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March 3, 2019

VIA EMAIL: City.Clerk@CulverCity.org

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Councilmember Göran Eriksson  
Councilmember Alex Fisch  
Councilmember Daniel Lee  
City of Culver City - City Hall  
9770 Culver Boulevard  
Culver City, CA. 90232

Re: Proposed Work Plans for City Departments  
City Council 3/4/2019 - 3/5/2019 Meetings  
Need for Review of Effectiveness of Internal Controls to Detect  
And Prevent Fraud, Waste and Abuse

Councilmembers:

**My "Red Flags" Communications with City Council and City Manager**

This letter repeats and supplements information that I have previously provided to each of you. Based upon Culver City's responses to my Public Records Act (PRA) requests, I have repeatedly advised the City Council and the City Manager of numerous red flags concerning the ineffectiveness of Culver City's internal controls relating to the 5/13/13 City of Culver City Council Policy Statement No. 4209 ("Purchasing and Procurement – Purchasing Cards").

There appears to be a longstanding lack of training and lack of supervision of Purchasing-Card use by Culver City government. "It's as if everyone is told, 'If you need to bypass the purchasing policy, here's the way to do it.'" (*The Little Book of Local Government Fraud Prevention – How to Prevent It – How to Detect It*, p. 43.)

Furthermore, my findings question whether Culver City has any effective internal controls.

Effective internal control is the key to local government preventing and detecting fraud, waste and abuse. Some people cannot overcome temptation. That is why homeowners do not

leave their homes while their front doors and windows are wide open. Culver City needs to fight temptation by closing and locking its front door and all of its windows.

**My Investigation Led to Evidence of City-Issued-Credit Card Fraud, Waste and Abuse.**

For several months, I have investigated the potential existence of fraud, waste and abuse in Culver-City-governmental operations. The investigation quickly focused on the suspected misuse of Culver-City-issued-credit cards (Purchasing Card or PCard) by Culver-City employees (Cardholders). I identified much misuse. Perhaps, these seemingly improper and outrageous charges are legitimate, but purported internal controls—that did not cause any to be questioned—are not effective. A complete review is warranted.

*First*, Culver City's responses to my PRA requests evidence that Culver City government, and the Cardholders have blatantly violated provisions of Policy Statement No. 4209. A significant number of Cardholders have: (1) not filed an *Initial Application for CAL-Card Purchasing Card*; (2) not been approved by the City Manager to use their respective Purchasing Cards; and (3) not executed a *City of Culver Cardholder Purchasing Card Agreement*. Those violations have continued for approximately six years. From that fact, alone, one could reasonably argue that the City Manager never intended to enforce the provisions of Policy Statement No. 4209.

Policy Statement No. 4209 has no grand-fathering provision. Each Cardholder is supposedly required to file an *Initial Application for CAL-Card Purchasing Card* (stating the need for such a card and whether the City Manager approves) and to sign a *City of Culver City Cardholder Purchasing Card Agreement*. The *Agreement* sets forth specific warnings to Cardholders concerning Purchasing-Card misuse, e.g., exposure to civil and criminal penalties. A signed *Agreement* provides Culver City with substantial contractual recourse in the event of Purchasing-Card misuse.

*Second*, the City Manager is not authorized to waive any provision of Policy Statement No. 4209, but he has repeatedly done so. Policy Statement No. 4209 mandates that staff members (with few exceptions not relevant here) may not make a single purchase for greater than \$500.<sup>1</sup> A PRA response shows that the Finance Department mistakenly believes that it has authority to make "exempt[i]ons from the single transaction limit" and granted "a temporary single transaction increase," which covered months of Purchasing-Card usage. Further, Policy Statement No. 4209 forbids the purchase of specific items. The City Manager has waived restraints on the purchase of meals by at least one Cardholder who was otherwise unauthorized to make such purchases.

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<sup>1</sup> Policy Statement No. 4209 states, in part, "Departmental Users (City Staff other than City Manager and Department Heads • Single Purchase Limit: Not to exceed \$500 ... The PCard is intended for low value purchases (generally under \$500.00 for the total order including sales tax and shipping...."

*Third*, Culver City's responses to my PRA requests provided a summary of 2018-Purchasing-Card purchases for some of the 89 Cardholders. A quick analysis of those transactions reveals multiple suspicious purchases, e.g., services, capital expenditures, leases, food, entertainment, numerous individual transactions exceeding the \$500-single-purchase limit. Policy Statement No. 4209 clearly states, "**[P]ersonal entertainment [is] not authorized to be charged to a city credit card.**" (Bold emphasis in original.) More importantly, the analysis reveals enforcement impracticalities.

