CAFR Fund 42, without any transfer out whatsoever, is only maintaining a 76 day reserve (and that includes the use of the Rate Stabilization Fund)!

III) Rating Downgrades – Based on the City’s prior experience, rating agencies are likely to downgrade the outstanding water and sewer revenue bonds of Fund 42 if transfers are made to

the GF that do not have a repayment obligation. In much the same manner in which bondholders are likely to litigate over such transfers, rating agencies are likely to take an unfavorable view of transfers which reduce the revenues available for operating, capital and debt service costs in the water and sewer utility system. The transfer of revenues out of Fund 42 has two negative effects on the creditworthiness of the City's outstanding water and sewer revenue bonds: a) less revenue available to cover debt service costs and b) fewer financial resources available to ensure the continuity of water and sewer operations. In their most recent rating report on the City's outstanding water and sewer revenue bonds (dated November 28, 2011), Fitch Ratings upgraded the bonds to "AA-" from "A+" ([Exhibit 1-L](#)). Under the heading of "Financial Performance Drives Upgrade", Fitch Ratings cited as a credit strength the availability of financial resources equal to 295 days of operations. The availability of such financial resources ensures that the City's water and sewer utility system can continue to meet its obligations even if the ability to bill rate payers is somehow impaired. A rating downgrade will increase the interest cost of future water and sewer revenue bond issues – resulting in the need for water and sewer rate increases to absorb the higher interest costs.

## **CONCLUSION:**

If we look at the funds reflected in the 2010 CAFR (i.e. those that might have been available for transfer from Fund 42 to the general fund on September 30, 2010, which may have assisted in balancing the general fund budget for FY 2011 [the first time Financial Urgency was declared]), that the Auditor General suggests were available, we find a total of \$24,243,000. Deducting the amounts argued for above leaves \$3,819,000. Certainly not an insubstantial amount, but clearly nowhere near the amount of the budget gap that had to be closed in order for the City to avoid declaring Financial Urgency. For 2011, the CAFR numbers are as follows; \$34,900,000 asserted by the Auditor General to be available, less reductions of \$22,984,000, leaving \$11,916,000. Again, certainly a substantial number, but again less than one third of the amount needed to close the City's budget gap that year.

These calculations assume that any amount of money could have been transferred from Fund 42 to the general fund without a repayment obligation. As noted in point (I) above, the City remains convinced that no such transfer is, or could have been, permitted.

## **FINANCIAL CONDITION**

### **Finding No. 2**

#### **General Fund Fund Balance**

The Auditor General's report cites ineffective financial management and budget practices, but does not reference the change in leadership undertaken by the Commission which replaced the former City Manager and Budget Director and resulted in a restructured Department of Financial Services with direct oversight of budgeting processes.

The City's Fund Balance Policy, adopted in September 2011 as part of the reforms put in place following the City's declaration of financial urgency, does not require a formal plan to replenish fund balance reserves until such time when the fund balance would be drawn down. The policy specifically states, "If unrestricted fund balance reserves are *drawn down* below established targets, the City Manager will develop and submit to the City Commission a plan for restoring the level of unrestricted fund balance." The Auditor General's

report includes the City's response to this issue in which the City's Director of Financial Services states that "there is no plan for restoring the fund balance to the targeted level as the targeted level (17 percent) of reserves has not been reached and then drawn upon. The City's Fund Balance Policy requires a restoration plan only in the event that reserves are drawn upon." The City refutes the audit review committee's interpretation that "the fund balance policy does not support the Director of Financial Services' assertion." The plain language of the City's Fund Balance Policy simply does not require a plan for replenishment in the absence of a draw down on reserves.

The observations regarding the City's fund balance under Finding No. 2 are not new to the City. Information regarding fund balance within the City's General Fund has been included in budget presentations as far back as March 9, 2010. The City Commission was made aware that reserves were not available as a source of funding as part of the FY 2011 budget cycle. The City has expressed no intention of drawing upon reserves and over the past several fiscal years, the City Commission has taken the initiative in restoring the fund balance in the City's General Fund:

- During FY 2011, the City Commission approved two mid-year budget resolutions ([Exhibits 1-A and 1-B](#) respectively, R-2011-062 and R-2011-111) to reduce various operating expenditures (non-personnel expenditures) and increase reserves in the amounts of \$481,851 and \$2,105,201 respectively.
- The City raised the millage rate for FY 2012 to generate \$4.2 million in additional property taxes to assist in restoring the fund balance in the City's General Fund.
- Measures approved by the City Commission under financial urgency and more conservative budgeting practices turned a \$38.3 million budget gap for FY 2012 into a \$6.7 million budget surplus – resulting in the projected fund balance equal to 10.1 percent of expenditures (as compared to the prior year fund balance of 2.7 percent).

During the first public hearing September 12, 2012 for the approval of the FY 2013 budget, the Financial Services Director stated to the City Commission that the fund balance for the General Fund would be built up over the next several fiscal years through revenue surpluses and expenditure savings (statements made 10:00 minutes into the 42:00 minute public hearing).

The City's adopted Fund Balance Policy is reflective of the Government Finance Officer Association's recommended best practices. The recommendation under Finding No. 2 disregards the financial realities the City faces. As previously stated, the City intends to build up its reserves through revenue surpluses and expenditure savings over the next several years. The reduction in financial flexibility which would result from putting in place a plan that specifically earmarks money for fund balance is likely to exacerbate the budgetary challenges the City needs to manage over the next several fiscal years.

