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**STATEMENT of J.H. McQUISTON on
BUDGET PROPOSAL for FY 2014-15**

Honorable Chairman and Members of the Committee:

Los Angeles does not keep its books on an "accrual" basis. I conclude:

Los Angeles made a FY 2013-14 "net profit" of \$465,424,311.00, according to the figures in the Mayor's FY 2014-15 budget books. The City shouldn't amass an obscene "profit", it should alleviate issues instead.

1. I propose: This Committee should insist that the Council henceforth requires the Mayor, the Council, and every City Department and Non-Department to propose budgets which are close to what will actually be put into practice.

I propose: Budget-Proposers must operate within ten percent of their budget requests, or at the end of the Fiscal Year they shall be appropriately-penalized.

I propose: Last-minute expenditures or curtailments not reasonably-similar to average-expenditures be defined as budget-violations for purposes of censure.

City Government's purpose is to promote well-being and safety to its inhabitants. Sequestering \$465 Million does not promote well-being. People need safe parks for physical-exercise to be well. People need City amenities close to work and home. City is failing to respond, having funds to satisfy people's need.

This Committee can correct the above by enacting statutory language in the budget for FY 2014-15.

2. In *deVita v County of Napa*, 9 Cal 4th 763, Justice Mosk set forth at 790-91:

"[P]lanning decisions are frequently driven by the desire of local governments to approve development *that will compensate for their diminished tax base* in the post-Proposition 13 era. **It was presumably to curb an excessively ad hoc planning process** that the Legislature *limited the number of amendments* to any mandatory element of the General Plan *to four per year*. General Plans that change too frequently to make room for new development will *obviously not be effective in curbing "haphazard community growth"*.

Justice Mosk's words pertain to City's scheme for amassing income. By inviting violations of City's General Plan, promoting "pseudo-amendments" almost weekly, and therefor assessing exorbitant amounts on developments getting ad hoc zone amendments, City invites and may incur penalties drastic to its budget and damage its ability to promote well-being and safety.

Example: Constitution Article I Sec 7(b) limits the allowable-fee for a developer's appeal, now in excess of \$5,000, to an opponent's appeal-fee, now little-more than \$100, because the City's cost-of-service is essentially the same in both cases and City must provide equality of service. Yet City "gouges" developers, as "cash cows". Providing equal fee for equal service slashes current funding for respective Schedules and will substantially-reduce budget s for Departments now funded by the slashed-Schedules.

Example: "Milking cash-cows", Departments may solicit "variances" or "zone changes" to collect excessive fees. They may pay just to avoid incur future City harassment. But "cash-cows" will advertise City as development-unfriendly and thereby thwart City's appropriate economic-expansion and Budget.

Example: City Attorney remains silent *even when asked what law requires*, at deliberations. Lawsuit brings work for Attorneys. But **unnecessary-litigation reduces City's well-being and safety-capabilities.**

Example: Planning said Hollywood Plan Amendment had over 105 public meetings, a great budget-expense. Yet as quick as it was enacted the Court declared it *void ab initio*, because it **obviously-violated State Law as Planning was told at each meeting.** After-decree, City Attorney framed an amendment which was **outlawed specifically by the decree.**

Example: Building & Safety Dept, *because it interprets the law of California with respect to public safety, requires at its head a Licensed Professional Engineer. There is no State law requiring same for Planning.* Yet City Code permits Head of Planning Dept to over-rule B&S regarding the law.

Example: California law decrees that City's zoning *must be consistent with its General Plan.* City sued California, claiming Article XI allowed City to ignore the Legislature's Govt Code 65860 consistency-law, but the Court in 1982, 138 Cal App 526, decreed otherwise. **City still invites inconsistencies and defends suits arising therefrom, promoting budgetary-waste time after time.**

This Committee can stop the above-waste, by enacting statutory language prohibiting Executive or Legislative Department from soliciting, encouraging or attempting departures from State or City laws, on penalty of reducing budget or firing offenders.

3. Mayor's budget proposes receipt of \$1,630,361,000.00 property taxes. Appropriate action in court could bring at least \$652,144,400 more. **Think about how much-better the City's well-being would be with that increase: How many more perquisites our inhabitants would enjoy, How much more reasonably-priced housing we could have, How many more supervised-playgrounds for all parts of the City we could fund, What better roads and fire and police protection, What faster service-responses would be possible.**

The County is allowing Article XIII to be administered incorrectly, regarding COLA. City-action could correct the error; *Nordlinger v Hahn* decided by the Supreme Court was not about COLA.

This Committee can begin the above-recovery by requiring Controller to Report the amount of potential taxation of all property in City, from date of acquisition or effective date of Article XIII— whichever is later, using local COLA updated each year to present time.

4. **State Streets & Highways Code prohibits paving of roadway in City except by Streets & Services Dept.** Code requires City to **bill property owner** for paving on City's **easement over owner's property.**

Code defines anything within the easement except the street-paving as "sidewalk"; that is, lighting, hydrants, pipes, vegetation, curb & gutter, and **alleys** are "sidewalks.

Code requires City to **bill property owner** for "work" it performs on "sidewalks". **In reality, even if repairs last only 20 years a typical repair only costs \$9 a month for property owner. And, property owner may repair the damage or put in new construction by itself more-efficiently and faster than Street Services can.**

That is also what City demands in LAMC: Owner fix, or City will fix, and bill work plus overhead plus up to 40 percent extra, as State permits. Of course City must install ramps and make repairs on "sidewalks" and "streets" on property it owns, because **the City must demonstrate it is law-abiding regarding A.D.A., lawsuits, and State Law.**

Street Services must have an amount budgeted for the work, and hire-out "sidewalk" work where it is prudent for the budget. For work on non-City properties, Code Section 5870 et seq controls "construction" (which includes reconstruction) of "driveway" (which includes curb-cut for ADA where necessary) on any block having "previous construction" of driveways; Section 5610 et seq controls "sidewalk" maintenance and repair.

Every day the City fails to send the property-owner the statutory "notice to repair" or "notice to construct", the City is at-risk, and potential liability is in tens-of-millions per year. See, e.g., *Jones v Deeter* and *Alpert v Villa Romano*.

The general-rule in City is that property-owner owns to center of street. City has a limited easement to pass-over, which usually-includes a shallow depth on the property. Attached improvements belong to the property-owner unless specified otherwise in writing. Government Code permitting City to expend its funds for work prior to assessment is subservient to Streets & Highways Code requiring reimbursement from property-owner; see Supreme Court's *Redondo Beach v Dade* (its Treasurer wouldn't pay with City funds).

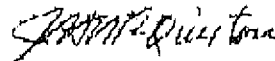
Property owners who were required to pay for construction or repairing streets or sidewalks on their property would be outraged if also required to pay for constructing or repairing their neighbors' properties. Such would also not be Equal Protection of law per Article I Section 7(b). See also *11 Op Atty Gen 230*: (Streets & Highways Code compels specific-assessment in Charter areas).

This Committee can **make the City beautiful and safe** by statute budgeting funds to require property owners to maintain, repair, or construct "their sidewalks". **There is no reason whatsoever for not doing-so.**

The above four topics are what I believe are the most-important modifications to the Mayor's budget.

I will propose other modifications as each is presented to this Committee in the Budget Hearings.

Respectfully submitted,



J. H. McQuiston

c: Interested parties