Policy Statement No. 4209 states, in part: "Card Restrictions The PCard shall NOT be used for the following (See Attachment 1 for additional details): • A purchase ... which exceeds that Cardholder's single purchase limit...; • Computer hardware (including tablets), software, and accessories unless prior authorization has been received from the CIO and Purchasing Division Manager; ... • Purchase of services; ...."

Attachment 1 (*Allowable and Non-Allowable Purchases Chart* ) to City of Culver City Council Policy Statement No. 4209 states, in part:

Business Meals	Only City Council, City Manager, Assistant City Manager and Department Heads are authorized to use credit cards purchase meals <u>for official business meetings</u> . ... [C]omplete and submit the Transaction Log ... indicating the names and affiliation for <u>all</u> members of the party whose meals are paid for using the Purchasing Cards, and state the business purpose for the expense. You must include an itemized receipt showing food and beverage items purchased, rather than the receipt showing only the total.	Allowable *
Seminars. Etc. (Using Dept. Budget)	Seminars, training, books etc. that have been budgeted for within the department, and that are NOT funded through the City's Education Reimbursement/Professional Development Program.	Allowable
Capital Expenditures		Non-Allowable
Computer	Hardware, peripherals, software, services and rentals except Information Technology designated personnel.	Non-Allowable
Leases		Non-Allowable

\* Allowable with Department Director (sic) approval

(Underline emphasis added.)

I detected some particularly suspicious purchases—possibly in violation of Policy Statement No. 4209, at exorbitant prices, and/or simply not necessary—e.g.: (1) \$55.36 "7 Meow Mix Simple Servings Seafood Variety Pack Cat Trays"; (2) \$720 "Yoga Classes" at SoulPlay Yoga; (3) \$4,280.36 "luncheon" at Boston Market, (4) \$2,731.66 "spring event" at Coolhaus; (5) \$318.80 "breakfast" at Akasha; (6) \$554.04 "dinner" at California Pizza Kitchen; (7) \$330 "team building" at Maze Rooms; (8) \$692.14 "Ergonomic Standing Desk" at Office Depot; (9) \$336.08 "Wireless Headset System"; (10) \$2,500 for one of several refrigerators; (11) \$22.98 for "toll road violation"; (12) \$681.99 "TV for Personnel & Training Conference Room" at Target; (13) \$2,624 "Laptop for Community Relations Unit" at Melrose Mac, Inc.; (14) \$1,322.50 "Dell EMC ... Optiplex 7060" from Dell Computer Corp.; (15) \$1,387.83 "Black and White Printer" at SupplyMaster Inc.; (16) twelve \$100 charges for "toll road transponder fees" at "The Toll Roads of OC [Orange County]"; (17) \$640 "cells tower records" at "TMobile\*Law Relation"; (18) various leases - \$252 "Slide at National Night Out," \$1,857.75 "Concession Stands for National Night Out." Most ironic was (16) \$586.85 "AB1234 Ethics Training - Dinner" at California Pizza Kitchen.

*Fourth*, Culver City's PRA responses reveal that Policy Statement No. 4209 contains serious implementation and operational problems.

Initially, there were numerous large-dollar-amount purchases of "Office Supplies." One should question why the "Office Supplies" were not obtained through Culver City's Central Stores Warehouse, in contrast to direct purchases from outside vendors. Policy Statement No. 4209 states, in part, "Purchasing staff can analyze monthly reports to identify repetitive purchases for possible consolidation into volume pricing agreements and/or contracts." Apparently, this was not done. Furthermore, after six years, there were voluminous separate purchases made through Office Depot, which is not known for discount pricing.

Next, Policy Statement No. 4209 forbids the Cardholders from effecting a "capital expenditure" or "lease," but does not define either term. "A capital expenditure refers to the expenditure of funds for an asset that is expected to provide utility ... for more than one reporting period. Examples of capital expenditures are as follows: ... • Computer equipment • Office equipment • Furniture and fixtures ... • Machinery ... • Software...." The noun "lease" generally means "a legal agreement that allows you to use a car, building, etc., for a period of time, in return for rent." The duration of the lease is irrelevant, it is still a lease.

There were many high-dollar purchases of computers, peripherals, software and "capital expenditures." The Finance Department, comparing apples to oranges, now states, "The City defines Capital Assets as property, plant. Equipment and infrastructure assets over \$5,000 with a useful life of at least three years. This definition can be found at page 69 FY 2017/2018 Comprehensive Annual Financial Report (CAFR)." Page 69 does not contain any such statement, and the entire Report does not contain the phrase "Capital Expenditure." The term "capital asset" is usually defined as "machines, buildings or other property," regardless of their cost. Nothing in Policy Statement No. 4209 refers to any Comprehensive Annual Financial Report.

