

Communication from Public

Name: Noel Weiss
Date Submitted: 07/28/2020 04:59 PM
Council File No: 19-0914
Comments for Public Posting: See attached Letter to City Council

NOEL WEISS

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July 28, 2020

**MEMBERS OF THE LOS ANGELES
CITY COUNCIL**

Via Email

Los Angeles City Hall
200 North Spring Street
Los Angeles, California 90012

RE: ITEM NO. 4 – AGENDA FOR WEDNESDAY JULY 28, 2020
COUNCIL FILE NO. 19-0914 – “TRANSFER OF HHAP FUNDS”
PROJECT SITE: 3210-3248 RIVERSIDE DRIVE
EXHAUSTION OF ADMINISTRATIVE REMEDIES LETTER

Dear Councilmembers:

I write on behalf of Friends of Waverly, Inc. ***in opposition*** to the pending “action” of the City Council in directing the disposition of monies from the HHAP Grant received from the state on June 5, 2020; and specifically, with respect to the following items noted below:

12. **TRANSFER \$11,635,297** from HHAP Special Fund Grant Fund No. 62Y, Account No. 10S652 to the HCIDLA, Department No. 43, HHAP Special Fund No. 62Y, for the cost of operations (case management trauma informed care, meals, security, and maintenance and utilities) for July 1, 2020 - June 30, 2021, related to the following ABH sites:

<u>ABH Site</u>	<u>CD</u>	<u>Operating Funds</u>
i. 7700 Van Nuys Boulevard	2	\$2,531,030
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- vii. 515 North Beacon Street 15 \$153,700
- viii. Sylmar Armory 7 \$1,138,500
- ix. 1819 South Western Avenue 10 \$67,700

19. **REAPPROPRIATE \$1,102,075.55** from HHAP Special Fund Grant Fund No. 62Y, Account No. 10S650, *to the CIEP* No. 54, General Fund No. 100, Account No. 00S718, for the construction cost for the 3428 Riverside Drive site.
22. **REAPPROPRIATE \$1,011,550.12** from HHAP Special Fund Grant Fund No. 62Y, Account No. 10S650, *to the BOE*, Department No. 78, General Fund No. 100, Account No. 001010, for the following sites: 3428 Riverside Drive, 14333 Aetna Street, and Civic Center.
5. **TRANSFER \$97,463** from the HHAP Special Fund Grant Fund No. 62Y, Account No. 10S656 *to the City Attorney's Office*, Department No. 12, General Fund No. 100, Account No. 001010, **General Salaries**, to fund one Deputy City Attorney III, July 1, 2020 - December 31, 2020.

The grounds of the opposition are as follows:

1. **All Items. None of these items was passed on in Committee.** It is not accurate to say that a public hearing was held in Committee. There is no committee report that accompanies this file. None of these proposed “transfers” or “reappropriations” were heard in committee. That includes (i) the Budget & Finance Committee, (ii) the Homeless & Poverty Committee, and (iii) the **Committee on Referred Powers**. Because the Mayor’s wife is on the Advisory Board of PATH (who has been designated (it is contended unlawfully) to operate the Griffith Park Bridge Shelter Facility, and because PATH was chosen by the Mayor as the operator of the facility, no expenditures of City funds should be spent on the operation of the Griffith Park Bridge Shelter Facility until the Committee on Referred Powers has passed on the item. The contract with PATH has not been produced. The breakdown of how the operating funds in Item No. 12 are to be spent as between *case management trauma informed care, meals, security, and maintenance and utilities* is not provided. Under the proposed PATH lease, PATH is supposed to provide these

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2. **Item No. 19 (Reappropriation of \$1,102,075.55 to CIEP Account (CIEP = Capital Improvement Expenditure Program) violates Sections 5.43 and 5.44 of the Los Angeles Administrative Code.** Under Section 5.44(f) of the Los Angeles Administrative Code, these capital items should be included in the Mayor's budget for Fiscal Year 2020-2021. **They are not.** Secondly, the Controller is mandated to provide the council and the public a determination in writing as to whether there are sufficient City revenues or grant monies to adequately and competently ensure the Griffith Park Bridge Shelter Facility has been completed within budget. The Controller has **not** provided this mandated assurance. In fact, the project was not completed within the \$4,647,000 estimate. At \$7,096,255 (which includes \$530,000 to the Bureau of

