INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED UPON PROCEDURES FOR THE MILPITAS FIREFIGHTERS DENTAL PROGRAM AND REVIEW OF ACTIVITY FOR COMPLIANCE WITH THE AGREEMENT FOR THE YEAR ENDED DECEMBER 31, 2010

MAZE & ASSOCIATES

ACCOUNTANCY CORPORATION
3478 Buskirk Ave. - Suite 215
Pleasant Hill, California 94523
(925) 930-0902 · FAX (925) 930-0135
maze@mazeassociates.com
www.mazeassociates.com

INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED UPON PROCEDURES FOR THE MILPITAS FIREFIGHTERS DENTAL PROGRAM AND REVIEW OF ACTIVITY FOR COMPLIANCE WITH THE AGREEMENT FOR THE YEAR ENDED DECEMBER 31, 2010

Honorable Mayor and Members
of the City Council
Milpitas, California

We have performed the procedures described below, which were agreed to by the City of Milpitas to determine compliance with the Milpitas Firefighters Dental Program Agreement for the establishment of a Trust for the purpose of administering a self-funded dental care program between the City of Milpitas and the Milpitas Firefighters Union, Local 1699, for the Plan Year ended December 31, 2010. This engagement to apply agreed-upon procedures was performed in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the City. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures and findings are as follows:

1. We obtained the following documents for the Plan Year ended December 31, 2010:

    a. Profit and Loss Statement (revenue and expense summary by type and participant/dependents)
    b. Balance sheet
    c. Check register (total of the check register agrees to the expense in the Profit and Loss statement)
    d. Monthly bank statements
    e. Member claims (approximately 1,000 for the Plan Year)
    f. Procedures binder
    g. Copies of checks issued
    h. Blank check stock
    i. Dental procedure Fee Schedule dated May 8, 2005
    j. Tax documents from calendar year 2004
    k. International Association of Firefighter's Memorandum of Understanding dated January 1, 2009
    l. Report of the City's contributions to the Program for Plan Year 2010

2. We obtained the summary of checks that cleared the bank from January 1, 2010 to December 31, 2010 and we obtained the check register of checks written during that same time period. We compared the two files and selected checks for testing based on the following criteria:

    a. Checks for which the amount that cleared the bank did not agree with the check register (one check)
    b. Checks that cleared the bank that were not recorded in the check register (nine checks)
    c. All checks that cleared the bank in excess of $2,000 (twenty-three checks)
    d. Checks in the amount of $250 (one check)

    Copies of the total of thirty-four cancelled checks above were then obtained from the bank and used for testing of the claims supporting documentation. The results of those tests are included in the various sections below and in Attachment A.

3. We obtained the Milpitas Firefighters Dental Program Agreement (Agreement) between the City of Milpitas and the Milpitas Firefighters Union, Local 1699, dated June 10, 2004, which created a Trust for the purpose of administering a Dental Care Program (Program).

    a. The City and the Milpitas Firefighters Union were unable to obtain a signed copy of the agreement.

4. Article II, Section 1 of the Agreement – Dental Program Committee (Committee) – requires that five people be assigned as Committee Members (Members): four eligible employees of the Program which are elected from the membership of the Union, and one member appointed by the City Manager.

    a. Per review of the Program's Committee Member Listing, it is comprised of only four members from the Union membership, and no one was assigned to the post by the City Manager. Per our discussion with three of the Committee Members, only two members were active, participating Members during the entire Plan Year 2010. The other two individuals on the Committee Member Listing were not official Members and their function was to assist the remaining two Members when needed.

    In addition, of the four filled Committee positions, all were filled on a volunteer basis, and not by an election.

5. Article II, Section 2 of the Agreement – Term of Office – states Committee Members shall be elected to the Committee for two year terms, with office terms being staggered so two new Members are elected each year.

    a. Per review of the Program's Committee documentation, we were unable to determine that the Committee Members are being elected to two year terms, with the office terms being staggered.

6. Article II, Sections 3 and 4 of the Agreement – Officers and Duties of Officers – mandates the assigning of specific titles and duties to Committee participants, including: recording meeting minutes and posting the minutes at all fire stations and the Bureau of Fire Prevention, compiling and sending a yearly business transaction report to all retirees, and submitting an annual financial report to the City Manager and the Firefighters' Executive Union Board.

    a. Per review of the Program's Committee documentation, it appears the Committee has not assigned Titles or duties to its Members, other than the Dental Fund Committee Financial Officer.

    b. Per our conversation with three of the four Committee Members, when the Committee did meet, which it did not formally do during Plan Year 2010 (see Finding 8.a. below), no one recorded the meeting minutes. All actions taken or business items discussed by the Committee Members were done informally.

    c. It does not appear the Program has been compiling and submitting a yearly business transaction report to retirees or an annual financial report to the City Manager and the Firefighters' Executive Union Board.

7. Article II, Section 5 of the Agreement –Security of Account Access – asserts that all withdrawals from the Program's accounts require three authorized signatures and all reimbursement drafts require two authorized signatures. Article II, Section 9 of the Agreement indicates that the Dental Fund Committee Financial Officer and two of the Committee Members elected by the Firefighters Union are to be the only authorized signers.

    a. Per review of the summary of bank activity for program year 2010, there did not appear to be any withdrawals other than for reimbursement drafts and transfers between Program accounts. However, according to the Dental Fund Committee Financial Officer she was able to initiate the transfers between the accounts without the required three authorized signatures.

    b. We reviewed the cancelled checks related to the thirty-four reimbursement drafts tested and noted that they were signed by two people. However, the Agreement indicates that authorized signatures are Committee Members, and all of the tested reimbursement drafts included the signature of at least one inactive Committee Member.

       Per review of the bank statements and discussion with the Committee Members, it was noted that one individual who was no longer an active and current Committee Member was still listed on the Program's bank statements as being one of the legal owners, or authorized signer, of the bank accounts.

8. Article II, Section 6 of the Agreement – Quorum – indicates the Committee should be meeting on a monthly basis.

    a. The Program was unable to produce any documentation that the Committee has been meeting on monthly basis. Moreover, no evidence was found that indicated the Committee met at any point during Plan Year 2010. Per conversation with three of the Committee Members (see Finding 6.b. above), all were unsure and unclear about exactly when the Committee had "officially" met during the Plan Year 2010. The Committee Members did agree they had not been meeting on the required monthly basis and that at most, only three meetings had occurred over the course of 2010.