### **Finding No. 3**

#### **Water and Sewer Utility Fund Working Capital**

The City's Water and Sewer Enterprise Fund is operating at a healthy, sustainable level with sufficient reserves to meet the commitments contained in bond documents for two months of expenditures ([Exhibit 3-A](#)). The Auditor General's findings No. 1 and No. 3 are conflicting. The City has demonstrated in its response to finding No. 1 that excess funds are not available in the Water and Sewer Fund to both maintain sufficient reserves as required by bond documents and to allow transfers to the General Fund. Additionally, any transfer of water and sewer resources to the City General Fund would diminish a credit strength noted in the most recent review of the City's water and sewer revenue bonds ([Exhibit 1-L](#)).

The City concurs with the Auditor General recommendation and has adopted a Working Capital Reserve Policy ([Exhibit 3-C](#)) consistent with the best practices of the Governmental Financial Officers Association for Enterprise Funds. The Department of Public Utilities has adopted this Working Capital Reserve Policy to secure and maintain investment-grade credit ratings, meet seasonal shortfalls in cash flow, to fund capital projects not included in the Water and Sewer Master Plans, to cover emergency repairs or maintenance repairs exceeding \$100,000 not covered by the City's insurance fund or operating budget and to reduce susceptibility to emergency or general unanticipated expenditures and/or revenue shortfalls not covered by the Utilities Rate Stabilization Account.

After the prior years' audited financial statements are issued, the policy requires the Department of Public Utilities to analyze the ending unrestricted net assets and designate a portion of the unrestricted net assets as a working capital reserve with the goal of maintaining a working capital reserve that will include, but not be limited to, 90 days of operating expenditures (based on the prior fiscal years' actual audited expenses). The working capital reserve can be used for current expenditures or any lawful purpose of Public Utilities. However, it is not to be used for transfers to the General Fund or any other non-Public Utilities Fund.

#### **Finding No. 4**

##### **Unsustainable Wage and Pension Benefit Increases**

In the initial paragraph of Finding No. 4, the Auditor General provides background on the GFOA best practices *on Sustainable Funding Practices of the Defined Benefit Pension Plans* with specific attention given to the GFOA's belief that governments should fund the full amount of their actuarially determined annual required contribution (ARC) and creates the impression that the City has not made its ARC. The City is required by Florida Statutes to fully fund the actuarially determined pension contributions as calculated in actuarial valuation reports for each of the three pension plans. The City has always met this requirement. In addition, Florida Statutes require that an actuarial valuation report be completed at least every two years for a pension plan. The City exceeds this requirement having undertaken yearly actuarial valuation reports for each of its three pension funds over the past ten years with the singular exception of 2004 in which an annual report for the police pension fund was not completed.

The lack of sustainability cited in the Auditor General's report has been an identified concern of the City for some time. Information concerning the City's pension plan contributions has been included in budget presentations over the past several fiscal years. The City Commission recognized the lack of pension plan sustainability and approved placing referenda before Hollywood voters in September 2011 to reform the City's three pension plans to increase sustainability.

Finding No. 4 recommends that the City adopt a funding policy for its defined benefit plans. This is done each year through the actuarial valuation reports completed for each of the City's pension plans. These reports provide for an amortization of the unfunded liability. The City's annual pension contribution to each of its three pension plans consists of two parts: a normal cost portion (current year portion) and a portion to amortize the unfunded liability.

The decrease in the funded ratio for the City's pension plans cited in the Auditor General's report has more to do with investment returns (i.e., widely fluctuating investment returns in the equity markets), than any other aspect (benefits, pension contributions, etc.) of the City's pension plans. It's also important to note, the steps the City has taken to increase employee pension contributions to assist in funding pension

benefits. These changes have been negotiated through the collective bargaining process with the unions representing these employees:

**General Employees' Pension Plan**

Fiscal Year 2009:

- Employees hired on or after 7-15-09 9.00%
- Employees hired before 7-15-09 7.00%

Fiscal Year 2010:

- Employees hired before 7-15-09 increased from 7.00% to 8.00%

Fiscal Year 2011:

- Employees hired before 7-15-09 increased from 8.00% to 9.00%

**Police Pension Plan:**

Fiscal Year 2008:

- Employee contributions increased from 8.00% to 8.50%

Fiscal Year 2011:

- Employee contributions increased from 8.50% to 9.25%

**Fire Pension Plan:**

Fiscal Year 2006:

- Employee contributions increased from 7.00% to 8.00%

The City will adopt the GFOA best practice titled *Sustainable Funding Practices of Defined Benefit Pension Plans*.

## **Finding No. 5**

### **Financial Management and Monitoring**

Midyear projections are not the only method used to keep City decision makers informed. In addition to midyear projections, decision makers within the City have been kept informed through presentations made as part of the budget process and through numerous Executive Sessions concerning labor negotiations. Although Florida Statutes (Sections 119.07(1) and 447.065(1)) prohibit the content of the Executive Sessions from being included as part of the City's response, briefings that included information on the City's finances, were provided to the City Commission on the following dates:

- Executive Sessions for FY 2010:
  - May 13, 2009
  - June 3, 2009
  - July 7, 2009
  
- Executive Sessions for FY 2011:
  - August 25, 2010
  - September 1, 2010
  - September 21, 2010
  
- Executive Sessions for FY 2012:
  - March 28, 2011
  - April 6, 2011
  - April 27, 2011
  - June 17, 2011
  - June 22, 2011
  - July 8, 2011
  - July 13, 2011
  - August 9, 2011
  
- During budget development for FY 2010, presentations were made on:
  - February 24, 2009 – Financial Retreat
  - June 23, 2009 – Budget Workshop
  - July 8, 2009 – Budget Workshop
  - September 14, 2009 – First Budget Hearing
  - September 21, 2009 – Second Budget Hearing
  