Engineering for “salaries” related to the Griffith Park Bridge Shelter Project (which appears excessive)), the project was \$2,449,255 *over-budget* (52.70%). Now, there is another \$1.102 Million to be paid into the Capital Improvement Expenditure Program over and above the \$7,096,255 which had been previously unlawfully “appropriated” by way of the Council’s having approved two “loans” from the Reserve Fund (a protocol which contravenes the Charter (the Reserve Fund is not a “piggy bank”) from which the Council or Mayor unlawfully “borrowed” money. The Reserve Fund is to be used only (i) for emergencies, and (ii) to supplement needed funding for budgeted items where the revenues are less than expected in the Mayor’s budget (as approved), or where expenses exceeded what was budgeted (as approved). Using the Reserve Fund as a “borrowing facility” is not an authorized option under the Charter. The Controller has not provided any statement or opinion on the nature of the capital expenditure referenced in this item as mandated by Los Angeles Administrative Code Section 5.44(g); so this section has been violated. Thirdly, this Item is slated to be a “*reappropriation*”. What that means in this context is not clear. Appropriations come from the funds in the City’s *unappropriated balance*. These monies are not in the *unappropriated balance* of the Mayor’s Budget. What the Mayor’s budget, as approved by the City Council, should have included was (i) an accounting of the HHAP (one-time grant) monies from the State; (ii) the placing of these monies into a separate HHAP Fund showing them to be part of (or a sub-account of) the *unappropriated balance*, and then (iii) making an appropriation out of the unappropriated balance as per Section 341 of the Charter. Had that been done, this apparent obfuscation and misuse or misappropriation of these monies would be avoided. There is no “*reappropriation*” here. There is no such thing as “re-appropriation”. These monies should not be appropriated at all until there has been a full accounting of the cost over-runs attendant to the construction of the Griffith Park Bridge Shelter Facility. What is happening here contravenes the Charter, and constitutes a waste and misappropriation of these monies which, because they come from state funds whose expenditure is to be devoted to supplementing the City’s efforts to assist the homeless, could be a fraud on the State depending on what the City represented (or misrepresented) in its HHAP application. The City has now re-programed how the funds from the one-time state grant are to be allocated. Category 1 of the HHAP grant monies (temporary bridge shelter sites) has, since December, 2019, been reduced *from* \$50,382,313 *to* \$32,329,111 (a reduction of 35.83%). As such, it is not clear that this “reappropriation” is even proper. If anything, monies previously (and “unlawfully) “appropriated” for the Griffith Park Bridge Shelter Project should

be returned to the HHAP account. Instead, the HHAP account is further being drawn down by an unlawful “reappropriation”.

3. ***Item 22***, This is another “*reappropriation*” item (this time to the BOE (Bureau of Engineering)). It is deficient and unlawful for the reasons noted above. Specifically, there has been no Committee hearing on this “reappropriation”, a portion of which is supposed to compensate the BOE for salaries spent on the Griffith Park Bridge Home Project and the other bridge home projects noted. With regard to the Griffith Park Bridge Shelter Project, because the Mayor’s wife is on the Advisory Board of PATH (the operator of the facility), given that PATH was chosen by the Mayor to operate the facility (without any competitive bidding and without any monies being paid to the Department of Recreation and Parks for the use of its property (also contrary to the Charter)), the City Council *Committee on Referred Powers* must pass on this item. It has not. In addition, the City Council has (it is contended unlawfully) already paid the Bureau of Engineering \$530,000 on account of the alleged “services” provided in connection with the development of the Griffith Park Bridge Shelter Project (Council 19-0126 (Council Action date February 14, 2020)). So why are additional funds needed? Are these HHAP monies being misused to subsidize general salaries for the BOE? If so, this would contravene the state rules attendant to the use of these monies which are supposed to be limited to supplementing City efforts to deal with the homeless issue. The Controller’s silence on this particular item is also deafening. The protocol of the Charter was not followed here (specifically Charter Sections 340-342); both with respect to the Council’s improper and unlawful use of the Reserve Fund as a “piggy bank” from which to borrow funds to construct the Griffith Park Bridge Shelter Project earlier this year; the Mayor’s failure to include these HHAP monies in his budget, the failure of the budget to identify these HHAP funds as part of the “unappropriated balance”, and the Council’s failure to then “appropriate” monies, following the proper and timely committee hearings being held, from that “unappropriated balance”. These errors and omissions are what leads to waste and misappropriation of these monies which should be treated as scarce and precious. Now the public is told there needs to be a “reappropriation” (whatever that means) of some \$1,100,550.12 of added monies beyond those already paid to the BOE for its services in connection with the Griffith Park Bridge Shelter Project (and the others listed in the agenda item). Why? There has been no accounting whatsoever provided; and no committee hearings to draw the issue out. HHAP Funds are not to be used to subsize City Departments;

yet given that monies are fungible, that appears to be the case here. Approving this “reappropriation” is unlawful.