9. Article II, Section 7 of the Agreement – Dental Funds – provides that the minimum monthly contribution per active employee shall be $150, or the amount funded through the current Firefighter Memorandum of Understanding

    a. Per review of the International Association of Firefighter's Memorandum of Understanding dated January 1, 2009 and the City of Milpitas' "Benefit Check Request" for the period of April and May 2010, the current monthly contribution paid by the City for each active employee who is eligible to participate in the Program is $150.

    b. In addition, we obtained a report of the City's contributions for Plan Year 2010 totaling $101,100 and reconciled those contributions to the Program's bank statements without exception.

10. Article II, Section 8 of the Agreement – Investment – stipulates that all Program monies be deposited into an insured account with a locally managed bank or savings and loan association in an amount not in excess of the current federally insured limit.

    c. Per review of the Program's bank statements for Plan Year 2010, it appears all Program proceeds are being deposited into a locally managed bank, Common Wealth Central Credit Union, and the balances were well under the federally insured limit.

11. Article II, Section 9 of the Agreement – Disbursement of Funds and Administrative Expenses – specifies that a sum not to exceed $3,000 per fiscal year may be expended for administrative expenses, including postage, investigation of claims, state and federal filing fees and administrative services.

    a. Through the review of the Program's Profit and Loss Statement and the check register, it appears that during Plan Year 2010, the Program expensed $2,890 for administrative expenses. The Dental Fund Committee Financial Officer had recorded 11 checks from January through November payable to herself in the amount of $250 each, for a total of $2,750, and had recorded $140 payable to an accounting and tax firm.

    However, none of the checks associated with these expenses had cleared the bank in Plan Year 2010. Therefore we were unable to determine whether these costs were actually incurred and whether the checks were actually issued. The Dental Fund Committee Financial Officer indicated that she had paid the postage costs of the Program out of her own pocket.

12. Article II, Section 10 of the Agreement – Reports – charges the Committee with filing all reports, statements, application and other documentations as required by State of Federal Statutes.

    a. The Program is required to annually file Federal Form 5500, *Annual Return/Report of Employee Benefit Plan* and State Form 199, *California Exempt Organization Annual Information Return*. While inspecting the Program's tax documents, it became clear the Program had not been filing the appropriate tax forms to Federal and State Tax Authorities. The last tax form to be filed was for calendar year 2004, and although the Program has begun the process of filing its federal and State forms for years 2005 though 2008, no forms have been filed for those years to date. In addition, no records were made available to prove the Program had filed its tax forms calendar years 2009 and 2010.

13. Article III, Section 1 of the Agreement – General – provides that all reimbursements are for a portion of actual costs incurred by claimants for dental services, and all checks written for reimbursement shall be made payable to the main participant of the Program, and not his/her spouse and/or dependant(s).

    a. For the thirty-four reimbursement drafts tested, we found that only four of the drafts were supported by proof of payment by the claimant for the dental services and only three of the drafts were supported by proof of payment for a portion of the dental services. The remaining twenty-seven drafts were not supported by proof of payment by the claimant.

    b. Thirty-three of the thirty-four reimbursement drafts tested were written to the primary participant of the Program and not to his/her spouse and/or dependants. The remaining check was written to the widow of a deceased former participant of the Program. The Agreement allows the widows of deceased participants to remain in the Program until they remarry.

14. Article III, Section 2 of the Agreement – Dental Benefit Periods – states that the benefit period shall be each calendar month of the year, and eligible dental work done during the previous benefit period and paid for during a subsequent benefit period will be reimbursed in accordance with the Agreement as a percentage determined on the basis of funds available during a benefit period. In addition, the Program is not to reimburse members for procedures completed more than six months prior to the claim being submitted.

    a. We reviewed Program documents, including the thirty-four reimbursement drafts tested, supporting documentation and the accounting system reports for the Plan Year, but we were unable to determine if any percentage reimbursements were calculated based on the amount of Program funds available during a given benefit period.

       Per discussion with the Dental Fund Committee Financial Officer, she indicated that the balance of funds available in the Program to pay claims in a given benefit period had no bearing on the actual reimbursement amount.

    b. During our testing of the thirty-four reimbursement drafts tested, we noted two claims that were reimbursed for procedures that were performed more than six months prior to the claim.

15. Article III, Section 3, Subsection A of the Agreement – Eligible Employee – details eligible employees are those who are: full-time employees of the City and entitled to receive other fringe benefits provided by the City; represented by the Milpitas Firefighters Union or contributing to the Dental Program as Milpitas Fire Department Management; and not covered by the group dental insurance provided by a private insurance company through the City. It also demands that all employees falling under this categorization, new or old, must submit an "Enrollment Card" to the Committee to participate in the Program.

    a. The Dental Fund Committee Financial Officer was unable to produce Enrollment Cards for any of the participants.

       In addition, per review of the Chart of Accounts and per discussion with the Dental Fund Committee Financial Officer, it became clear the Dental Fund Committee Financial Officer is not actively managing the list of eligible participants of the Program. According to the Dental Fund Committee Financial Officer, no one in the history of the Program has been deleted from the Chart of Accounts, even after they became ineligible, and the Chart of Accounts is also not updated for changes in status of Program participants. As a result of this inaction, the Chart of Accounts cannot be relied upon as being a list of eligible participants.

16. Article III, Section 3, Subsection B of the Agreement – Eligible Dependents – stipulates a lawful husband or wife, a declared Domestic Partner, and unmarried children – either by birth, adoption, marriage, if still dependent, or legal custody, if still dependent – are all eligible participants of the Program. Unmarried children up to the age of nineteen are automatically active participants in the Program, but those children older than nineteen, up to the age of twenty-three and unmarried, must show proof of enrollment of an accredited school, college or university to be allowed to continue legitimate participation in the Program.

    a. Per review of the Program's Profit and Loss Statement and the Chart of Accounts, it appears reimbursements totaling $299 were paid to two dependents during the Plan Year who were older than 23 years as of January 1, 2010.