Further, the purposes of the Comprehensive Annual Financial Report (2017/2018) and Policy Statement No. 4209 (2013) are different. Policy Statement No. 4209's "Non-Allowable" purpose is to inform Cardholders of restrictions on the use of Purchasing Cards, not to turn them into Certified Public Accountants. Whether a "Capital Expenditure" is expensed or depreciated over time for accounting purposes is irrelevant. The City Council could have explicitly stated that "Capital Expenditures" only refers to items costing more than \$5,000 when it enacted Policy Statement No. 4209, but it did not. However, the City Council did state, "The PCard is intended for low value purchases (generally under \$500.00 for the total order ...)."

As a corollary, one hopes that "Capital Expenditures" and computer-related assets were physical tagged as the property of Culver City and inventoried as Culver City's assets. Every household that has employed a handyman knows about "walking tools."

Additionally, large-dollar amounts have been expended for "meals," without a statement "indicating the names and affiliations for all members of the party whose meals were paid for using the Purchasing Card, and then state the business purpose for the expense." (Emphasis added.) Essentially, partying at taxpayers' expense is not "an official business meeting" and is far too prevalent.

Finally, Policy Statement No. 4209 is ineffective as to "Seminars, Etc. (Using Department Budget)." Policy Statement No. 4209 states, in part: "Cardholders must ensure that there are sufficient funds in their budget prior to making any purchases." In substance, each Cardholder is supposed to: (1) review the City's budget documents relative to his or her Department, (2) determine the total amount of all prior charges to his or her Department for "Seminars, Etc." during that fiscal year, and (3) calculate whether sufficient funds are available for his or her currently intended purchase. That is an onerous task. Supervision is highly unlikely.

An independent review of the effectiveness of Policy Statement No. 4209 would reveal that its implementation has been gravely flawed and its enforcement has been substantially non-existent.

**Culver City Has Never Had, But Needs an Independent Review of the Effectiveness of Its Purported Internal Controls.**

Culver City has not had an independent review of the effectiveness of its internal controls in, at least, the past eight years.<sup>2</sup> In each of Culver City's past eight *Comprehensive Annual Financial Reports*, the City Manager sets forth cost/benefit representations concerning the design of Culver City's purported internal controls, but Culver City has no specific supporting documentation. The City Manager makes no explicit representation that the internal controls are actually effective. Further, the Independent Auditors have repeatedly, affirmatively informed the

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<sup>2</sup> This is not an admission that Culver City has ever submitted itself to an independent review of the effectiveness of its internal controls.

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City Council that they were not engaged to and did not render an opinion as to the effectiveness of Culver City's internal controls.

Culver City's *Independent Auditor's Reports* affirmatively state that they express no effectiveness opinion, e.g.:

[T]he auditor considers internal control relevant ... but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. Accordingly, we express no such opinion. ... The purpose of [our report dated January 29, 2018] is not to provide an opinion on internal control over financial reporting or on compliance.

(Emphasis added.)

In Culver City's *Comprehensive Annual Financial Report—for the Fiscal Year Ended June 30, 2017*, as in at least the eight prior Comprehensive Annual Financial Reports, the City Manager personally represents, in part:

[M]anagement of the City has established a comprehensive internal control framework that is designed both to protect the City's assets from loss, theft or misuse.... Because the cost of internal controls should not outweigh their benefits, the City's comprehensive framework of internal controls have been designed to provide reasonable rather than absolute assurance that the financial statements will be free from material misstatement.

(Emphasis added.) The representation omits any information about the effectiveness of the internal controls or whether they have been submitted to independent review.

My January 18, 2019 PRA request sought documentary evidence to support City Manager's representations by requesting, in part:

(1) For the period of January 1, 2013 to present, all records showing the "cost of internal controls" incurred by Culver City government. ... (4) For the period of January 1, 2013 to present, all records showing each analysis of "the cost of internal controls" versus the "benefits" of the internal controls.

Culver City's February 1, 2019 response states, in part:

As to your requests nos. 1-4 above, there are no specific records responsive to the request.

It seems that the City Council, in exercising its fiduciary duties, should promptly obtain an independent review of the effectiveness of its purported internal controls. Otherwise, the City Council is recklessly flying blind.

**The Proposed Budget's "Continued Internal Audit Function" Is Unclear.**

It appears to me that the section of the 2019-20 Proposed Budget entitled, "Continued Internal Audit Function," is part of a clever plan to avoid detecting and remedying and, possibly, covering-up, the fraud, waste and abuse that, most likely, are currently taking place in Culver City government.

The Plan states, "The City's Consultant is in progress on a report on ... Internal Controls. Policies and Procedures will be created based on recommendations from consultant and will be finalized and put into place by FY 2019/20."

There is no statement as to whether the "City's Consultant" has been engaged to examine the effectiveness of Culver City's purported internal controls. Further, there is no statement dealing with stopping the existing fraud, waste and abuse that I have reported.

**Culver City May Have Erroneously Tasked the "City's Consultant."**

Unless Culver City specifically engaged the "City's Consultant" to review the effectiveness of Culver City's internal controls, Culver City is wasting taxpayer funds.