4. **Item 12** should not be approved because the “transfer” of monies to HCIDLA for operating costs to the Griffith Park Bridge Shelter project is the work to be done by PATH, the lessee of the site. Nowhere (anywhere) has it been represented to the public that HCIDLA (the *Housing Community & Investment Department of Los Angeles*) has anything to do with the operation of the Griffith Park Bridge Shelter facility (or the others noted in the agenda item). So the question arises whether these “operating funds” from HHAP (\$11,635,297 in total; \$2,142,300 for the Griffith Park Bridge Shelter Facility) are also being “laundered”, misapplied, and misused to fund the operations of the HCIDLA (Housing & Community Investment Development Department). Under its sub-lease with the City (another unlawful action by the Mayor and Council), PATH is supposed to provide for security and *case management trauma informed care, meals, and security; along with maintenance and upkeep*. Operation of the Griffith Park Bridge Shelter project is not within the jurisdiction or expertise of the Housing & Community Investment & Development Department. So what is going on here? It is up to PATH to provide these services; and the City should not be subsidizing them, particularly given the fact that (i) PATH (with assets of \$28 Million as of June, 2018) is paying zero rent to the Department of Rec. and Parks (unlawful under the Charter); (ii) PATH is paying zero dollars for outside security (Rec. and Parks is entitled to money for security under the Charter); (iii) PATH is providing zero by way of insurance to back its operation of the facility should there be lawsuits or litigation arising from the facility’s operation. Given that (iv) PATH was chosen by the Mayor without competitive bidding, with (v) the Mayor’s wife sitting on PATH’s Board of Advisors (thus creating the need, given the conflict of interest potential), the Charter and state conflict of interest laws require that the Board of Referred Powers pass on this item. The construction funding and now the operation of the Griffith Park Bridge Shelter Project has been seasoned with lawlessness. The Charter’s protections for non-wasteful and transparent spending of public monies has been ignored. At issue is the City’s ability to competently serve the needs of the homeless. With the kind of waste and overspending on construction and lack of transparency in how these operations funds are to be spent (the Housing & Community Investment Department should not be used as a subterfuge for laundering HHAP monies), this transfer should not be approved. The matter should be referred to the Budget & Finance

Committee, Homeless & Poverty Committee and Committee on Referred Powers.

5. ***With respect to Item 5*** (\$97,463 to the City Attorney) it is not clear how this expenditure from HHAP funding supplements either the City's administration of the HHAP grant, or the mitigation of the homeless problem. Again, this was not a budgeted item in the Mayor's approved 2020-2021 budget. Until that is clarified, these monies should not be transferred. As noted in previous submittals to this Council, the proposed "sub-lease" to PATH violates Charter Section 594 because it is a use of park property, over which the Department of Recreation & Parks has exclusive control. The Charter does not allow for or contemplate the Department of Recreation & Parks to delegate its duties under the Charter to the City Department of General Services or any other outside agency; and certainly not without receiving adequate and fair consideration for the use of Park property. Meanwhile, there is no MOU in place which protects the Department of Recreation & Parks given that there is no provision of adequate security of the facility, the surrounding community, or the park area around the Griffith Park Bridge Shelter facility. Griffith Park law enforcement is handled by the Park Rangers. No provision is made for the compensation of the Department for any services required of the Rangers. The Mayor's budget, as approved, lacks any funding for the security of the Griffith Park Bridge Shelter facility. PATH just provides one security guard. That is clearly inadequate. There are no funds for LAPD to patrol the area, contrary to the promises made by Councilman Ryu. LAPD's budget is likely now to get reduced. PATH has provided no insurance to back its general promise of indemnity; and with assets of \$28 Million, PATH should be able to do so. The fact that the Mayor's wife sits on the PATH Advisory Board supports the inference that PATH got a good deal here because of its connections to the Mayor. PATH has the financial resources to indemnify both the City and the Department of Recreation & Parks (who has never formally approved this unlawful arrangement) What is required, at a minimum, is an "MOU" (Memorandum of Understanding) between the City and the Department of Recreation & Parks on how Griffith Park and the public visitors to Griffith Park are going to be protected before any appropriations of HHAP monies are voted.