       We also selected all dependents who were over 19 that received a reimbursement during Plan Year 2010 from the Profit and Loss Statement, and found that of the five such dependents, the Dental Fund Committee Financial Officer did not have documentation for the proof of school enrollment. These five dependents received reimbursements totaling $5,088 during Plan Year 2010.

       Per review of the Program's Chart of Accounts, which details the entire list of participants under the Program, regardless of whether reimbursements had been paid during the Plan Year, there were 18 dependents between the ages of 19 and 23 and 33 dependents over 23 years old. However, of the 371 participants included in the Chart of Accounts, approximately 240 of the participants were not labeled as to whether they were the spouse, child, partner, etc., and the birth dates were not included for all dependents. Therefore, we were unable to determine whether there were additional dependents that may have been ineligible to receive benefits.

17. Article III, Section 3, Subsection C of the Agreement – Employees and Dependents Not Eligible For Benefits – excludes the following people from receiving benefits of the Program: those who do not contribute to the Program or have selected a group insurance plan provided through the City, spouses and dependents who become ineligible for support due to legal action and an employee who separates from the City prior to completion of his/her 5th year of employment. Also, in terms of COBRA coverage, the Program will provide coverage to a terminated employee for 18 months within the 5 year requirement, and this coverage is extended to 36 months in cases of death of the terminated member or divorce of the terminated dependent spouse.

    a. Per inspection of the City's records, no active firefighters were enrolled in any other dental program provided by the City except for the Fire Chief, but he was not enrolled in the Program when he was hired.

    b. We were unable to determine who, besides active Fire employees via the City's contributions, had been contributing to the Program for Plan Year 2010, because the Profit and Loss Statement included only deposits from the City. Although the bank statements included deposits in addition to those from the City, not all contributions received had been deposited with the bank (See #20.a below).

    c. The Program was unable to provide proof that it has been monitoring the eligibility status of participants – i.e. having dental insurance through the City, being a divorcee, etc. – along with the tenure of Program participants in order to determine if they could rightfully receive reimbursements from the Program.

    d. It came to our attention, per conversation with the Dental Fund Committee Financial Officer and per inspection of the Program's check register for Plan Year 2010, that an employee who was terminated on January 7, 2007 and elected to have dental benefits be paid under COBRA, has continued to receive reimbursement payments well beyond the 18 month limit. Payments to this former employee during Plan Year 2010 totaled $375.

18. Article III, Section 3, Subsection D of the Agreement – New Employees – indicates that all new employees must be employed by the City for at least six months before a dental claim can be reimbursed by the City, and submit an enrollment card. The section also specifies that new employees: will be eligible for 70% of maximum benefit during their first year of employment, 80% of the max benefit in their second year of employment, 90% in their third year of employment, and 100% of the max benefit thereafter. In order to receive such incremental increases each year though, employees must show proof they are receiving yearly dental examinations, prophylaxis and treatment. Failure to show evidence of these treatments annually results in the participant having their reimbursement percentage dropped to 70% automatically; where it then climbs annually again up to the 100% reimbursement amount. Also, new employees, prior to even receiving the 70% reimbursement, must submit documentation he/she has been receiving dental examinations, prophylaxis and treatment for the past two years prior to enrollment in the Program, otherwise such employee is not eligible to enter the Program. The Program will reimburse employees for up to two dental maintenance visits per year.

    a. The Dental Fund Committee Financial Officer was unable to produce documentation that she reviewed the employment tenure of new employees prior processing a reimbursement. Moreover, she did not provide the requisite enrollment cards as discussed in #15.a above.

b. The Dental Fund Committee Financial Officer did not provide evidence to show she has been calculating the reimbursement percentage based on documentation of participants receiving the required dental treatment prior to entering the Program; had no documentation that reimbursements are being paid according to the tenure scale noted above; and could not show proof she has been tracking member fulfillment of the annual dental examinations, prophylaxis and treatments.

c. Per review of the Profit and Loss Statement and Check Register for the Plan Year, we were unable to determine if the participants have been paid for more than two dental maintenance visits per year.

19. Article III, Section 3, Subsection E of the Agreement – Persons Leaving City Employment – states that if an employee leaves City employment, but meets the minimum requirements for participation in the Program, the Program will reimburse the individual(s) a prorated amount of Claims based on time worked during the benefit period.

    a. Per review of the check register and a terminated employee listing, it does not appear any claims were paid during the terminated employee's last eligible benefit period. Therefore, we were unable to determine if the Program was in compliance with the limitations of Agreement.

20. Article III, Section 3, Subsection F of the Agreement – Retiring Employees – mandates that those retirees who wish to continue in the dental Program must pay $900 in advance of the approaching calendar year for him/herself and their spouse. An additional charge of $15 per dependent per month is assessed if the participant wants and has dependents to be covered under the Program. Direct deposits made directly into the Program accounts are also acceptable means of payment, but if retirees wish to pay by check monthly, a $10 fee per month, per family is charged to the retiree as well. In order to be considered for retiree status under the plan, retirees must have worked at least five (5) years at the City. Dependents must be a dependent of the retiree at the time of retirement, and spouses of a deceased retirement member can remain eligible to receive Program benefits until remarriage. Finally, payments are due prior to the commencement of the coverage period, and no later than the 20th of the month. Payments are late after the 1st of the following month. Payments received 30 days past due are assessed a $50 fee, and the fee is netted with the retiree's subsequent reimbursement check. Retirees who are 90 days past due are immediately terminated from participating in the Program.

    a. Upon inspection of Program documents, it appears the Dental Fund Committee Financial Officer has not been tracking the receipt of retiree payments or whether retirees are on the lump sum payment plan or monthly payment plan. We were unable to determine whether all participating retirees had made the required contributions.

       It also came to our attention that the Dental Fund Committee Financial Officer had checks from retirees in her custody that had not been deposited in the bank that totaled $22,042.20, with check dates that ranged from June 6, 2006 to November 4, 2010, and the bank will not accept them for deposit since they are now more than six months old. This is a very serious internal control issue.

    b. We were unable to determine if the Dental Fund Committee Financial Officer was verifying if retiree participants had worked the requisite five years with the City prior to any reimbursement being processed.