- During budget development for FY 2011, presentations were made on:
  - March 9, 2010 – Financial Retreat
  - July 21, 2010 – Budget Workshop
  - September 15, 2010 – First Budget Hearing
  - September 21, 2010 – Second Budget Hearing
  
- During budget development for FY 2012, presentations were made on:

- December 17, 2010 – Financial Planning Retreat
  - February 24, 2011 – Financial Retreat
  - July 7, 2011 – Budget Workshop
  - September 12, 2011 – First Budget Hearing
  - September 19, 2011 – Second Budget Hearing
- During budget development for FY 2013, presentations were made on:
- March 23, 2012 – Financial Retreat
  - July 10, 2012 – Budget Workshop
  - July 18, 2012 – Budget Workshop
  - September 7, 2012 – Budget Workshop
  - September 12, 2012 – First Budget Hearing
  - September 20, 2012 – Second Budget Hearing

By failing to acknowledge the list of reports and presentations indicated above, the Auditor General's Report creates the inaccurate impression that insufficient financial information has been provided to the City Commission. While the Auditor General's report cites a lack of financial monitoring, the report fails to acknowledge that financial monitoring by the Financial Services Department led to the City uncovering budget shortfalls in FY 2011 and subsequently to the declaration of financial urgency.

Over the past several fiscal years, more financial information was provided to the City Commission regarding the General Fund and such focus was appropriate given the financial condition of the City's General Fund. The financial condition of the City's General Fund was the primary cause of the City's declarations of financial urgency for fiscal years 2011 and 2012. The General Fund has the greatest impact on City residents and businesses—primarily through property taxes. The City Commission has only one opportunity per year to set the millage rate for the General Fund at the appropriate level for the upcoming fiscal year. Other City funds have greater flexibility in adjusting revenues over the course of a given fiscal year.

The Auditor General's report references the City initiated review of its budgeting processes by Munitytics, a municipal finance consulting firm, but only briefly mentions the City's acceptance of those findings or how the Munitytics report recommendations have been implemented. Many of the improper budget practices the Auditor General cites from the Munitytics report occurred in FY 2011. Those practices have been corrected in fiscal years 2012 and 2013. Further, this finding fails to mention that the City established a Revenue Estimating Committee in February 2012 to enhance revenue forecasting for the General Fund and prevent the types of mistakes made during the FY 2011 budget cycle.

The report does include the observation, although not legally required, that City staff identified a goal of providing monthly financial updates to the City Commission. As the report indicates, staff informed the City Commission that numerous obligations had prevented providing monthly updates and that the goal may have been overly ambitious. Current personnel levels limit the ability of the Financial Services Department to provide monthly updates. To meet the obligations of monthly financial reporting, the City would need to add two Senior Accountant positions at an estimated cost (including benefits) of \$184,400 to the City's General Fund.

Although available resources limit the ability to provide monthly financial statements to the City Commission, the City has taken many steps over the past several fiscal years to increase the transparency of

the City's finances by increasing the amount of financial information available on the City's website. The financial information available on the City's website includes:

- Comprehensive Annual Financial Reports (10 years)
- Adopted Operating Budget Books (9 years)
- Actuarial Valuation Reports (2 years)
- Pension Fund Financial Statements (2 years)
- Financial Snapshot (Current Financial Position of General Fund)
- Quarterly Investment Report
- Quarterly Delinquency Report
- Quarterly Report on Liens Waived or Voided

While the City does not concur with the Finding No. 5, the City does agree with the recommendation that future midyear projections should be presented to the City Commission (in addition to being distributed electronically).

### **Finding No. 6**

#### **Budget Preparation and Adoption**

Several of the figures included on page 15 of the Auditor General's report are incorrect. The figure for General Fund in 2010-11 column should be \$9,162,755 (not \$9,234,246).

While the City does not concur with all portions of Finding No. 6, it does concur with certain portions of Finding No. 6 and agrees that budgeting practices implemented within the City's General Fund during fiscal year 2012 should be extended to other City funds.

Budgets for several of the City's funds are not tied to a specific fiscal year. These funds include project-oriented budgets that are more keyed to a grant or project period. Under present budget processes, the annual capital budget is adopted by the City Commission early enough in the fiscal year to be included in the printing of the adopted operating budget book. Despite this, in future budget development cycles, the City will attempt to include the annual capital budget as part of the City Manager's recommended budget in July. Inclusion of the capital budget in the City Manager's recommended budget will not eliminate the need for the rollover of capital projects at the beginning of each fiscal year. As previously stated, these capital projects are not always tied to an individual fiscal year.

Several of the Special Revenue funds included in Table 5 of the Auditor General's report were consolidated as part of the City's required implementation of GASB Pronouncement No. 54 in fiscal year 2011:

- The Housing Loan fund (fund 65) was consolidated into Special Programs (fund 11)
- The Hurricane Housing Relief fund (fund 67) was consolidated into Local Housing Assistance/S.H.I.P. (fund 64)

As a result, the Housing Loan fund (fund 65) and the Hurricane Housing Relief fund (fund 67) will no longer be presented as Special Revenue Funds in the City's Comprehensive Annual Financial Report ("CAFR") and will not need an annual budget adopted in future years.

The balances identified in Table 4 of the Auditor General's Report do not represent new revenue sources to the City. Many of the larger amounts within Table 4 (e.g., for the Water and Sewer Utility fund and the Insurance fund) are restricted for future capital projects and future insurance claims. Further, the balances for the City's General Fund fall under the minimum thresholds for reserves and as such are not available as

a funding source for recurring City expenditures. Given the restrictions on these funds, the statements in the AG Report characterizing the budget as a diminished financial management tool are inaccurate.

