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**CARMEN A. TRUTANICH**  
City Attorney

**REPORT NO. R 1 1 - 0 3 9 0**

NOV 0 9 2011

**REPORT RE:**

**DRAFT ORDINANCE ESTABLISHING PROCEDURES TO SET THE  
BUDGET FOR THE OFFICE OF PUBLIC ACCOUNTABILITY**

The Honorable City Council  
of the City of Los Angeles  
Room 395, City Hall  
200 North Spring Street  
Los Angeles, California 90012

Council File No. 11-0452-S2

Honorable Members:

Pursuant to your request of July 13, 2011, this Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality, establishing procedures for setting the budget for the Office of Public Accountability (OPA) for the Department of Water and Power and setting the initial budget. The first portion of the proposed ordinance would add a new Section 23.146 to the Los Angeles Administrative Code (LAAC) to codify the budgetary procedures. The second portion of the proposed ordinance sets the initial budget for Fiscal Year 2011-2012.

Charter Amendment I's requirements for the OPA budget

The essential components of the OPA's budget were set out in Charter Amendment I, adopted at the March 8, 2011 election. The budgetary procedures proposed in the accompanying draft ordinance follow and build upon those requirements. That measure, in new Charter Section 683(g), provides:

The department shall include a budget for the OPA as shall be set by ordinance at a level not less than 0.025 percent of department annual revenues from the sale of water and electric energy for the previous fiscal year.

Charter Section 683(c)(6) charges the OPA's Executive Director with the task of proposing an annual budget to the City Administrative Officer (CAO). Since the OPA's first Executive Director has yet to be appointed and confirmed, it has become necessary that OPA's initial budget be proposed by the CAO. Charter Section 683(f) provides that the "employees of the OPA shall include a Ratepayer Advocate and additional positions as prescribed by ordinance."<sup>1</sup> We are advised that this initial budget is intended to provide a broad staffing framework for which necessary funding is being provided. Since the staffing of the OPA will be better defined after the Executive Director has assumed his or her position, position authority beyond the position of Executive Director will be prescribed by a supplemental ordinance.

#### The Council's drafting instructions on the budgetary ordinance for the OPA

On June 7, 2011, the Energy & Environment Committee instructed the CAO to report on an initial operating budget for the OPA. The CAO recommended such an initial budget in that office's joint report with the CLA of June 28, 2011. Details were specified in Attachment A to that report. On July 13, 2011, the Council requested this Office to prepare and present an ordinance for the OPA budget containing the following provisions:

1. The "required minimum 0.025 percent funding, which amounts to \$1,050,000;"
2. Requiring the OPA to submit a budget proposal to the CAO by December 31<sup>st</sup> of each year; and
3. Requiring that any unexpended funds at the end of the fiscal year revert to the Department's revenue funds.

#### Making allowance for adjustment of the budget to comport with audited revenue figures

The total budget figure of \$1,050,000 is the result of taking 0.025 percent of anticipated Department revenues for the fiscal year recently concluded (Fiscal Year 2010-11). Charter Section 683(g) requires that the OPA's annual budget be "no less"

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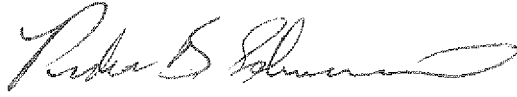
<sup>1</sup> As this Office has advised, Charter § 683(f)'s inclusion of a "Ratepayer Advocate" as one of the employees of the OPA addresses that function only at the subordinate staffing level. The Executive Director functions as the overall Ratepayer Advocate for the OPA in view of the authority the Charter vests in the Executive Director over all aspects of the OPA, including over subordinate staff.

than that percentage of "annual revenues...for the previous fiscal year." The draft ordinance provides that should audited financial statements for that fiscal year reveal that revenues were higher, a supplementary ordinance will be presented to increase the amount of the OPA budget so as to meet the minimum amount required by the Charter.

If you have any questions regarding this matter, please contact Frederick N. Merkin, Outside Counsel Assisting the City Attorney at (213) 367-4620. He or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

CARMEN A. TRUTANICH, City Attorney

By   
PEDRO B. ECHEVERRIA  
Chief Assistant City Attorney

PBE:FNM:ac  
Transmittal

cc: The Honorable Antonio R. Villaraigosa, Mayor  
The Honorable Wendy Greuel, Controller  
The Board of Water and Power Commissioners  
Ronald O. Nichols, General Manager, Department of Water and Power  
Gerry F. Miller, Chief Legislative Analyst  
Miguel A. Santana, City Administrative Officer

ORDINANCE NO. \_\_\_\_\_

An ordinance adding a new Section 23.146 to Chapter 7, Article 3 of Division 23 of the Los Angeles Administrative Code to establish procedures for setting the budget of the Office of Public Accountability pursuant to Charter Section 683, and setting an initial budget for Fiscal Year 2011-2012.

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. A new Section 23.146 is added to Chapter 7, Article 3 of Division 23 of the Los Angeles Administrative Code to read as follows:

**Sec. 23.146. Budget of the Office of Public Accountability.**

In accordance with Charter Section 683(c)(6), (f) and (g):

(a) Prior to December 31<sup>st</sup> of each year, the Executive Director shall submit to the City Administrative Officer a proposed annual budget for the ensuing fiscal year covering the anticipated expenditures of the Office of Public Accountability (OPA).

(b) The budget shall be set at a level no less than 0.025 percent of Department annual revenues from the sale of water and electric energy for the previous fiscal year.

(c) Unexpended funds at the end of the fiscal year shall revert to the Water Revenue Fund and Power Revenue Fund in proportion to each fund's participation in the funding of the OPA budget for that fiscal year.

(d) The budget ordinance shall include positions to be authorized for the OPA.

Sec. 2. The Council is informed that it is anticipated that 0.025 of revenues of the Department of Water and Power for Fiscal Year 2010-11 is \$1,050,000.

(a) The initial budget of the Office of Public Accountability for Fiscal Year 2011-12 shall be as follows:

<u>Item</u>	<u>Amount</u>
Staffing/salaries (Executive Director, Ratepayer Advocate, staff analysts, clerical support)	\$800,000
Expense (Printing and binding, contractual services, office and administrative expense, travel, as required)	\$243,000
Equipment (undesignated)	<u>\$7,000</u>
Total	\$1,050,000

(b) In the event that audited financial statements for Fiscal Year 2010-2011 indicate that 0.025 percent of Department annual revenues from the sale of water and electric energy is an amount greater than \$1,050,000, the City Administrative Officer shall so inform the Executive Director. The Executive Director shall thereupon prepare and present a supplemental proposed budget in the amount exceeding \$1,050,000, which proposal shall be considered in accordance with Charter Section 683 and this section.

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of \_\_\_\_\_.

JUNE LAGMAY, City Clerk


By \_\_\_\_\_ Deputy

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By  \_\_\_\_\_  
HARIT U. TRIVEDI  
Deputy City Attorney

Date 11/7/11

File No. 11-0452-S2