21. Article III, Section 4 of the Agreement – Limitations of Eligible Costs – states that all claims for costs in excess of those determined to be "usual, customary and reasonable" for dental care will not be reimbursed. In order to determine what costs are "usual, customary and reasonable," the Committee must perform cost surveys from time to time. The Agreement also caps the participant benefit limit to $3,000 per calendar year, not including orthodontic work, subject to annual review by the Committee.

    a. Per review of the Fee Schedule and per discussion with the Dental Fund Committee Financial Officer, it appears the Committee has not completed periodic cost surveys as required, since the fee schedule has not been updated since calendar year 2005. Furthermore, by admission of the Dental Fund Committee Financial Officer, we understand the fee limits for some treatments have been increased on an annual basis by 5% per direction of the previous Dental Fund Committee Financial Officer; but no formal documentation has ever been created to record such increases and there was no Committee approval. All increases were made only by verbal comment and a written in notation on the Fee Schedule.

    b. Per review of the Profit and Loss Statement and the Check Register, it appears the Program exceeded the $3,000 benefit cap for seven individual participants during the year (total amount paid in excess of $3,000 was $6,731. However, the Agreement is not specific as to whether the $3,000 limit is per employee/retiree and individual dependent participant, or per family. If the Agreement limit is per family, there were an additional 10 participant families that exceeded the $3,000 limit by $12,226.

22. Article III, Section 5 of the Agreement – How a Claim is Filed – specifies that all dental work must be performed by a licensed dentist, with claims submitted having the respective license number on it. All claims must be a computer generated American Dental Association (ADA) approved form, and the Program's address must be written on it as well. Claims must include the heading "Milpitas Firefighters Dental Fund" or "MFFDF" in the "Insurance Company" section of the form. Other documentation needed on the form include: participant's name, address, patient name, birth-date, relationship to Program participant, the ADA procedure number, description and date of service, the fees charged per line item, the dentist's address and phone number, and the dentist's signature ("Signature on File" can be used in lieu of a real signature). Finally, all claims must show valid record the dentist has already been paid by the claimant prior to submission of claim. Failure to demonstrate payment of the claim or forms not completely filled out will be rejected and returned to the claimant for correction and re-submittal.

    Also, for those claimants who have secondary dental insurance through his/her spouse/ domestic partner, the aforementioned claim type is not required, but a Delta Dental, or similar insurance form, must be submitted which details all the same information. Claims must be submitted at the completion of dental treatment.

    For new employees/new members of the Program, only dental work paid for during the previous six months of employment – since an employee is ineligible to participate in the Program during the six month "waiting period" – can be reimbursed by the Program if a proper claim is filed. (See #18 above for further clarification of this "waiting period.")

    Finally, all overpayments of claims will result in the subsequent reimbursement being reduced by the same amount, and any underpayment will be brought to the Committee's attention and corrected accordingly.

a. We tested the thirty-four reimbursement drafts and found that seventeen of the reimbursement drafts should not have been reimbursed due to problems noted in the respective claim documentation. See a summary below and Attachment A for details:

   i. One had discrepancies between the dentist who signed the form, the dentist license number and the dentist office address listed on the form. The dentist license number provided was not for the dentist who actually signed the form, and the address for the licensed dentist that did sign the form did not agree with the address information on the Dental Board of California's website.

   ii. Eight did not have their respective claim form filled out correctly and/or entirely.

   iii. Two had claims which were submitted outside the 6 month window claims are allowed to be submitted for dental work performed.

   iv. Three did not use the proper ADA approved claim form.

   v. Three were reimbursed although we were unable to locate claim forms supporting the payments.

b. Regarding the verification of payment for the original dental work performed, see discussion at #13.a. above.

c. Due to the incomplete participant records as noted in #15 & 18 above, we were unable to determine if the Program has reimbursed new employees/new members of the Program for dentist work performed prior to the employee's six month "waiting period."

d. For the thirty-four reimbursement drafts tested, we recalculated the eligible amount of that should have been paid based on the Program's fee schedule and other factors including being supported by a valid claim form. Our testing yielded exceptions for twenty-nine out of the thirty-four reimbursement drafts in which they appeared to have been overpaid to the claimants, and per review of the Profit and Loss Statement, it appeared subsequent payments were not reduced by the potential overpayments. Of the total claims payments tested of $65,846.50, our calculation of the overpayments total $40,303.50.

   The recalculated amounts and detailed explanations for each exception are included in the table at Attachment A.

23. Article III, Section 6 of the Agreement – How Benefits will be Calculated – details the total liability of the Program is limited to the money being received from the City and retirees. It spells out a calculation which takes the Total amount of available dental money, divided by the Total amount of Employee Claims, and the result is the percentage of claims the Program can reimburse at a given benefit period. Claims can be reimbursed so long as the balance of all the money in the Program's bank accounts is greater than $30,000. If the proposed reimbursements results in the total assets of the Program falling below the $30,000 threshold, or the Program assets are already below the $30,000 threshold, the total amount of reimbursement shall not exceed $125 per participant per month. If the claim submitted is in excess of $125, the remaining amount will be paid out in $100 installments per month until the entire claim is paid in full.

    a. Through testing of the thirty four claims submitted for reimbursement and per discussion with the Dental Fund Committee Financial Officer, it does not appear the Dental Fund Committee Financial Officer has been employing the use of the "percentage of claims reimbursed calculation" at any point during the existence of the Program. No evidence has arisen which would dispute this claim either, since no such calculation is found in the Program's accounting software, check register or claim payment documentation.

    b. Upon review of the Program's bank statements for Plan Year 2010, it appears the total of all account balances fell below the required floor of $30,000 in May 2010 and remained below the required level through December 2010. In addition, the Program paid insufficient fund fees of $457 for the checking account and early withdrawal penalties of $246 for the Certificate of Deposit account during the year.

    c. Per review of the Program's bank statements, claims and check register, it appears that despite the Program falling below the $30,000 floor in May 2010, the Program failed to cap reimbursements at the mandated $125 level, and the subsequent $100 ceiling for the following months. The Program continued to pay out full reimbursements to claimants regardless of the provision to do otherwise; until ultimately, the Program exhausted almost all of its assets by the end of 2010, leaving it with only $4,382 as of December 31, 2010.

