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# California State Senate

SENATOR  
**DAVE MIN**

THIRTY-SEVENTH SENATE DISTRICT



COMMITTEES  
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BUDGET SUBCOMMITTEE #1  
ON EDUCATION  
ENERGY, UTILITIES AND  
COMMUNICATIONS  
JUDICIARY

January 3, 2024

Received 01-03-2023

Assemblymember Gregg Hart  
Chair, Joint Legislative Audit Committee  
1020 N Street, Room 107  
Sacramento, CA 95814

Re: Request for Audit of the City of Huntington Beach

Dear Chair Hart:

I write you to respectfully request that the Joint Legislative Audit Committee approve an audit of the City of Huntington Beach's settlement agreement with Pacific Airshow LLC to review the public funds that were used to compensate the Airshow for revenues lost due to the cancellation of one day of the 2021 Airshow and the closure of local beaches following the oil spill off the coast of Huntington Beach.

Since 2016, the City of Huntington Beach has hosted the Pacific Airshow and it has become a preeminent event in the nation with millions in attendance. Following the October 1, 2021, oil spill off of Huntington Beach, the City of Huntington Beach made the decision to close the beach because of potential health impacts, facilitate cleanup coordination efforts and cancel the last day of the 2021 Airshow.

Pacific Airshow subsequently sued the City of Huntington Beach to recover revenues it lost due to the cancellation of the Airshow. It is worth noting that the Pacific Airshow did not have a contract with the City, but just an Event Permit granted by the City. While there is no dispute that Pacific Airshow lost revenues due to the cancellation of the 2021 event, the settlement agreement reached between the City of Huntington Beach and the Pacific Airshow, a one page agreement which is attached, does not provide any information as to how the settlement payments were calculated or if they exceed appropriate compensation and constitute a gift of public funds. Neither the City nor the Pacific Airshow have publicly shown any evidence of lost profits.

Numerous requests have been made for substantiating documentation for the settlement agreement from the City of Huntington Beach but, to date, nothing has been provided and it is clear that there needs to be oversight as to whether the City of Huntington Beach decision to enter into this settlement agreement is a misuse of public funds.

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The scope of the audit request is as follows:

1. Determine how much the City of Huntington Beach (City) paid the company “Pacific Airshow” for any and all services from fiscal year 2019-20 through 2022-23. Based on this information, determine the following:
  - a. The amounts paid for each air show “event,” including any additional event-related expenses not explicitly required under the applicable contract or permit.
  - b. Whether the amount the City paid in the settlement agreement for the partially-cancelled 2021 air show event was more than the City would have otherwise paid if the show was not cancelled, and the reasons for any additional payments.
  - c. To the extent allowed under state law, describe the terms of the City’s settlement agreement with Pacific Airshow for the partially-cancelled 2021 air show event. If public disclosure of the settlement agreement is not possible, identify the specific reasons the City has declined to disclose it and recommend any steps the City or Legislature may take to better ensure future settlement agreements maximize public transparency.
  - d. To the extent possible, determine why the City settled Pacific Airshow’s claims related to the partially-cancelled 2021 air show event and how it arrived at the settlement amount, and recommend any steps the City or Legislature may take to better protect the City’s fiscal resources and potential liability in the future.
2. Evaluate the terms of the City’s applicable contract with, or permit issued to, Pacific Airshow and identify whether any cancellation or termination provisions adequately and reasonably protected the City’s financial interests. If any key provisions were missing, determine why and assess whether the City demonstrated due-diligence in creating the contract or issuing the permit.
3. Determine whether the City’s contracting with, or permit issuance to, Pacific Airshow complied with procurement or other applicable policies, and determine how the City selected and awarded the contract to Pacific Airshow, or how the permit was issued. Evaluate the extent to which the contracting process was competitively-bid, or the permit process was appropriately followed, and whether either process demonstrated best value or lowest cost to the City.
4. To the extent possible and as allowed under state law, determine why the City entered into a settlement agreement given the fact that there was no contractual agreement between the City of Huntington Beach and Pacific Airshow LLC, and whether there was a demonstrated legal shortcoming that the Event Permit issued was insufficient and would not hold up to legal scrutiny.

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5. To the extent possible, determine whether the payment by the City of Huntington Beach to Pacific Airshow was comparable to the losses the Airshow sustained due to the cancellation of the 2021 Airshow, and if so, what methodology was used to calculate the amounts.
6. Evaluate whether the parking subsidy provided in the settlement agreement was reasonably equivalent and standard as compared to other similar events held by the City of Huntington Beach.
7. To the extent possible and as allowed under state law, evaluate whether the Huntington Beach City Attorney acted in a manner comparable to other city attorneys and used best practices in executing the settlement agreement.

Thank you for your consideration of this request. Should you have any questions, please contact Jody Fujii, my Chief of Staff, at 916.651.4037.

Sincerely,

DAVE MIN  
Senator, 37<sup>th</sup> District

DM:jf