6. This is all exacerbated by the complete lack of any metrics or standards by which PATH's performance as operator (assuming the proposed "sub-lease" is lawful, which it is not) is to be measured. This is particularly relevant because

(i) the City is broke; (ii) the Mayor's budget commits zero dollars (\$0) to the operation of this facility (all the funds to construct the facility come from an HHAP one-time grant which is over-subscribed by at least \$18 Million), which (ii) unlawfully were "borrowed" from the Reserve Fund in December, 2019, and in February, 2020, and which cannot be repaid *in full* because they have been over-subscribed; yet (iv) the City is supposed to pay to maintain the building's systems (the Mayor's budget provides zero dollars to meet this commitment). In addition, the City remains on the hook to have to repay the state for the \$7 Million it has spent on constructing the facility because the City's application to the State falsely stated the monies would be used for a bridge shelter facility when, after 3 years, the City plans to convert the facility to a Senior Citizens Center (a clear misuse of state funds and a "bait-and-switch" on the state; The Department of Recreation & Parks never approved of the free use of its property by an unidentified third-party, on the terms stated in the PATH lease, or otherwise.

7. Neither the Department of General Services, nor the Housing Community and Investment Development Department is authorized in law to sign "Service Provider Lease Agreements", or to operate the Griffith Park Bridge Shelter facility. No discussion or approval was ever given by the Department of Recreation & Parks to a project which exceeded its construction budget by over 50%; nor was any approval given for the City to grant a "sub-lease" for zero rent. The potential liability exposure to the Department is massive. No provision for insurance to back PATH's unsecured promise of indemnity is given. The rights of the Department of Recreation and Parks are being 100% compromised by this unlawful action. No provision is made for the payment of the extra security needed by the Park Rangers to protect the park and the public. These matters need to be resolved before any transfer or appropriations.

Before the Council moves forward, (i) these matter should be properly agendized, (ii) heard in Budget & Finance, the Homelessness and Poverty committees, and the Committee on Referred Powers, and (iii) the Mayor's budget appropriated amended to include the HHAP grant monies as part of the unappropriated balance, and (iv) the monies then lawfully appropriated out of the unappropriated balance once it is clear there has been no unlawful expenditures of these funds. To the extent any unlawful expenditures have occurred, the monies need to be repaid to the HHAP grant money sub-account immediately. (v) The Controller needs to

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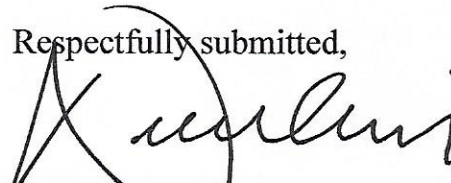
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weigh in with a formal written opinion as mandated by Section 544(g) of the Los Angeles Administrative Code with respect to the construction cost overruns on the Griffith Park Bridge Shelter facility.

The public interest is not served when the Mayor, the Council, the City Attorney, and the Controller engage in these types of errors, omissions, and political and legal malpractice.

Thank you for your consideration of the points and issues raised in this letter.