24. Article III, Section 7 of the Agreement – Eligible Dental Procedures – provides that the Program will reimburse up to $2,500 per participant for orthodontic work, once per lifetime, in addition to the $3,000 annual reimbursement limit for eligible procedures.

    a. Of the thirty-four reimbursement drafts tested, six were for claims submitted for orthodontic work. Of the six claims for orthodontic work, five of them were incorrectly paid the full amount of the orthodontic reimbursement, because they were not accompanied by complete supporting documentation. See additional explanations at Attachment A.

    b. Per review of the bank statements and check register for the Plan Year, it appears one participant who received orthodontic work in Plan Year 2010 was reimbursed for $123 more than the $2,500 ceiling.

25. Article III, Section 8 of the Agreement – Exclusions and Limitations – details all of the excluded procedures the Program will not reimburse. These include: any dental work covered by another dental insurance; cosmetics; injury incurred during the course of employment; injury incurred during an act of war; and any work that was done outside the period an employee is eligible to receive benefits of the Program.

    a. Of the thirty-four reimbursement drafts tested, one fell under the categorization of an excluded reimbursement – dental work covered by another dental insurance. The participant was reimbursed $210 despite having $82 of the claim reimbursed by a secondary dental insurance carrier.

26. Article III, Section 9 of the Agreement – Claims by Dental Committee Member or Family – stipulates all claims submitted to the Program from a Member of the Committee, and/or his/her actively participating family member(s), must be approved or disapproved by a majority vote of the unaffected Committee Members prior to being reimbursed by the Program.

    a. Based on our conversations with three of the four Committee Members, it appears the Committee is not approving or disapproving other Committee Member's claims by vote prior to payment of the reimbursement.

       Per review of the check register for the Plan Year, payments to Committee Members and their dependents, including the inactive Committee Member that signed checks during the Plan Year, totaled $6,565.

27. Article III, Sections 10 and 11 of the Agreement – Replacement of Dental Check and Expiration Date of Check, and Article IV, Sections 1, 2, 3 and 4 of the Agreement – New Procedures, Breach, Inspection and Audit and Appeal – propose nothing of significance for these agreed upon procedures, and as such, no work was performed.

28. We requested copies of the monthly bank reconciliations for the Plan Year and found that the Dental Fund Committee Financial Officer did not complete any reconciliations for the Plan Year. In addition, the Dental Fund Committee Financial Officer indicated that no one reviews the bank statements for activity each month.

29. Other matters that came to our attention during our agreed upon procedures, but which we were not charged with examining at the onset of our engagement, are as follows:

    a. Upon delivery of the Program's files and records to the City for this agreed-upon procedures engagement, the appearance and organization of the files in any reasonable or rational way was nonexistent. The files were in complete disarray and appeared to be just placed into a few boxes and bags without any order or organization.

    b. The Program should never pre-sign blank checks. When the Program's files and records were delivered to the City, it was noted that numerous blank checks had already been signed by three of the Committee Members, with two individuals being invalid check signers– see #4.a. above. This is a very serious internal control issue. Anyone who has access to the check stock could potentially write themselves a check for any amount and cash it without detection, especially since no bank reconciliations are performed – see #28 above.

c. The Program needs to maintain a valid check register. Upon comparison of the cleared checks listed on the bank statements and the check register, there were discrepancies found between the two sources, including:

   i. The check register did not include nine checks written by the Program that had cleared the bank. The checks totaled $3,440.

   ii. The check register had the wrong check amount recorded for one check – one check in the amount of $2,675 in the check register cleared the bank in the amount of $288.

   iii. The check register listed the same check number for multiple amounts to two different payees – check #5509 was recorded three times in the amounts of $2,500, $288 and $175, but the check cleared the bank in the amount of $288.

   iv. The check number for one check that cleared the bank statement (#8999) did not agree to the check number in the check register (#5521). Although the copy of the actual cleared check showed that the check number included in the check register was correct, documentation of this discrepancy should have been evident in the Program's records.

   v. The check register included checks that did not clear the bank – 23 such checks were found, dating from January 2010 to December 2010.

   vi. The check register includes six entries recorded without an associated check number. These entries were all payable to the Dental Fund Committee Financial Officer as discussed in #11 above.

d. The Program needs to issue checks in numerical sequence. When looking at the bank statements and check register and analyzing them by month, it appeared the checks being written and cashed by claimants were in no particular order or sequence. The check numbers varied greatly from month to month, including gaps in sequence of up to 184 checks, and it appeared the Dental Fund Committee Financial Officer was not issuing checks in numerical order.

Recommendations:

In general, as evidenced by the results of our testing above, the Program is not in compliance with almost all of the requirements of the Agreement and has some major internal control weaknesses. Assuming the Program Agreement is not revised, the Program needs to immediately implement procedures necessary to comply with the requirements of the Agreement and remedy the internal control weaknesses noted in our testing.

We have grouped our recommendations below into the areas of General Administration, Claims Administration, Accounting Administration, and Going Concern Issues.

General Administration

The executed Agreement should be located and copies of all fully executed agreements should be retained in a secure place. The executed Agreement should be reviewed in detail and used to develop a detailed schedule of procedures and timelines.

A Committee should be formally established that consists of the following:

- Five people with four positions filled by an election of Union members and one that is appointed by the City Manager.
- Members elected to office terms no longer than two years, with Member terms staggered accordingly.
- Members appointed the Titles in the Agreement, and the Members must perform their respective duties under each Title.

The Committee should not only begin meeting, but also meet on a monthly basis as the Agreement requires. The Committee should review all activity of the Program and provide oversight for the activities of the Dental Fund Committee Financial Officer. And, when the Committee holds meetings, the Secretary should document the meeting minutes and post them as required by the Agreement.

The Program should ensure that only active and current Members of the Committee are authorized check signers.

The Program must implement a process which requires the Committee to, by majority vote, approve or disapprove all claims submitted by a Committee Member and/or Committee Member's family prior to a reimbursement being paid to him/her.

