



● McQUISTON ASSOCIATES

6212 Yucca St, Los Angeles, CA 90028-5223

(323) 464-6792 FAX same

consultants to technical management

April 30, 2014

CF14-0600 Street Services

B&S 5/1/14

E. Pulst

**STATEMENT of J.H. McQUISTON on  
STREET SERVICES' BUDGET**

Honorable Chairman and Members of the Committee:

1. There is no question that the City may repair "sidewalks" which lie on property which the City owns. But it does not own property on which most "sidewalks" lie. Although Street Services performs brilliantly, Mayor's budget may ask for an unlawful operation: "Sidewalk" reconstruction and repair on property not City-owned, without required-reimbursement from underlying property-owner.

The excuse that "sidewalk" damage is ever-caused by "City trees" is nonsense and legally-indefensible. In 11 *Op City Gen* 230, the California Attorney General said:

"Since the [ ] lot owners may be compelled [per State and City law] to assume the cost themselves, the propriety [of City's "sidewalk" reconstruction or repair] without requiring reimbursement, may be open to question as a gift of public money (Const. Art IV, Sec 31)." A massive gift.

Even with a popular vote the City *may not* use City's taxes or other moneys to construct or repair "sidewalks" on property not owned by the City, without reimbursement. Vote can't nullify State Law.

However, City may advance funds for the purpose and thereafter demand reimbursement per the methods in Calif Sts & Highways Code, which per Const Art XI the City is required to obey.

Budget Item 23 p 538, Item 14 p 533, as well as Item 19 p 773 in UB therefore are constitutionally-suspect. City funds must be used only for payments in-advance of reimbursement by property owners.

Item 16 p 534 is misleading because the heading p 534 includes "repair of concrete curbs, gutters, alleyways, storm drain and structures", all of which are "sidewalks" per Streets & Highways Code and must be paid-for by the underlying (or even abutting) property owner.

2. Public Right-of-way enforcement Item 10 p 531 is more-suited for Transportation because its Law Enforcement Patrols are operative at the time and place of most right-of-way violations.

The duty per Item 10 should be transferred to Transportation.

Respectfully submitted,

J. H. McQuiston, P.E.



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**CF14-0600 Building & Safety**

**B&F Cmte 5/1/14**

E. Pulst

**STATEMENT of J.H. McQUISTON on  
BUILDING & SAFETY BUDGET**

Honorable Chairman and Members of the Committee:

**Public Safety is a paramount duty of the City. Building & Safety is the City's Department which brings SAFETY to its inhabitants. A substantial Code Inspection Bureau is just as necessary for safety as our City's Police and Fire Departments.**

**If buildings are unsafe, people die. This City is in an area where buildings can kill, maim or infect people. People require the Department's Inspectors to assure safe domiciles and places to work.**

**Filling positions in Flg Tower presumably will alleviate enormous bottlenecks for new construction.**

**1. SEISMIC STABILITY CENSUS**

**City intends to identify seismically-unstable buildings, which is Code Inspection work. The amount per Item 36 p 42 is substantially-inadequate. Funds need to be transferred from other Items, and positions need to be added for this work. Time is of the essence.**

**2. Code Enforcement**

**Increase for Code Enforcement amounts to more than double FY 2013-14 without explanation of the \$7,022,732 budgeted in FY 2013-14 without any positions.**

**Presumably the 122 personnel per p 41 returned to B & S from Planning.**

**Item 33 presumably is part of Item 24 because conditional- use is part of construction-permit conditions.**

**3. New Construction Inspection**

**One problem with B&S has been that physical-inspection rarely occurs, except to collect or assess fees. Item 24 inspection is probably the rarest-conducted of inspections. Log of what is performed at site and its duration is appropriate for a Report to B&F for budget purposes.**

**Metrics are too general. Examples: Plan-check Cases completed in 15 days presumably-include expedited and regular cases, but more time is necessary than just a plan-check to receive a permit.**

**If existing-structure inspection takes 60-day span, and many take more, the process is defective compared to the 24-hr inspection metric for new construction and the 15-day span for plan checking.**

**4 Decisionmaking Authority**

**Evidence shows although some Code Sections deem B&S as the final authority on Code compliance, Planning Director sometimes over-rules B&S despite State Law's not permitting a non-licensed person to "direct" a Registered Engineer (of B&S). The result is State-prohibited deviations from laws enacted for public safety occur. This committee could stop City's violation by suitable structuring.**

Respectfully submitted,

J. H. McQuiston, P.E.

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CF14-0600 Fire Dept

B&amp;F Cmte 5/1/14

E. Pulst

**STATEMENT of J.H. McQUISTON on  
FIRE DEPT BUDGET**

Honorable Chairman and Members of the Committee:

Although the Department is beleaguered by many *faux pas*, the truth is that the Department actually-saves more lives than the Police and thus its level-of-service is of *paramount* importance for public safety.

Fire Dept's Organization is surely-defective, even allowing for the unpredictability of calamities like **strokes, heart attacks, and violent injuries** which absorb substantial and extraordinary resources.

**And by better-insisting on protective-measures, it could greatly-reduce fire-related costs.**

For a better City Fire and B&S should mount a coordinated public-safety campaign, to N.Cs and other groups.

Department *must plead its case better*, for the good of City's inhabitants. But it **also must reform itself**.

**If it cant't reform itself, it must get expert help, and quickly. Its structure diminishes public safety.**

Respectfully submitted,

J. H. McQuiston