Culver City informed me that the "City's Consultant" is Moss-Adams LLP, and its work for Culver City will be similar to that which it performed for the City of Santa Monica. This is problematic.

The Executive Summary section of Santa Monica's 3/17/15 Moss-Adams LLP *Internal Controls Review* states, "The review took place between October and November 2014.... The review of internal accounting control was ... *not an audit* of the internal controls that resulted in a formal opinion or other form of assurance. Moss Adams reviewed the City's internal controls for *design* but did *not test those controls for operating effectiveness*...." (Underline and italics emphasis added.)

Culver City needs a review of the *effectiveness* of its internal controls. From responses to my recent PRA requests, it is readily apparent that the Policy Statement No. 4209, regardless of the quality of its *design*, is substantially ineffective.

**The "City's Consultant" Should Report Directly to the City Council Due to the City Manager's Conflicts of Interest.**

Any criticism of the effectiveness of Culver City's purported internal controls would negatively reflect upon the City Manager's performance and may reflect upon whether he committed malfeasance. Thus, it is problematic for the City Manager to have participated in selecting or tasking the "City's Consultant." Further, the "City's Consultant's" report should be delivered directly to the City Council.

*First:* At the granular level, I found one Cardholder in the City Manager's office who, in 2018, appears to have aggressively violated the provisions of Policy Statement No. 4209. The

"City's Consultant" might, cast doubt upon the City Manager's supervision of the aforesaid employee.

*Second:* In Culver City's *Comprehensive Annual Financial Reports*, the City Manager has repeatedly stated that Culver City's internal controls were properly *designed*. The implication is that the internal controls are effective. If the "City Consultant" determines otherwise, the City Manager's statements might be considered, at the least, misleading.

The City Manager has every incentive to make efforts to ensure that any review of Culver City's purported internal controls results in a finding that internal controls exist and are effective.

### **The City Manager's Planned "Review" of Credit-Card Policy Should Not Delay Enforcement.**

Culver City has informed me that the City Manager plans to "review" Policy Statement No. 4209. (There was no explanation why a "review" had not been conducted in the past six years.) Immediate enforcement, in addition to any "review," is necessary.

The City Manager currently has authority and a duty to enforce the City-Council-established policy. From recent responses to my PRA requests, one learns that the Policy Statement No. 4209 is ineffective and not enforced. Violations probably occur daily. Immediate enforcement is necessary and prudent.

Further, this letter and my February 4, 2019 email and its attachments ["Re: Culver City's Apparent Lack of Effective Internal Controls"] provide a detailed guide to areas of Purchasing-Card misuse. The City Manager can take appropriate action without any delay.

### **Culver City Needs A Whistleblower Program.**

"The most effective method of preventing and detecting fraud is to ask those associated with your government to report 'anything outside the ordinary routine,' though they will need anonymity in order to do so. ... Dollar for dollar, a sound whistleblower program is the most effective means of detecting and preventing fraud, more so than *anything* else you can do. ... Since fraud is detected at an extremely high rate by *tips*.... [A]t a minimum, advertise the means by which your governmental employees, elected officials, citizens, and vendors can communicate information.... The advertisements often include physical posters and postings to your government's websites, including intranets. ... [T]each your employees the red flags of fraud so they'll know what to look for and what to communicate." (*The Little Book of Local Government Fraud Prevention – How to Prevent It – How to Detect It*, pp. 17-19, emphasis in original.)



**Conclusion—Suggestions**

The City Council should promptly implement the following:

(1) Specifically task the "City's Consultant" to review the effectiveness of Culver City's internal controls and report its findings directly to the City Council;

(2) Make it clear to the City Manager and his staff that they are not to try to influence the findings in "City's Consultant's" report to the City Council;

(3) Order the City Manager to enforce the provisions of Policy Statement No. 4209, including, but not limited to, issuing a notice to each Cardholder to read Policy Statement No. 4209 (for initial training purposes) and revoking the use of Purchasing Cards to those Cardholders whose *Application* has not been accepted and/or who have not signed an *Agreement*;

(4) Agendize (for public discussion and appropriate action) the issue of the effectiveness of Culver City's internal controls; and,

(5) Agendize (for public discussion and appropriate action) the need for a whistleblower hotline to detect and prevent fraud, waste and abuse.

The City Council might trust, but it needs to verify. Hopefully, the City Council will become part of the solution, not the problem. The buck stops with the City Council that has a fiduciary to us—taxpayers—to make sure that Culver City's internal controls effectively detect and protect us from fraud, waste and abuse.

Please communicate with me if further information is desired.

Yours truly,



LES GREENBERG

LG:pg

cc: John Nachbar, City Manager  
Onyx Jones, Chief Financial Officer