



COUNCIL AGENDA - CITY OF BURBANK  
TUESDAY, SEPTEMBER 16, 2003  
5:00 P.M.

**CITY COUNCIL CHAMBER – 275 EAST OLIVE AVENUE**

This agenda contains a summary of each item of business which the Council may discuss or act on at this meeting. The complete staff report and all other written documentation relating to each item on this agenda are on file in the office of the City Clerk and the reference desks at the three libraries and are available for public inspection and review. If you have any question about any matter on the agenda, please call the office of the City Clerk at (818) 238-5851. This facility is disabled accessible. Auxiliary aids and services are available for individuals with speech, vision or hearing impairments (48 hour notice is required). Please contact the ADA Coordinator at (818) 238-5021 voice or (818) 238-5035 TDD with questions or concerns.

CLOSED SESSION ORAL COMMUNICATIONS IN COUNCIL CHAMBER:

Comments by the public on Closed Session items only. These comments will be limited to **three** minutes.

For this segment, a **PINK** card must be completed and presented to the City Clerk.

CLOSED SESSION IN CITY HALL BASEMENT LUNCH ROOM/CONFERENCE ROOM:

- a. Conference with Legal Counsel – Existing Litigation:  
Pursuant to Govt. Code §54956.9(a)
  - 1. **Name of Case:** City of Burbank v. Burbank-Glendale-Pasadena Airport Authority.  
**Case No.:** BC259852  
**Brief description and nature of case:** Declaratory Relief.
  - 2. **Name of Case:** City of Burbank v. State Water Resources Board.  
**Case No.:** Court of Appeals Case No. B150912  
**Brief description and nature of case:** Waste Water Discharge Requirements.
- b. Conference with Legal Counsel – Anticipated Litigation (City as possible plaintiff):  
Pursuant to Govt. Code §54956.9(c)  
**Number of potential case(s):** 1
- c. Conference with Legal Counsel – Anticipated Litigation (City as potential defendant):  
Pursuant to Govt. Code §54956.9(b)(1)  
**Number of potential case(s):** 1
- d. Public Employee Performance Evaluation:  
Pursuant to Govt. Code §54957 and 54957.6  
**Title of Employee’s Position:** City Attorney.

- e. Public Employee Performance Evaluation:  
Pursuant to Govt. Code §54957 and 54957.6  
**Title of Employee's Position:** City Manager.

When the Council reconvenes in open session, the Council may make any required disclosures regarding actions taken in Closed Session or adopt any appropriate resolutions concerning these matters.

**6:30 P.M.**

INVOCATION: Pastor Paul Clairville, Westminster Presbyterian Church.  
The Courts have concluded that sectarian prayer as part of City Council meetings is not permitted under the Constitution.

FLAG SALUTE:

ROLL CALL:

ANNOUNCEMENT: WEDNESDAY NIGHT PRIME TIME PROGRAMS.

ANNOUNCEMENT: CHARTER REVIEW COMMITTEE AND CHILD CARE COMMITTEE VACANCIES.

COUNCIL COMMENTS: (Including reporting on Council Committee Assignments)

INTRODUCTION OF ADDITIONAL AGENDA ITEMS:

At this time additional items to be considered at this meeting may be introduced. As a general rule, the Council may not take action on any item which does not appear on this agenda. However, the Council may act if an emergency situation exists or if the Council finds that a need to take action arose subsequent to the posting of the agenda. Govt. Code §54954.2(b).

REPORTING ON CLOSED SESSION:

AIRPORT AUTHORITY MEETING REPORT:

1. AIRPORT AUTHORITY COMMISSIONER REPORT:

At the request of the Burbank representatives to the Airport Authority, an oral report will be made to the City Council following each meeting of the Authority.

The main focus of this report will be issues which were on the Airport Authority meeting agenda of September 2, 2003. Other Airport related issues may also be discussed during this presentation.

Recommendation:

Receive report.