The Committee should perform periodic cost surveys in order to determine what charges are to be reimbursed and the rate for each. The Committee should formally document rate increases or changes to the Fee Schedule, rather than the informal and verbal method it has employed in the past.

Finally, the Committee must be educated on the importance of complying with the requirements of the Agreement and ensuring proper internal controls are in place. During our work, the Committee Members interviewed indicated that the claims were not reviewed and activity was the responsibility of the Dental Fund Committee Financial Officer. In addition, they often referred to the "trust" between the participants and the Committee. Only one Committee Member interviewed was familiar with the Agreement, but still admitted that the Committee did not review all of the claims in detail. The Members indicated that signing blank checks was necessary due to the inability of all members to meet at the same time and that they trusted the process. This process cannot continue.

Claims Administration

The Program must establish procedures that ensure compliance with all claims processing requirements of the Agreement.

The Chart of Accounts must be reviewed in detail and updated to ensure that it includes only eligible participants. The Chart of Accounts must be actively managed. File documentation supporting the eligibility of each participant in the Chart of Accounts should be established, retained in an organized manner, and periodically reviewed for any changes. Eligibility documentation should include:

- Enrollment cards.
- Employment tenure for new employees.
- Records of new employees' dental maintenance for two years prior to admission into the Program.
- Dependent type and birth dates for those other than spouses.
- School enrollment information for children between the ages of 19 and 23.
- COBRA status for applicable employees and the expiration date of Program benefits.

The Dental Fund Committee Financial Officer must begin to monitor who is paying Program dues in order to establish who is eligible to receive reimbursement of his/her claims. And, all remittances from participants should be immediately deposited into the bank. In addition, the Program must determine which participants owe the Program contributions for the stale dated checks discussed in #20a above and request replacement checks from each participant.

Prior to processing claims for reimbursement, the Dental Fund Committee Financial Officer must:

- Calculate the funds available during the period and use the calculation to determine the percentage of claims reimbursement for each claim during the period.
- Review Enrollment Cards and/or other applicable participant eligibility documentation to ensure claims reimbursed are paid only to valid participants.
- Calculate the reimbursement ratio from the percentages in the Agreement based on the employee's tenure with the City.
- Reduce the benefit reimbursement ratio as indicated in the Agreement for any participant that does not receive the required dental maintenance each year.
- Obtain confirmation by some means – i.e. dental office receipt, check copy, etc. – which verifies the participant did pay for the dental services rendered prior to requesting reimbursement from the Program.
- Review the claim to ensure the dental procedures were performed less than six months prior to the date the claim is submitted. Those outside this window should be left to the responsibility of the claimant.
- Compare the dental procedures in the claim to the Fee Schedule and the Agreement to ensure they are allowable procedures and only the allowable cost is reimbursed.
- Review the claim forms in detail to ensure they are filled out completely and correctly and that only the appropriate ADA-approved claim forms are used.
- Review claim supporting documentation in detail and reduce the reimbursement for any payments made to claimants by other dental insurance carriers.

- Withhold reimbursement from any retirees that have not made the required contributions to the Plan.
- Review total reimbursements to date for the participant for the Plan Year to ensure total reimbursements do not exceed the $3,000 limit.
- Retain supporting documentation for each claim in the Program files.

The accounting records must be revised or organized to ensure they can facilitate the claims documentation requirements of the Program, including:

- How many dental maintenance visits each participant receives during the year to ensure compliance with the Agreement reimbursement limitations.
- The participant's reimbursements to date for the Plan Year.
- Whether a participant has received the maximum lifetime orthodontic reimbursement of $2,500.

Other claims processing changes that are necessary:

- The Program must discontinue reimbursement to the individual that has exceeded the COBRA eligibility timeframe immediately, and initiate procedures to ensure payments to ineligible participants do not occur in the future.
- The Program must cease paying claimants the full orthodontic reimbursement without submission of proper documentation.

Although the Program should consider streamlining, clarifying, and simplifying the requirements of the Program Agreement, the Program should also consider using the services of a third-party claims administrator, rather than a firefighter to process claims. A third-party claims administrator specializes in this type of work and would be able to provide the claims administration, premium collection, enrollment and other administrative activities, usually in a more efficient manner. The claims administrator would also be able to provide schedules of "industry-standard" reimbursement rates for dental procedures that may even reduce the costs of the Program. In addition, by employing a third-party claims administrator, the tasks of the Dental Committee could be reduced so that it periodically meets to review claims activity for the period and review financial reports of the Program to ensure the goals and objectives are being met.

Accounting Administration

The Program should consider using a trained bookkeeper or accountant to perform the functions of the Dental Fund Committee Financial Officer, rather than a firefighter. The current Dental Fund Committee Financial Officer does not appear to have the training, experience, background and/or skill set to properly oversee and run the Program in compliance with the requirements of the Agreement. A bookkeeper or accountant would have the time and ability to perform all of the necessary functions required by the Agreement and would have the knowledge to use, streamline and maintain the accounting records. The Program must appoint someone who has the required knowledge to manage the Program and its reimbursements according to the specific requirements of the Agreement while maintaining basic internal controls.

Whether or not the Program changes the person performing the Dental Fund Committee Financial Officer functions, the following accounting and internal control procedures should be implemented immediately:

- Cease pre-signing blank checks, and only sign them once the claims have been approved by the Committee and the checks are ready to be processed and mailed out to the intended recipient.
- Ensure that three authorized signatures are used for account withdrawals. In addition, since the Agreement requires three authorized signatures for account withdrawals, the Program's agreement with the bank should be amended to include that requirement for account transfers.
- Update the bank signature cards for all accounts to reflect the most current and active Committee Members who are authorized to have access to the Program's assets.
- Establish receivables for all participating retirees, regardless of whether they are on the lump sum payment or monthly payment plan.
- Issue checks in numerical order and control the unused check stock to ensure only authorized disbursements are issued.
- Ensure that all activity of the Program is recorded in the accounting records.
- Complete monthly bank reconciliations. The reconciliations should be reviewed and approved by a second authorized person.
- Periodically review Plan Year-to-date expenses to ensure the Program does not exceed $3,000 of administrative expenses in any Plan Year. And, the Dental Fund Committee Financial Officer should be reimbursed for her actual costs incurred and should not record checks payable to herself without proper documentation.
- Program reports should be compiled, submitted and distributed to the intended parties as is called for in the Agreement.
- Begin the process of filing the appropriate tax forms with Federal and State officials, and ultimately complete its submission of the required tax forms for the missing calendar years.
- Implement a review process to monitor the monthly balance of all the money in the Program's accounts, so if the total does fall below $30,000 the Dental Fund Committee Financial Officer and Committee are alerted accordingly, and action can be taken.
- The Program must start to consider the amount of money it has at its disposal when paying claims, or if it does fall below the $30,000 threshold, it must adhere to the $125 and $100 claim limits imposed by the Agreement. Whether this can be done through the integration of a better software system, greater overall supervision of the Program or by some other means must be determined, but something needs to occur immediately to remedy the complete disregard for the Agreement mandates.

