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July 1, 2010

Honorable Carmen A. Trutanich  
City Attorney  
200 North Main Street, Room 800  
Los Angeles, CA 90012

**DEFERRED COMPENSATION PLAN TRUSTEE**

I am writing to you on behalf of the Board of Deferred Compensation Administration concerning the City's and Board's roles and responsibilities relative to administering the City of Los Angeles Deferred Compensation Plan ("the Plan"). The Plan is unique among benefits offered to City employees. Unlike other programs, the costs of this Plan are fully borne by its participants and all Plan assets belong fully and solely to those participants – no City assets are included. Given this, unique issues arise when considering the governance, independence, and administration of the Plan.

In 1998 the City Council passed an ordinance placing Deferred Compensation Plan assets into trust pursuant to a Federal requirement under the 1996 Small Business Job Protection Act that all Internal Revenue Code Section assets be held in a trust, custodial account, or insurance contract for the exclusive benefit of participants and their beneficiaries. At that time the Board considered a recommendation from its consultant and staff that more specific language be placed in the City Administrative Code establishing the Board as trustee and delineating the duties and responsibilities of the Board members. However the City Attorney's Office, which prepared the ordinance, advised at that time that the Board was ineligible to be established as Plan trustee. The ordinance indicated that the City was placing the assets into trust but was non-specific as to which City entity would be acting as trustee and what its trustee duties and responsibilities would be relative to the Plan.

The Board is requesting official written guidance from your office regarding the following questions:

1. Which City entity is charged with acting in the role of trustee for the Plan, and what are the specific duties and responsibilities of that entity acting in its capacity of trustee?
2. If the trustee's duties and responsibilities as trustee are not presently formally delineated, should they be codified and if so in what form?

3. Can the City designate the Board of Deferred Compensation Administration as Plan trustee?

The Board believes that research of this particular topic may require the use of outside counsel fully versed in applicable Federal/State tax and pension laws. As a result, we urge the City Attorney to consider the use of those resources in developing its opinion.

Clarification of these matters will assist us in ensuring that the Plan is functioning in an optimal capacity for the best interests of our participants. We look forward to your response.

Respectfully submitted,

Eugene Canzano, Chairperson  
Board of Deferred Compensation Administration