Respectfully submitted,



NOEL WEISS

NW: nww
07285-L1. CC

Communication from Public

Name: Noel Weiss

Date Submitted: 07/28/2020 04:56 PM

Council File No: 19-0914

Comments for Public Posting: Friends of Waverly, Inc. objects to Items 12, 19, 22, and 5 as agendized. The Council's proposed action "reappropriating" HHAP funds to the CIEP (Item 19)(Capital Improvement Expenditure Program), to the BOE (Item 22), and transfers of HHAP funds to the City Attorney (Item 5) and HCIDLA (Item 12) are unlawful actions because (i) no Committee hearings were held (including a meeting by the Committee on Referred Powers (the Mayor's wife is on the Advisory Board of PATH (the operator of the site, chosen by the Mayor without competitive bidding), (ii) the provisions of the LA Administrative Code (Sections 5.43-5.44) were ignored as (a) the CIEP item was not included in the Mayor's 2020-2021 Fiscal Yr. Budget (as passed by the Council), (b) the Controller failed, as mandated, to provide written assurance that the construction of the Griffith Park Bridge Shelter facility was not over-budget (it was 52.70% over-budget), (c) the monies being "reappropriated" are not part of the unappropriated balance (as contemplated by the Charter), (d) the term "reappropriated" is a misnomer in this context since the HHAP monies are not part of the unappropriated (budget) balance, (e) the HHAP monies for bridge shelters (Category 1) have been reduced since December, 2019, by 35.83% (from \$50.3 Million to \$32.3 Million) and thus are over-subscribed by \$18 Million, such that (e) if anything, the City should be repaying the HHAP fund back rather than further drawing it down. The BOE "reappropriation" (falsely implying that monies have previously been "appropriated" which is not the case for the reasons noted above (no monies have ever been lawfully "appropriated" from the unappropriated balance created by the Mayor's (approved) 2020-2021 budget as per Charter Section 342. In addition, the BOE has already been paid \$530,000 on account of engineering services allegedly provided for the Griffith Park Bridge Shelter project (an excessive amount given the fact the facility is effective one large "tent", an open area, and an administration trailer). CF 19-0126/Council Action February 14, 2020). No extra monies are required or should be required; and it needs to be specified which monies are allocated for the Griffith Park Bridge Shelter facility. That has not been done. This is opaque and non-transparent and it could represent a misuse of HHAP funds depending on what the City put into its HHAP application to the State. Transfers of

HHAP monies to HCIDLA (Housing Community & Investment Department) for \$2,142,300 for the Griffith Park Bridge Shelter operating costs (Item No. 12) are not warranted and appear to be either an error, an attempt to launder HHAP funds, or another form of indirect "borrowing" which has plagued this bridge shelter project (and perhaps others) from the inception. First, these monies are for services PATH is to provide as part of its sub-lease (which has never been disclosed and needs to be disclosed). Secondly, there is no breakdown as between case management, informed care, meals, and security, the monies are to be allocated. Thirdly, HCIDLA is not authorized or empowered to run bridge shelters. So what is going on here? Is the Mayor playing games with these HHAP monies? Parking them in the HCIDLA Department for use elsewhere or later? This is another reason why the Committee on Referred Powers needs to pass on this proposed "transfer" given that the Mayor's wife sits on PATH's Board of Advisors. This is just too sweet a deal for PATH who (i) pays zero rent for the Rec. & Parks land it is using (in contravention of the Charter), (ii) zero dollars for security around the facility (in contravention of the Charter), and (iii) zero dollars for insurance to secure its unsecured indemnity promise (which puts the City and Rec. and Parks at a massive liability risk. Transfers of HHAP money to the City Attorney (Item 5) have not been justified as it is not clear how those monies are to be used as part of the administration of the HHAP monies (if at all). All of the foregoing issues must be resolved before a vote is taken to "transfer" or "reappropriate" any of the HHAP monies. A letter to the Council in support of this Opposition is also being submitted.

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services not the City. Something is not right here. HCIDLA (Housing & Community Investment Department) has nothing to do with the operation of Bridge Shelters. So Item No.12 would appear to contradict what has previously been represented to the Council. The entire protocol and administration of the construction and operation of the Griffith Park Bridge Shelter project has been shrouded in obfuscation. The public's right to know the details is being denied and ignored. (i) Councilmember Ryu promised there would be LAPD security adequate to the safety needs of the community. No monies for LAPD are set out in the Mayor's budget for policing around the Griffith Park Bridge Shelter facility; and no HHAP monies are allocated for the security and safety of the park, its users, or the surrounding community. (ii) PATH is not required to provide any security protective of the surrounding community or park users in this or any other proposal to date. Meanwhile, residents of the facility are not confined to the facility, but are free to roam the park and surrounding areas until 11:00 pm at night. (iii) The PATH lease has never been produced, but the outline of the lease presented on May 5, 2020, said that PATH was only obligated to provide one security guard for the inside of the facility "to the extent necessary to ensure security" (whatever that means), beyond a minimum of one security guard present on the property Monday through Saturday during operating hours. The facility operates 24 hours per day, seven days a week. So the question remains just how much is being provided for security around the facility? The public is entitled to know this information. A public hearing in Committee would have ferreted out this information. The Council is violating its own rules and the public is prejudiced thereby in passing on these items without them first having been heard in Committee, and that includes the Board of Referred Powers.