If the Program is unable to make the necessary revisions to the existing accounting system that would facilitate the claims processing information discussed in the Claims Administration recommendations above, the Program should implement a system that does.

The Program must improve its overall file maintenance and upkeep. The Program must begin to organize and maintain its files in a more professional and tidy manner so records can be easily found and referenced when needed.

Going Concern Issues

Based on our agreed-upon procedures work, the Program appears to be in complete disarray. Participants have been reimbursed in excess of eligible costs, participant contributions have not been deposited in the bank, blank checks have been signed by Committee Members, and the Program resources have been nearly depleted. As discussed above, the Program must be reorganized and/or restructured immediately, or it will not have funds sufficient to continue as a going concern.

The funding structure of the Program must be reviewed and revised. Under the current structure, the Program does not take in enough resources to fund the potential benefits payable to participants under the Agreement. The City pays an annual total of $1,800 per active firefighter and retirees pay $900 annually for him/herself and their spouse and only $180 annually for each of their dependents. However, the potential annual benefit for each participant is $3,000 plus a one-time benefit of $2,500 for orthodontic work that could be earned at any time. As mentioned in #21b above, the Agreement is not clear as to whether the benefit limit is per employee family or per participant. It appears that the Program has been operating under the assumption that it is a per participant limit. That means the potential benefits per employee/retiree, their spouse and two dependents could range from $3,000 to $12,000 per year, and that is before taking into consideration the one-time orthodontic reimbursement of $2,500 which claimants get on top of the $3,000 limit. Again, without a change in the current funding structure, the Program does not collect enough money or have the resources to incur these potential annual expenses.

The Agreement does include the provision that benefits are only to be paid based on available funds; however this has not been taken into consideration at any time during Plan Year 2010. Although reduced benefit payments should be made when funds are not available, the Agreement does indicate that the benefits are still due to the participant, so that does not relieve the Program of the potential benefits in excess of resources.

In addition, the Program should consider closing the bank accounts it currently has open and start anew. Due to the discrepancies noted in the accounting records, it is unknown how many checks have been written by the Program that have not yet been cashed. It also is unknown how many signed blank checks are not in the custody of the Program and could be used to draw down the assets of the Program. Therefore, the Program should consider closing its existing bank accounts to secure the remaining funds it has at its disposal.

Finally, the Program should determine whether the overpayments to the individual participants noted in 2010 (as discussed in #21 b and Attachment A) should be recovered from the participants.

****

We were not engaged to, and did not, perform an audit, the objective of which would be the expression of an opinion on the specified elements, accounts, or internal controls. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the City and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of the procedures for their purposes.

