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CF09-0149**ITEM 7 Public Safety Cmte 5/24/10**

J. White

**STATEMENT of J.H. McQUISTON on
AMBULANCE SERVICE FEES**

Honorable Chairman and Members of the Committee:

Article 13 D, Section 4, California Constitution, limits fees or charges:**“including, but not limited to, police, fire, ambulance or library services, where the service is available to the public at large in substantially the same manner as it is to property owners.”****Before Articles 13 were enacted, it is unassailable that all fire services including ambulance services were financed from taxes on properties.**

It is also unassailable that ambulance services were available to the public at large in substantially the same manner as they were to property owners.

Thus it is entirely probable that an action in a court of law could result in a prohibition on fees for fire and ambulance services by the City Fire Department.**A Court action alleging such an unconstitutional act, if sustained, is a liability to be imposed on the perpetrators and not on the City, because the voters of the City authorized no City official nor employee to commit an unconstitutional act.** Constitutional torts thus are not defensible by any part of the City's organization, including defense by the City Attorney if acting in accordance with City Charter.**For budget-balancing, there is a “safer” approach for the City's officials and employees than inviting legal challenge by fire or ambulance fees. And timely, full-collection is guaranteed by the “safer” approach.***See the various recommendations already filed in CF10-0600 for the “safer” approach, which is specifically-allowed by Article 13 D, the California Code, and the California Supreme Court.*

Respectfully submitted,

c: Interested parties

J. H. McQuiston

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