The City concurs with the Auditor General that prior budget practices need to be corrected. The City believes it has already corrected those prior budget practices within the General Fund and that the current budget practices of the General Fund need to be extended to other City Funds.

To implement this change, the City will reconcile balances within various funds during fiscal year 2013 using audited fund balance/net asset figures after completion of the fiscal year 2012 CAFR (estimated timeframe of April 2013). In addition, the City will include estimated fund balance/net asset amounts, as appropriate, in the fiscal year 2014 budget development cycle. The budgetary changes to be implemented will follow the model established in the City's General Fund during fiscal year 2012. As is currently done annually, the City will still need to adopt a rollover resolution (in the October/November timeframe) for grants and capital projects which are not aligned to a single fiscal year.

### **Finding No. 7**

#### **Bank Account Reconciliations**

The City uses a wide variety of well-established financial safeguards to prevent fraud or misappropriation of funds, and has received clean yearly financial audits for the past 36 years. The City ensures segregation of duties among its cash handling staff which is a key accounting control in the handling of cash and in its bank reconciliation process. Additionally, the City utilizes anti-fraud services available through its banking institution to safeguard the City's checking and cash accounts from fraud or misappropriation. These services include the following: 1) "Positive pay" which systematically compares checks presented to the bank for payment to the City's issued-check files to detect serial numbers and dollar amounts that don't match which usually is a sign of fraud. The City is notified to review these exceptions and then instructs the bank to either reject or pay the check. The Positive Pay service has been successful on many occasions in thwarting criminal attempts to process fraudulent check payments against the City bank accounts; 2) ACH "fraud filter" which automatically stops any ACH debits presented (except those that are specifically authorized) against a particular bank account. The City can instruct the bank to automatically reject the debits, or can opt to review each ACH debit and decide whether any should be paid; and 3) "Payment Authorization" which prevents any checks from being paid against bank accounts that are used for concentration or depository purposes only, and not as checking accounts.

While the City concurs that the timeliness of its bank reconciliation process can be improved, it should be noted that other than timeliness of bank reconciliations, no other issues related to the bank reconciliation process such as lack of segregation of duties, unreconciled cash accounts, misappropriation of assets, potential fraud, etc. were identified by the Auditor General's audit staff in the course of their audit work.

Because of the time lag in receiving all reconciliation back up and reports from the bank, reconciliations are considered timely when prepared within two months after month end, except during year-end close out activity periods where this period for completion may be longer as noted by the auditors. During fiscal year 2011, the City was not able to make much improvement in this area due to staffing reductions brought on by budgetary cutbacks and increased demands on staff associated with the City's implementation of Financial Urgency under Florida Statutes Section 447.4095. The City is moving forward with the Auditor General's recommendation and is reviewing its processes and practices in this area to see how they can be streamlined and/or improved for greater efficiency and timeliness. The City will continue to focus on making improvements in this area within the staffing constraints currently imposed.

## OTHER ADMINISTRATIVE MATTERS

### **Finding No. 8**

#### **Vehicle Maintenance and Fuel Usage**

Departmental personnel have the ability to investigate and track fuel consumption and fluctuations by vehicle and by Department (see attached sample – [Exhibit A](#)). Additionally, Public Works on a daily basis tracks fuel usage in the tanks and documents readings off the pump dispensers (see [Exhibit 8-A1](#)). Also, on a daily basis the fuel management program sends polling results (documented information of all transactions) such as PINS successfully entered, usage of fuel, employee number, time and date, vehicle number, etc., from the “Fueling Trak” program via computer into the fuel management data system (see attached report [Exhibit 8-A2](#)). This is a check and balance system for all the information.

During the period covered by the Auditor General’s review and currently, the Department of Public Works uses the fleet management software called MCMS from Assetworks for programming, managing, tracking and monitoring vehicle maintenance for the fleet. This software enables Public Works Fleet personnel to schedule vehicles for regular and preventive maintenance. We track and document parts, costs, labor and various repairs through this program. We also track repairs and inventory via the work order system, invoices, purchase orders, and requisitions (see attached examples – [Exhibit 8-B](#)). We also rely on the current fleet management system to see when the last preventive maintenance occurred, and when the three month to six month preventive maintenance needs to occur per vehicle. Vehicles and equipment are placed on a preventive maintenance schedule based on historical information obtained through the MCMS software and based on historical data including frequency of use, type of use, and year, type and condition of the vehicle (see [Exhibits 8-C](#) – Recent Repair History, [Exhibit 8-D](#) – Calendars for both Police and General Fleet indicating dates/schedule for preventative maintenance).

The clerical specialist enters into the computer program the date schedule and calendar for the preventive maintenance per vehicle. (See [Exhibit 8-D](#)). After this calendaring is scheduled, the clerical specialist sends out notices via email to each Department and Division notifying them of the required scheduled date for the preventive maintenance on their particular vehicle or vehicles. (See [Exhibit 8-D-1](#)).

An issue that we have had is a problem in the documentation of mileage when certain City employees fuel up at the City yard fuel station. City staff may inadvertently enter the wrong mileage into the fuel system when fueling. Although the incorrect data is entered, the individual can still fuel their vehicle. To address this occurrence, fleet staff conducts checks of vehicles when they are repaired, and/or come in for preventative maintenance, and staff then manually corrects the mileage information in the system. The Fleet Management System and the Fuel Management System are two different software programs. There has been a technical software issue regarding mileage and the two systems entering different numbers for mileage on the same vehicle. When an employee fuels the vehicle on the next occurrence, the fuel system software can enter the incorrect mileage again, therefore, the mileage does need to be corrected again manually in the Fleet Maintenance System by staff. The City has tried to correct this mileage glitch in the two software systems, but has been unsuccessful. However, we also list the corrected mileage on the work order, vehicle repair tag and repair ticket. Therefore, we are manually correcting the problem. (See [Exhibit 8-E](#)).