2. **Item No. 19 (Reappropriation of \$1,102,075.55 to CIEP Account (CIEP = Capital Improvement Expenditure Program) violates Sections 5.43 and 5.44 of the Los Angeles Administrative Code.** Under Section 5.44(f) of the Los Angeles Administrative Code, these capital items should be included in the Mayor's budget for Fiscal Year 2020-2021. **They are not.** Secondly, the Controller is mandated to provide the council and the public a determination in writing as to whether there are sufficient City revenues or grant monies to adequately and competently ensure the Griffith Park Bridge Shelter Facility has been completed within budget. The Controller has **not** provided this mandated assurance. In fact, the project was not completed within the \$4,647,000 estimate. At \$7,096,255 (which includes \$530,000 to the Bureau of

Engineering for “salaries” related to the Griffith Park Bridge Shelter Project (which appears excessive)), the project was \$2,449,255 *over-budget* (52.70%). Now, there is another \$1.102 Million to be paid into the Capital Improvement Expenditure Program over and above the \$7,096,255 which had been previously unlawfully “appropriated” by way of the Council’s having approved two “loans” from the Reserve Fund (a protocol which contravenes the Charter (the Reserve Fund is not a “piggy bank”) from which the Council or Mayor unlawfully “borrowed” money. The Reserve Fund is to be used only (i) for emergencies, and (ii) to supplement needed funding for budgeted items where the revenues are less than expected in the Mayor’s budget (as approved), or where expenses exceeded what was budgeted (as approved). Using the Reserve Fund as a “borrowing facility” is not an authorized option under the Charter. The Controller has not provided any statement or opinion on the nature of the capital expenditure referenced in this item as mandated by Los Angeles Administrative Code Section 5.44(g); so this section has been violated. Thirdly, this Item is slated to be a “*reappropriation*”. What that means in this context is not clear. Appropriations come from the funds in the City’s *unappropriated balance*. These monies are not in the *unappropriated balance* of the Mayor’s Budget. What the Mayor’s budget, as approved by the City Council, should have included was (i) an accounting of the HHAP (one-time grant) monies from the State; (ii) the placing of these monies into a separate HHAP Fund showing them to be part of (or a sub-account of) the *unappropriated balance*, and then (iii) making an appropriation out of the unappropriated balance as per Section 341 of the Charter. Had that been done, this apparent obfuscation and misuse or misappropriation of these monies would be avoided. There is no “*reappropriation*” here. There is no such thing as “re-appropriation”. These monies should not be appropriated at all until there has been a full accounting of the cost over-runs attendant to the construction of the Griffith Park Bridge Shelter Facility. What is happening here contravenes the Charter, and constitutes a waste and misappropriation of these monies which, because they come from state funds whose expenditure is to be devoted to supplementing the City’s efforts to assist the homeless, could be a fraud on the State depending on what the City represented (or misrepresented) in its HHAP application. The City has now re-programed how the funds from the one-time state grant are to be allocated. Category 1 of the HHAP grant monies (temporary bridge shelter sites) has, since December, 2019, been reduced *from* \$50,382,313 *to* \$32,329,111 (a reduction of 35.83%). As such, it is not clear that this “reappropriation” is even proper. If anything, monies previously (and “unlawfully) “appropriated” for the Griffith Park Bridge Shelter Project should

be returned to the HHAP account. Instead, the HHAP account is further being drawn down by an unlawful “reappropriation”.