Maze & Associates

April 11, 2011

This Page Left Intentionally Blank

Attachment A

	Check or Wire Date	Check or Wire Number	Claim For	Eligible Status? (Active vs. Retiree)	Amount Claimed	Procedure Date(s)	Hire Date	Recalculated Eligible Amount Per Agreement Guidelines	Amount Paid per Bank	Difference between Eligible Claims and Actual Reimbursement	Reason Claim Costs Deemed Ineligible
1	12.17.2009	5350	Self	Active	153.00	11.24.2009	1.4.1988	153.00	153.00	0.00	
2	12.17.2009	5343	Spouse	Active	175.00	11.11.2009	4.12.1989	0.00	175.00	(175.00)	Claim form did not include the Milpitas Firefighters Dental Fund in Carrier Name section. If form had been completed correctly, only costs of $154 appear to be eligible under the Agreement.
3	12.17.2009	5342	Self	Active	1,287.00	11.30.2009	6.8.1998	1,155.00	1,268.00	(113.00)	Costs paid exceed eligible costs per Agreement.
4	12.17.2009	5334	Child	Active	90.00	11.23.2009	8.2.2004	62.00	63.00	(1.00)	Costs paid exceed eligible costs per Agreement.
5	11.16.2009	5311	Child	Active	822.00	A	10.26.1998	0.00	580.00	(580.00)	A
6	7.15.2010	5256	Self	Retiree	200.00	4.6.2010	N/A, retired	158.00	158.00	0.00	
7	7.15.2009	5215	Spouse	Retiree/Deceased	195.00	6.22.2009	N/A, retired	154.00	195.00	(41.00)	Costs paid exceed eligible costs per Agreement.
8	3.12.2010	5416	Self & Spouse	Active	3,220.00	2.17.2010	5.18.1998	2,225.00	2,300.00	(75.00)	Costs paid exceed eligible costs per Agreement.
9	2.18.2010	5400	Child	Retiree	5,500.00	1.18.2010	N/A, retired	2,500.00	2,500.00	0.00	
10	2.18.2010	5398	Self	Active	3,968.00	2.10.2010	1.4.1988	3,000.00	3,000.00	0.00	
11	2.18.2010	5397	Self	Retiree	2,208.00	1.15.2010	N/A, retired	0.00	2,208.00	(2,208.00)	Claim form did not include the Milpitas Firefighters Dental Fund in Carrier Name section. If form had been completed correctly, all of the costs claimed appear to be eligible under the Agreement.
12	1.25.2010	5388	Self	Retiree	2,376.00	12.17.2009	N/A, retired	2,055.00	2,070.00	(15.00)	Costs paid exceed eligible costs per Agreement.
13	1.15.2010	5382	Self & Spouse	Active	2,305.00	12.7.2009, 12.16.2009, 12.21.2009, 12.22.2009 & 12.29.2009	9.28.1999	2,495.00	2,621.00	(126.00)	Costs paid exceed eligible costs per Agreement.
14	1.15.2010	5364	2 Children	Active	2,305.00	12.11.2009	10.26.1998	256.00	2,512.00	(2,256.00)	Claim form did not include the date one of the procedures was performed.
15	1.8.2010	5357	B	Retiree	B	B	B	B	2,668.00	(2,668.00)	B
16	7.15.2010	5185	2 Children	Active	2,426.00	5.3.2010 & 5.17.2010	1.4.1988	0.00	5,187.50	(5,187.50)	Dentist license and address information listed on the claim form did not agree with the dentist that signed the form. If form had been completed correctly, only costs of $1,697 appear to be eligible under the Agreement.
17	7.15.2010	4188	C	Active	C	C	C	C	2,500.00	(2,500.00)	C
18	8.17.2010	5521	2 Children	Active	528.00	7.6.2010	10.26.1998	373.00	528.00	(155.00)	Costs paid exceed eligible costs per Agreement.
19	12.17.2009	5353	D	Active	D	D	10.26.1998	D	320.00	(320.00)	D
20	4.15.2010	5442	Spouse & Child	Retiree	1,578.00	3.19.2010 & 3.22.2010	N/A, retired	1,451.00	2,398.00	(947.00)	Costs paid exceed eligible costs per Agreement.
21	8.17.2010	5520	Spouse & Child	Active	7,015.00	6.14.2010 & 7.19.2010	3.29.1993	868.00	3,368.00	(2,500.00)	Claim for orthodontic reimbursement was not accompanied by the applicable ADA form.
22	8.17.2010	5518	Self & Spouse	Active	3,175.00	6.24.2010 & 6.29.2010	4.12.1989	0.00	2,675.00	(2,675.00)	Claim form did not include the Milpitas Firefighters Dental Fund in Carrier Name section. If form had been completed correctly, only costs of $2,654 appear to be eligible under the Agreement.
23	6.15.2010	5497	Self, Spouse & Child	Active	2,141.00	7.28.2009	10.20.1986	0.00	2,067.00	(2,067.00)	Dental work was performed more than six months prior to filing of claim.
24	6.15.2010	5496	Spouse	Active	2,700.00	5.15.2010	5.10.1982	0.00	2,542.00	(2,542.00)	Unable to determine that the claim form was valid, because it had been corrected via the use of white-out.
25	6.15.2010	5495	Spouse	Active	3,190.00	4.30.2010	9.28.1999	2,659.00	2,659.00	0.00	
26	6.15.2010	5487	Spouse & 2 Children	Active	1,502.00	3.17.2010, 4.21.2010 & 5.14.2010	5.28.1984	1,468.00	4,002.00	(2,534.00)	Claim for orthodontic reimbursement of $2,500 was not accompanied by the applicable ADA form. For the remaining portion of the claim, only costs totaling $1,468 were deemed to be eligible under the Agreement.
27	5.15.2010	5474	Self	Retiree	2,155.00	3.31.2010 & 4.5.2010	N/A, retired	2,154.00	2,155.00	(1.00)	Costs paid exceed eligible costs per Agreement.
28	5.15.2010	5466	Self & Spouse	Retiree	2,443.00	2.9.2010, 4.7.2010 & 4.12.2010	N/A, retired	0.00	2,136.00	(2,136.00)	Claim form did not include the Milpitas Firefighters Dental Fund in Carrier Name section, and one procedure listed did not appear on the Fee Schedule but was reimbursed using a different procedure number on the Fee Schedule. If form had been completed correctly, only costs of $1,243 appear to be eligible under the Agreement.
29	5.15.2010	5458	Spouse & 2 Children	Active	4,264.00	4.7.2010, 4.9.2010 & 4.19.2010	10.20.1986	0.00	2,690.00	(2,690.00)	Claim form did not include the Milpitas Firefighters Dental Fund in Carrier Name section, the "other coverage" section was blank, and the reimbursement was not reduced by the $82 paid by another carrier. If form had been completed correctly, only costs of $2,608 appear to be eligible under the Agreement.
30	4.17.2010	5452	D	Active	D	D	D	D	2,500.00	(2,500.00)	D
31	10.15.2010	5582	Child	Retiree	250.00	1.18.2010	N/A, retired	0.00	250.00	(250.00)	Dental work was performed more than six months prior to filing of claim. If the work were completed within the six month period, only costs of $94 appear to be eligible under the Agreement.
32	11.21.2010	5692	Self	Active	6,752.00	10.8.2010	11.12.1984	2,100.00	3,000.00	(900.00)	F
33	10.15.2010	5578	D	Active	D	D	D	D	2,110.00	(2,110.00)	D
34	8.17.2010	5509	Spouse & Child	Retiree	288.00	7.26.2010 & 7.29.2010	N/A, retired	257.00	288.00	(31.00)	Costs paid exceed eligible costs per Agreement.
					$65,211.00			$25,543.00	$65,846.50	($40,303.50)	E

A Procedure dates not included on claim form.

B Claim forms matching amounts reimbursed could not be located. Did locate one claim form for orthodontics in the amount of $2,500, but it did not have the date of the procedure listed, so it is unclear if it was reimbursable. Another claim form was located with a claim of $154, but eligible costs were only $147. Since these two claim forms total $2,654, but $2,668 was reimbursed, we are not sure if the claim forms located are related to this payment.

C Claim was for orthodontic work, but it was not submitted on the ADA-approved form.

D Claim form could not be located.

E Ineligible amounts in addition to those noted in A-D above include items such as incomplete or incorrect claim forms. Although some of the discrepancies in the claim forms are minor issues such as the omission of the Program address from the form, the Agreement indicates that reimbursement should only be made to complete and valid claim forms. Therefore, we have calculated the "eligible" amounts based on the strict interpretation of the Agreement.

F One of the Committee Members sent an e-mail to the other Committee Members dated November 8, 2010 indicated that claims submitted after that date would be reimbursed at only 70% due to the lack of funds available in the Program accounts. However, this claim was reimbursed at 100% of the claimed costs.