The Department of Public Works is in the process of going out for bids on a new fleet management and fueling system software procurement that once installed, will eliminate this particular issue from occurring. The incorrect entries with the mileage issue in the fueling software does not, in any way, change the validity of the other information in the fleet management program and fueling software system or the City’s ability to depend upon those systems for reports and tracking. Also, we catch and correct the incorrect

information in the program as mentioned previously. In addition, a sticker is placed on the windshield of each vehicle when it comes in for preventative maintenance. On this sticker Fleet staff lists the current mileage and date on the vehicle, ([Exhibit 8-E1](#)) so this acts as another check and balance.

There is some manual scheduling for preventive maintenance that occurs, however it is also based on reports derived from the fleet management software, and the type, condition, year of vehicle, and use of vehicle are also considered and are in the system as well (see attached exhibits).

As previously mentioned, the City is in the process of obtaining a new automated fuel and fleet management software system. This program will enhance the efficiency of our tracking by eliminating the need to manually correct mileage or odometer reading issues. It will also prevent communication issues between the software systems since there will only be one system purchased for both programs under one company provider. This new fleet management and fueling software system does not rely on entry at the fuel pumps being accurate and can prevent such inaccuracies and prevent fueling of a vehicle as well. In addition, the new software programs will have a financial management component as well.

The City began looking into the purchase of a new fleet management and fueling software program in July 2012, because the City wanted a more comprehensive and automated system that would also incorporate a vehicle replacement fund, depreciation and financial component. The City also wanted a program that would retain fleet data over the life of vehicles, and not just the five year historical data, and would eliminate any mileage operator entry errors. We started this process prior to the Auditor's office beginning field work in the Public Works Department and we have met with various manufacturers, have evaluated various software programs, have worked on draft specifications, and are currently preparing the Request for Bids with Procurement and Financial Services. Additionally on July 18, 2012, the Financial Services Department, through a Budget Resolution, brought the software purchase before the City Commission for approval. We plan to have the program purchased, installed, data entered and staff trained making the system fully operational in the next three or four months.

### **Finding No.9 Public Records**

Florida Statutes do not dictate a policy or procedure for the recording or approval of minutes. They simply require that minutes be recorded. The City's current procedures are in full compliance with State Statutes and the recommendations of the Government in the Sunshine Manual.

The City concurs with the Auditor's finding that Regular Commission Meeting minutes from March 2011 through January 2012 were approved not as promptly as they had been historically. However, it should be noted State Statutes do not require minutes be formally approved, nor do they establish any time frame for the approval of minutes. Although not required law, within 24 hours of a City Commission meeting or workshop, staff makes available to the public via the City's website, "agenda results" along with the video and audio recordings of the meeting. Staff does this as the public has indicated the actual recording of the meeting is the most useful to them. This probably also explains the fact that the City Clerk's office does not receive regular public records requests for meeting minutes. In addition, the City updated its video streaming and capturing software in August 2012 allowing for better clarity of viewing, as well as the ability to download MP4 video files to various devices available on the market.

The audit findings refer to the Government-in-the-Sunshine Manual (2011) Part I, Section C.1 and Part I, Section D. Part I, Section C.1, addresses the number of board members required to be present at a meeting for the Sunshine Law to be applicable ([Exhibit 9-A](#)). City Clerk staff concurs that any gathering, whether formal or casual, of two or more members of the same board or commission to discuss some matter on

which foreseeable action will be taken by the public board or commission is subject to the Sunshine Law. This is why all meetings of the City Commission, including workshops and retreats, are posted on the Sunshine Board and the City Clerk, or designated staff, attends the meetings to record the minutes.

Part I, Section D, actually is addressing what types of discussions are covered by the Sunshine Law, informal discussions, and workshops ([Exhibit 9-B](#)). City Clerk staff concurs the Sunshine Law specifically applies to informal discussion and workshops, again, this is why all meeting of the City Commission, including workshops and retreats, are posted on the Sunshine Board and the City Clerk, or designated staff, attends the meetings to record the minutes.

The City's current processes related to meeting minutes exceed the requirements of state law in that all minutes of meetings in which formal action of the Commission is taken are presented to the Commission for formal approval. The City Clerk concurs that this approval process could be completed more expeditiously. A part of the delay in the recent past can be attributed to the City's financial condition which necessitated the reduction in personnel; as a result the City Clerk's Office workforce was reduced 27%.

To address the Auditor General's recommendation, the City is researching whether resources are available to hire additional staff and what guidelines or procedure enhancements may be necessary for finalizing meeting minutes. The City Clerk's office is also continuing to work diligently to expedite and complete in final format those minutes which will be presented to the City Commission for approval.

## Hollywood Community Redevelopment Agency

### BUDGET PREPARATION

#### **Finding No. 10** **Budget Preparation**

This finding, as outlined in the Audit General's report, misconstrues the total fund balance number which makes it seem as though the CRA has more money "available" than is actually represented as audited by independent auditors. The report states, "For the 2010-11 fiscal year, the CRA did not include \$36,478,475 and \$2,341,197 available from the 2009-10 fiscal year for the Beach Community Redevelopment Fund (Beach District Trust Fund) and Downtown Community Redevelopment Fund (Downtown District Trust Fund), respectively. For the 2011-12 fiscal year, the CRA did not include the \$34,242,905 available from the 2010-11 fiscal year for the Beach District Trust Fund." This is not an accurate finding. These totals are represented in our Comprehensive Annual Financial Report (CAFR) balance sheet listed as the "Total Fund Balance". What the Report fails to acknowledge is that those funds are all listed in the CAFR as reserved for debt service, grants and special programs, capital improvement program (CIP) and real estate held for resale ([Exhibit 10-A](#)).