3. ***Item 22***, This is another “*reappropriation*” item (this time to the BOE (Bureau of Engineering)). It is deficient and unlawful for the reasons noted above. Specifically, there has been no Committee hearing on this “reappropriation”, a portion of which is supposed to compensate the BOE for salaries spent on the Griffith Park Bridge Home Project and the other bridge home projects noted. With regard to the Griffith Park Bridge Shelter Project, because the Mayor’s wife is on the Advisory Board of PATH (the operator of the facility), given that PATH was chosen by the Mayor to operate the facility (without any competitive bidding and without any monies being paid to the Department of Recreation and Parks for the use of its property (also contrary to the Charter)), the City Council *Committee on Referred Powers* must pass on this item. It has not. In addition, the City Council has (it is contended unlawfully) already paid the Bureau of Engineering \$530,000 on account of the alleged “services” provided in connection with the development of the Griffith Park Bridge Shelter Project (Council 19-0126 (Council Action date February 14, 2020)). So why are additional funds needed? Are these HHAP monies being misused to subsidize general salaries for the BOE? If so, this would contravene the state rules attendant to the use of these monies which are supposed to be limited to supplementing City efforts to deal with the homeless issue. The Controller’s silence on this particular item is also deafening. The protocol of the Charter was not followed here (specifically Charter Sections 340-342); both with respect to the Council’s improper and unlawful use of the Reserve Fund as a “piggy bank” from which to borrow funds to construct the Griffith Park Bridge Shelter Project earlier this year; the Mayor’s failure to include these HHAP monies in his budget, the failure of the budget to identify these HHAP funds as part of the “unappropriated balance”, and the Council’s failure to then “appropriate” monies, following the proper and timely committee hearings being held, from that “unappropriated balance”. These errors and omissions are what leads to waste and misappropriation of these monies which should be treated as scarce and precious. Now the public is told there needs to be a “reappropriation” (whatever that means) of some \$1,100,550.12 of added monies beyond those already paid to the BOE for its services in connection with the Griffith Park Bridge Shelter Project (and the others listed in the agenda item). Why? There has been no accounting whatsoever provided; and no committee hearings to draw the issue out. HHAP Funds are not to be used to subsize City Departments;

yet given that monies are fungible, that appears to be the case here. Approving this “reappropriation” is unlawful.

4. ***Item 12*** should not be approved because the “transfer” of monies to HCIDLA for operating costs to the Griffith Park Bridge Shelter project is the work to be done by PATH, the lessee of the site. Nowhere (anywhere) has it been represented to the public that HCIDLA (the *Housing Community & Investment Department of Los Angeles*) has anything to do with the operation of the Griffith Park Bridge Shelter facility (or the others noted in the agenda item). So the question arises whether these “operating funds” from HHAP (\$11,635,297 in total; \$2,142,300 for the Griffith Park Bridge Shelter Facility) are also being “laundered”, misapplied, and misused to fund the operations of the HCIDLA (Housing & Community Investment Development Department). Under its sub-lease with the City (another unlawful action by the Mayor and Council), PATH is supposed to provide for security and *case management trauma informed care, meals, and security; along with maintenance and upkeep*. Operation of the Griffith Park Bridge Shelter project is not within the jurisdiction or expertise of the Housing & Community Investment & Development Department. So what is going on here? It is up to PATH to provide these services; and the City should not be subsidizing them, particularly given the fact that (i) PATH (with assets of \$28 Million as of June, 2018) is paying zero rent to the Department of Rec. and Parks (unlawful under the Charter); (ii) PATH is paying zero dollars for outside security (Rec. and Parks is entitled to money for security under the Charter); (iii) PATH is providing zero by way of insurance to back its operation of the facility should there be lawsuits or litigation arising from the facility’s operation. Given that (iv) PATH was chosen by the Mayor without competitive bidding, with (v) the Mayor’s wife sitting on PATH’s Board of Advisors (thus creating the need, given the conflict of interest potential), the Charter and state conflict of interest laws require that the Board of Referred Powers pass on this item. The construction funding and now the operation of the Griffith Park Bridge Shelter Project has been seasoned with lawlessness. The Charter’s protections for non-wasteful and transparent spending of public monies has been ignored. At issue is the City’s ability to competently serve the needs of the homeless. With the kind of waste and overspending on construction and lack of transparency in how these operations funds are to be spent (the Housing & Community Investment Department should not be used as a subterfuge for laundering HHAP monies), this transfer should not be approved. The matter should be referred to the Budget & Finance

Committee, Homeless & Poverty Committee and Committee on Referred Powers.

