

● **McQUISTON ASSOCIATES**

6212 Yucca St, Los Angeles, CA 90028-5223

(323) 464-6792 FAX same

consultants to technical management

May 3, 2012

**CF12-0600**

**GENERAL COMMENT**

E. Pulst

**STATEMENT of J.H. McQUISTON on  
A SOURCE of FUNDS for ONGOING PATCHES**

Honorable Chairman and Members of the Committee:

**Please refer to the April 30, 2012 Statement on the "Sidewalk Repair Issue"** for a Source of Funds which may be used as a **PERMANENT (i.e, covers present and future) FIX** for many budget dilemmas you have heard about this week.

Item 33, page 562, is for \$3,306,095 that **California Streets & Highways Code Sections prohibit:**

**"§ 5611. Notice to repair**

When any portion of the sidewalk is out of repair or pending reconstruction and in condition to endanger persons or property or in condition to interfere with the public convenience in the use of such sidewalk, the superintendent of streets **shall notify the owner or person in possession of the property fronting on that portion of such sidewalk so out of repair, to repair the sidewalk. "**

(Added by Stats.1941, C. 79, p. 874, § 1.)

And:

**"§ 5875. Duty to construct**

The owners of lots or portions of lots fronting on any public street or place when that street or place has been improved by the construction of sidewalks or curbs for a total frontage of more than fifty percent (50%) on one side of such street or place in any block, or where a petition signed by the owners of more than sixty percent (60%) of the front footage of the block has been filed with the city clerk requesting the installation of such improvements, or where a petition signed by the owners of more than sixty percent (60%) of the front footage of any part of an unimproved portion or portions of a block has been filed with the city clerk requesting the installation of such improvements in front of said part, or whenever the legislative body of the city upon its own motion orders the installation of such improvements in front of said part, **shall have the duty of constructing or causing the construction of sidewalks or curbs in front of their properties upon notice so to do by the superintendent of streets."**

(Added by Stats.1945, c. 1339, p. 2508, § 1. Amended by Stats.1959, c. 1069, p. 3129, §2; Stats.1961, c. 1826, p. 3895, § 1.1; Stats.1963, c. 1837, p. 3786, § 2; Stats.1970, c.1031,p. 1843,§ 1.)

Constitution Article 1 Section 7(b) prescribes:

**"A citizen or class of citizens may not be granted privileges or immunities not granted on the same basis to all citizens. Privileges or immunities granted by the Legislature may be altered or revoked."** (Added Nov 4, 1974. Amended Nov 6, 1979.)

**The above requires this Committee to remove Item 33 p.562 from an expense for the General Fund and free the appropriation for other uses.**

The Mayor and the CAO have been informed of the above prohibition and opportunity to re-program.

In the case of the lawsuit settlement cited in the April 30 Statement, the plaintiffs are to get up a body to notify the City regarding up to 3,000 places requiring fixes. At Dept estimate of \$3,500 each, and the settlement requiring fixes this Budget FY, Item 33 is not enough to complete the work. But as set forth in the April 30 Statement, complying with State Constitution and Law will enable the work to be done by a permanent

**alternative method at little City cost.**

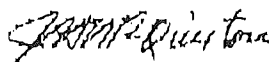
This proposal has been checked with Street Services GM Saucedo and is a "go". The Department already has a system used for an ongoing responsibility involving assessment of work connected with property owners.

Payment may be collected by invoice, by addition to property tax, or by yearly installments **per State Code**.

The LAMC **already contains the appropriate authority for the Department to enforce per State Law**.

The approach in the April 30 Statement may also be utilized to **shift discovery of unlawful property conditions to neighborhood council monitoring, which is what the Charter Section 910 requires of them**.

Respectfully submitted,



c: Interested parties

J. H. McQuiston