The CRA Board approves the adopted budgets by Resolution each year pursuant to State Statute. A capital improvement plan is brought forward in an open public meeting annually which outlines the amount of funding available and where those funds will be expended ([Exhibit 10-B](#)). It is inaccurate to surmise that by not including available balances brought forward during the initial budget approval, there is a lack of transparency.

The CRA refutes the use of the phrase "contrary to law" in the Auditor General's findings. Any violation of law would have been flagged by our own independent auditors. We acknowledge that the State Statute states "the total amount available from taxation and other sources, including balances brought forward from prior fiscal years, must equal the total of appropriations for expenditures and reserves." However, it's important to note the State Statute does not expressly define balances brought forward. In fact, Section 189.418(3), Florida Statute, was amended effective October 1, 2011 changing the words from "amounts carried over" to "balances brought forward." The CRA has interpreted balances brought forward to mean those funds that are unreserved. Based on the CAFR, the total fund balance as shown is listed as reserved. Further, significant portions of the funds are contractually obligated and therefore cannot be construed as available. Although balance sheets simply state the amount of the asset/liability with no explanation and are finalized six months after approval of the CRA Budget, any balance brought forward would simply be an estimate of past revenue that is expended as part of the CIP.

Additionally, the CRA financial audits performed by an independent auditor are finalized by March 31 of each year. The CRA provides an annual report by March 31 of each year to the Governing Body (City Commission) and in the annual report it is stated that the numbers are preliminary unaudited. In the September 30, 2011 preliminary unaudited balance sheet located in our annual report it is specifically noted that "Investments at fair value represent funds on hand, where a significant portion of the funds have been designated for non-bond related capital improvement projects and/or obligations as outlined in the CRA Capital Improvement Plan approved by the CRA Board on June 1, 2011 pursuant to R-2011-27" ([Exhibit 10-C](#)). This estimate outlined in the annual report is not known at the time of budget approval. These numbers are finalized by independent outside auditors and included in the CAFR. Six months prior to the finalization of the audit report, the CRA pursuant to Florida Statute 189.418(3) is required to adopt a budget by resolution each fiscal year. This occurs prior to the beginning of each fiscal year.

Any funds remaining in the trust fund at the end of the fiscal year do not get used for operational purposes unless specifically rolled over for previously approved or committed projects from the previous fiscal year. Therefore, they are not considered as part of budget preparation or as part of the balance brought forward as revenue. All remaining funds continue to be an investment at fair value as part of the balance sheet and get rolled over or designated as outlined in the CIP. The CRA will seek to better define what constitutes balances brought forward and will take every step to make sure this is outlined and included in some method as the CRA budget is approved each fiscal year.

## USE OF CRA FUNDS

### **Finding No. 11**

#### **CRA Plans and CRA Expenditures**

The CRA refutes the finding that CRA expenditures were not in accordance with law or the approved CRA plans. The CRA, like all CRA's statewide, does not believe the law requires all expenditures to be specifically referenced verbatim in the plan. The CRA has relied on a multi-pronged approach when meeting the test of appropriate expenditures which is an accepted and common practice within redevelopment districts:

- Does it meet the definition of "Redevelopment" as defined in Section 163.340(9) as undertakings, activities, or projects in a community redevelopment area for the elimination and prevention of the development or spread of slums and blight, the reduction or prevention of crime; for the provision of affordable housing; or the rehabilitation and revitalizations of coastal resort and tourist areas that are deteriorating and economically distressed and is the objective in the plan.
- Does it meet and support the vision and mission of the Redevelopment Agency?
- Does it meet one of the Redevelopment Objectives as laid out in the plan? ([Exhibit 11-A](#))
- Is the concept in the Redevelopment Plan?

The Auditor General's Report additionally suggests that the Hollywood CRA amend the Redevelopment Plan for the Beach and Downtown. It should be noted that there is no requirement for the redevelopment plans to be amended pursuant to Chapter 163 or any other applicable laws. The Florida Redevelopment Association, which has no governing power, only recommends that plan be updated every five years. The process for amendment of such plans is outlined in Florida Statute 163.361. The CRA Board, at the urging of its Executive Director, set forth on a goal setting process in February 2011. The CRA Board selected as its third (3rd) highest priority, "to revise and amend the Redevelopment Plan" and finalized the goal setting documents in October of 2011 ([Exhibit 11-B](#)). Staff is currently researching and working towards the amendment of each plan. Since the redevelopment plan was referenced in Auditor General's findings the clarification for each expenditure is as follows:

#### *Community Policing Innovations \$1.5 Million*

Community Policing Innovations are clearly an approved expenditure if provided for in the plan and it is true that the CRA does not specifically have community policing innovations outlined in the plan. However, the CRA pays for an enhanced level of police service over and above normal police zone patrols in both districts. It is not considered community policing based on the Statute, rather these enhanced officers are in addition to normal patrols and are necessary expenses that are incidental to the implementation of the plan as allowed pursuant to State Statute.

The expenditures are for enhanced police services for the Beach (1 sergeant and 8 officers) and Downtown (1 sergeant and 3 officers). The Hollywood Police Beach Unit provides bicycle, T-3 and ATV patrols of the beach Broadwalk and sand areas from 7 a.m. through 2 a.m. seven days per week. Downtown officers provide directed patrol in the Downtown Hollywood District to include the ArtsPark at Young Circle from 7 a.m. through 4 a.m., and adjust their schedules as the need for police services dictates. Downtown officers place special emphasis on quality of life issues such as vagrancy, public drunkenness, prostitution and street level drug dealing. Included in this cost are the salaries, benefits, including pensions, vehicles and all operating costs. The City of Hollywood pays for the normal baseline police services in existing zones, the CRA provides for an enhanced police presence to augment what is normally provided.