5. **With respect to Item 5** (\$97,463 to the City Attorney) it is not clear how this expenditure from HHAP funding supplements either the City's administration of the HHAP grant, or the mitigation of the homeless problem. Again, this was not a budgeted item in the Mayor's approved 2020-2021 budget. Until that is clarified, these monies should not be transferred. As noted in previous submittals to this Council, the proposed "sub-lease" to PATH violates Charter Section 594 because it is a use of park property, over which the Department of Recreation & Parks has exclusive control. The Charter does not allow for or contemplate the Department of Recreation & Parks to delegate its duties under the Charter to the City Department of General Services or any other outside agency; and certainly not without receiving adequate and fair consideration for the use of Park property. Meanwhile, there is no MOU in place which protects the Department of Recreation & Parks given that there is no provision of adequate security of the facility, the surrounding community, or the park area around the Griffith Park Bridge Shelter facility. Griffith Park law enforcement is handled by the Park Rangers. No provision is made for the compensation of the Department for any services required of the Rangers. The Mayor's budget, as approved, lacks any funding for the security of the Griffith Park Bridge Shelter facility. PATH just provides one security guard. That is clearly inadequate. There are no funds for LAPD to patrol the area, contrary to the promises made by Councilman Ryu. LAPD's budget is likely now to get reduced. PATH has provided no insurance to back its general promise of indemnity; and with assets of \$28 Million, PATH should be able to do so. The fact that the Mayor's wife sits on the PATH Advisory Board supports the inference that PATH got a good deal here because of its connections to the Mayor. PATH has the financial resources to indemnify both the City and the Department of Recreation & Parks (who has never formally approved this unlawful arrangement) What is required, at a minimum, is an "MOU" (Memorandum of Understanding) between the City and the Department of Recreation & Parks on how Griffith Park and the public visitors to Griffith Park are going to be protected before any appropriations of HHAP monies are voted.

6. This is all exacerbated by the complete lack of any metrics or standards by which PATH's performance as operator (assuming the proposed "sub-lease" is lawful, which it is not) is to be measured. This is particularly relevant because

(i) the City is broke; (ii) the Mayor's budget commits zero dollars (\$0) to the operation of this facility (all the funds to construct the facility come from an HHAP one-time grant which is over-subscribed by at least \$18 Million), which (ii) unlawfully were "borrowed" from the Reserve Fund in December, 2019, and in February, 2020, and which cannot be repaid *in full* because they have been over-subscribed; yet (iv) the City is supposed to pay to maintain the building's systems (the Mayor's budget provides zero dollars to meet this commitment). In addition, the City remains on the hook to have to repay the state for the \$7 Million it has spent on constructing the facility because the City's application to the State falsely stated the monies would be used for a bridge shelter facility when, after 3 years, the City plans to convert the facility to a Senior Citizens Center (a clear misuse of state funds and a "bait-and-switch" on the state; The Department of Recreation & Parks never approved of the free use of its property by an unidentified third-party, on the terms stated in the PATH lease, or otherwise.

7. Neither the Department of General Services, nor the Housing Community and Investment Development Department is authorized in law to sign "Service Provider Lease Agreements", or to operate the Griffith Park Bridge Shelter facility. No discussion or approval was ever given by the Department of Recreation & Parks to a project which exceeded its construction budget by over 50%; nor was any approval given for the City to grant a "sub-lease" for zero rent. The potential liability exposure to the Department is massive. No provision for insurance to back PATH's unsecured promise of indemnity is given. The rights of the Department of Recreation and Parks are being 100% compromised by this unlawful action. No provision is made for the payment of the extra security needed by the Park Rangers to protect the park and the public. These matters need to be resolved before any transfer or appropriations.

Before the Council moves forward, (i) these matter should be properly agendized, (ii) heard in Budget & Finance, the Homelessness and Poverty committees, and the Committee on Referred Powers, and (iii) the Mayor's budget appropriated amended to include the HHAP grant monies as part of the unappropriated balance, and (iv) the monies then lawfully appropriated out of the unappropriated balance once it is clear there has been no unlawful expenditures of these funds. To the extent any unlawful expenditures have occurred, the monies need to be repaid to the HHAP grant money sub-account immediately. (v) The Controller needs to

MEMBERS OF THE LOS ANGELES CITY COUNCIL

July 28, 2020

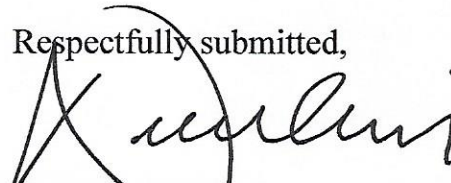
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weigh in with a formal written opinion as mandated by Section 544(g) of the Los Angeles Administrative Code with respect to the construction cost overruns on the Griffith Park Bridge Shelter facility.

The public interest is not served when the Mayor, the Council, the City Attorney, and the Controller engage in these types of errors, omissions, and political and legal malpractice.

Thank you for your consideration of the points and issues raised in this letter.

Respectfully submitted,



NOEL WEISS

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