As mentioned before, although the CRA redevelopment plan does not specifically have a community policing strategy, the premise of ensuring a safe environment to redevelop is at the core of the redevelopment agency's mission. Pursuant to the Statute, funds used as part of the Plan for purposes of redevelopment are not limited to what is listed below.

State Statute also states:

(6) Moneys in the redevelopment trust fund may be expended from time to time for undertakings of a community redevelopment agency as described in the community redevelopment plan for the following purposes, including, but not limited to:

- (a) Administrative and overhead expenses necessary or incidental to the implementation of a community redevelopment plan adopted by the agency.
- (b) Expenses of redevelopment planning, surveys, and financial analysis, including the reimbursement of the governing body or the community redevelopment agency for such expenses incurred before the redevelopment plan was approved and adopted.
- (c) The acquisition of real property in the redevelopment area.
- (d) The clearance and preparation of any redevelopment area for redevelopment and relocation of site occupants within or outside the community redevelopment area as provided in s. 163.370.
- (e) The repayment of principal and interest or any redemption premium for loans, advances, bonds, bond anticipation notes, and any other form of indebtedness.
- (f) All expenses incidental to or connected with the issuance, sale, redemption, retirement, or purchase of bonds, bond anticipation notes, or other form of indebtedness, including funding of any reserve, redemption, or other fund or account provided for in the ordinance or resolution authorizing such bonds, notes, or other form of indebtedness.
- (g) The development of affordable housing within the community redevelopment area.
- (h) The development of community policing innovations.

#### *Hollywood Station Incentive*

The CRA maintains that this expenditure is consistent with the agency's Downtown District CRA Plan. Pursuant to the Development Agreement dated June 16, 2004 among the City of Hollywood, the Hollywood CRA and Hollywood Dixie Associates, the developer would build for sale condominium units with parking and retail and in exchange the CRA would provide a cash incentive with the development of the phase I project. On June 17, 2010 the CRA entered into a First Amendment among the City of Hollywood, the Hollywood CRA, PB Hollywood 1, Hollywood Station LLC and PB Hollywood II Lofts, LLC. Since PB was the successor in interest in the project the CRA would be required to pay the incentive to PB in the amount of \$300,000 per year for eight consecutive years.

New development and redevelopment of blighted sites is at the core of what a CRA encourages. The Downtown redevelopment plan has subdistrict policies, and although this development is not located in the "Redevelopment Target Area" as contemplated in the plan, it is very clearly within the CRA District. Page

29, subsection 7 of the Downtown plan is entitled “Redevelopment Outside the Target Area,” and specifically states that substantial redevelopment should not be precluded from occurring in other areas of the district ([Exhibit 11-C](#)). It further states, “in fact, it is hoped that the initiative taken by the City within the Redevelopment Target Area would generate additional investor interest and development opportunities in those other subdistricts.” The redevelopment of this site and the associated incentives are proper pursuant to our Redevelopment Plan.

#### *Capital Improvement Plan Operating Support*

The Beach District transferred \$2,000,000 to the Central Services Fund (Fund 57) for the operating support provided by the Design and Construction Management team, including salaries and benefits, to project manage our Capital Improvement Program. Since 2006, the CRA has benefitted from high quality professional services at a better rate than industry standards. Contracting with the City is no different than hiring an outside contractor for these services.

Although the City’s budget narrative states that this was to pay the costs of City personnel in support of both districts, records show that at year ending September 30, 2011, capital improvement expenditures made did not necessitate the services of Design and Construction Management. Conversely, the Beach district has invested millions of dollars in beach projects and utilized the services of Design and Construction Management.

#### *Enhanced Maintenance Program*

The CRA had been paying a portion of the salaries of the City’s part-time employees working to clean the downtown area. In 2011, it was determined that they would no longer be providing the service and that the CRA would hire a private firm to provide supplemental maintenance to what the City was providing. The City now continues to provide the baseline level of service at no cost to the CRA, while the CRA contracts and directly funds a supplemental maintenance program.

#### *Hollywood Office of Tourism*

The report states that the Beach District Plan did not specifically provide funding for an office of tourism, advertising or cruise line marketing program. As mentioned previously, state statutes governing community redevelopment agencies do not require the exact words being in the plan, rather we make sure it meets the definition of redevelopment, it meets the vision and mission of the Agency and it meets one of the Redevelopment Objectives of the Plan. In fact, two (2) of the twelve (12) Redevelopment Objectives outlined in the Plan specifically recognize Tourism.

- To enhance Hollywood Beach as a tropical destination;
- To re-establish tourism as a vital industry in Hollywood Beach.

Further, pages 38-40 of the Redevelopment Plan ([Exhibit 11-D](#)) provide the basis for promoting a variety of tourist activities targeted at a diversified market. The CRA works to protect and grow Hollywood Beach’s share of destination travel and does so through integrated sales, marketing and advertising programs that drive visitation to and within Hollywood. Strategic, integrated and targeted campaigns are the cornerstone of the CRA’s efforts for maximizing market share. This integrated strategy also includes online, web and print promotions. Media objectives reinforce brand awareness of Hollywood Beach; target niche markets (couples considering destination weddings, cultural arts enthusiasts, ecotourists); create preference for Hollywood’s downtown and beaches by targeting various key markets (those arriving by air; the drive market interested in downtown/beach destination within driving distance; vacationers extending cruise vacation and local Hollywood / tri-county residents); and drive traffic to Hollywood CRA’s tourism website.

The report seems to suggest that through the Hollywood Office of Tourism, the CRA is paying for the benefit of the entire City. As a dependent special district, the CRA resides within the City of Hollywood. The Beach is the single most significant reason visitors come to Hollywood and Page 17 of the Plan outlines Redevelopment Objectives that speak directly to Tourism including the enhancement of Hollywood Beach as a tropical destination and re-establishing tourism as a vital industry. If the City of Hollywood and every business within the City excel due to the promotion of the Beach, it makes for a stronger tax base for the Beach District.

#### *Chamber of Commerce Agreement*

The CRA had entered into an Agreement with the Chamber of Commerce to provide business representation, tourism, business and economic development seminars, creating business friendly programs, creating an educational program and print and post an online directory. These services were provided for the benefit of promoting CRA objectives within the district to business owners and to those outside who wanted to relocate or move into the CRA. After the 2011 agreement for services ended, the contract was not renewed.

### **Finding No. 12 CRA Salary and Other Expenditure Allocations**

It should be noted that the CRA spends less than 10% of its' total expenditures on Administration. This finding does not suggest any violation of State Statutes or redevelopment plans; rather it is a difference of opinion on how to allocate salaries. The audit review team suggests that the CRA should use time records to determine amount of time spent between downtown and beach related activities for internal staff. While this is one way to allocate salaries, it is not the way the agency has chosen to make this allocation. The method currently utilized by the CRA is just as efficient and balanced.

To maximize efficiency, the Agency's staff provides services for both districts. Upon the recent merger of staff, it was determined that the easiest and most effective measurement to delineate services was to use a measurement that could be tracked on a global scale. As one Agency, the total amount of revenues received in any given year, has been rounded to approximately 80% beach revenues to 20% downtown revenues. Salaries for those employees who work specifically for one district are paid from that district (e.g. beach maintenance personnel are paid 100% from the beach.) All other CRA employees who work for both districts are paid based on an 80% (beach) and 20% (downtown) ratio. This ratio was determined based on the approximate revenues generated by each district. Although, there is annual fluctuation, the percentage is always roughly at the 80/20 split.

This merger of the administration of the districts, was directed by the CRA Board to more effectively and efficiently manage the CRA organization utilizing the economies of scale. Office space, copy machines, office supplies, telephone services, computer services, etc. are also charged this way. The measurement is predictable and can be utilized easily to reflect the appropriate cost. It would be virtually impossible to determine and predict prior to budget approval, a time record keeping method for staff and services. This would create uncertainty in the budget process since presumably the impact to salary allocations would not be known until year end.

The report also suggests that the time record method should be used by those City agencies that provide administrative staff time for CRA services. As described previously it was determined that this method of payment was the easiest and most effective measurement to delineate services. Although, the services were outlined many years ago and the amounts were agreed upon, we concur that an interlocal agreement for the purpose of providing services and establishing reasonable parameters for these services should be entered into between the City and CRA; however, we disagree that a time record method should be utilized. Many

of the administrative services provided by the City of Hollywood would be difficult to track using the suggested method.

The only difference would be in the design and construction management and police disciplines. The City has purchased project tracking software that can be utilized when the design and construction management staff work on specific projects. Through an Interlocal Agreement, staff can agree on a cap and then transfer funds at year end.

### **Finding No. 13**

#### **Ending Balance in CRA Trust Funds**

The report states that all funds have been properly appropriated as approved on the five year Capital Improvement Program with a majority of the funds currently available being originally committed back in 2006 for the Ocean Village at Hollywood Beach project that did not materialize and have since been re-obligated to Margaritaville. Had either of these projects moved forward in a timely manner, this finding would not have been made.

It should be noted that in 2006 the City of Hollywood, CRA and Ocean Village at Hollywood Beach entered into a binding contract to develop the Johnson Street site. The CRA had agreed to fund the construction of a 1,500 space parking garage and pay for public improvements on the site. This amount would have easily exceeded what was in the “fund balance” at the time, and we would have likely needed to borrow additional funds to cover the costs associated with this project. Since it didn’t move forward, and the Agreement was terminated in 2009, the City and CRA immediately issued a new RFP for a project on this site. All Ocean Village development project obligated funds would have then fallen back into the fund balance and been re-pledged to the CIP program.

\$15 million of these funds were set aside upon the contractual obligation in 2011 with Margaritaville Hollywood Beach LLC, to work with the City and the Developer on the development of a new project. An additional amendment approved by the CRA Board has now allocated \$23 million towards this project over the next two years. These funds have been rolled over yearly as they are already approved pursuant to CRA Board action and are reserved for this purpose. These funds will be fully expended upon construction of the project. If the project does not move forward, these funds will be utilized toward further implementing other CRA projects as identified in the CIP.

It is our intent and has been our intent to spend these funds for this redevelopment purpose as soon as the developer is ready to commence construction based upon the approved schedule and contractual obligations. This entire balance will be expended within the next two years to construct Margaritaville, the Phase III Underground Utilities and streetscape project, and a parking garage on City-owned land on the beach. The majority of funds that remain unexpended are contractually obligated to be expended.

The CRA has based its plans on realistic goals and time frames; however when third parties are involved sometimes projects take additional time. Florida Statutes do not provide for contingencies when moneys in the trust fund are approved, contractually obligated but not yet spent based on the time frames allowed. There is no intent by the CRA to continue to build reserves for the sake of building reserves. It is clearly the CRA’s intent to use the majority of these funds to partner with a Developer to utilize City-owned land for a major redevelopment site that will be a catalyst for additional redevelopment and will provide for significant tax revenue for the taxing authorities when the CRA expires.