**INITIAL OPEN PUBLIC COMMENT PERIOD OF ORAL COMMUNICATIONS:** (Two minutes on any matter concerning City Business.)

There are four segments of Oral Communications during the Council Meeting. The first precedes the Closed Session items, the second and third segments precede the main part of the City Council's business (but follow announcements and public hearings), and the fourth is at the end of the meeting following all other City business.

**Closed Session Oral Communications.** During this period of oral communications, the public may comment only on items listed on the Closed Session Agenda(s). A **PINK** card must be completed and presented to the City Clerk. Comments will be limited to **three** minutes.

**Initial Open Public Comment Period of Oral Communications.** During this period of Oral Communications, the public may comment on any matter concerning City Business. A **BLUE** card must be completed and presented to the City Clerk. NOTE: Any person speaking during this segment may not speak during the third period of Oral Communications. Comments will be limited to **two** minutes.

**Agenda Item Oral Communications.** This segment of Oral Communications immediately follows the first period, but is limited to comments on agenda items for this meeting. For this segment, a **YELLOW** card must be completed and presented to the City Clerk. Comments will be limited to **four** minutes.

**Final Open Public Comment Period of Oral Communications.** This segment of oral communications follows the conclusion of agenda items at the end of the meeting. The public may comment at this time on any matter concerning City Business. NOTE: Any member of the public speaking at the Initial Open Public Comment Period of Oral Communications may not speak during this segment. For this segment, a **GREEN** card must be completed and presented to the City Clerk. Comments will be limited to **two** minutes.

**City Business.** City business is defined as any matter that is under the jurisdiction of the City Council. Although other topics may be of interest to some people, if those topics are not under City Council jurisdiction, they are not City business and may not be discussed during Oral Communications.

**Videotapes/Audiotapes.** Videotapes or audiotapes may be presented by any member of the public at any period of Oral Communications or at any public hearing. Such tapes may not exceed the time limit of the applicable Oral Communications period or any public comment period during a public hearing. The playing time for the tape shall be counted as part of the allowed speaking time of that member of the public during that period.

Videotapes must be delivered to the Public Information Office by no later than 10:00 a.m. on the morning of the Council meeting in a format compatible with the City's video equipment. Neither videotapes nor audiotapes will be reviewed for content or edited by the City prior to the meeting, but it is suggested that the tapes not include material that is slanderous, pornographic, demeaning to any person or group of people, an invasion of privacy of any person, or inclusive of material covered by copyright.

Printed on the videocassette cover should be the name of the speaker, the period of oral communication the tape is to be played, and the total running time of the segment. The Public Information Office is not responsible for "cueing up" tapes, rewinding tapes, or fast forwarding tapes. To prevent errors, there should be ten seconds of blank tape at the beginning and end of the segment to be played. Additionally, the speaker should provide the first sentence on the tape as the "in cue" and the last sentence as the "out cue".

As with all Oral Communications, videotapes and audiotapes are limited to the subject matter jurisdiction of the City and may be declared out of order by the Mayor.

**Disruptive Conduct.** The Council requests that you observe the order and decorum of our Council Chamber by turning off or setting to vibrate all cellular telephones and pagers, and that you refrain from making personal, impertinent, or slanderous remarks. Boisterous and disruptive behavior while the Council is in session, and the display of signs in a manner which violates the rights of others or prevents others from watching or fully participating in the Council meeting, is a violation of our Municipal Code and any person who engages in such conduct can be ordered to leave the Council Chamber by the Mayor.

Once an individual is requested to leave the Council Chamber by the Mayor, that individual may not return to the Council Chamber for the remainder of the meeting. BMC §2-216(b).

Individuals standing in the Council Chamber will be required to take a seat. Also, no materials shall be placed in the aisles in order to keep the aisles open and passable. BMC §2-217(b).

Your participation in City Council meetings is welcome and your courtesy will be appreciated.

COUNCIL AND STAFF RESPONSE TO INITIAL OPEN PUBLIC COMMENT PERIOD OF ORAL COMMUNICATIONS:

**AGENDA ITEM ORAL COMMUNICATIONS:** (Four minutes on Agenda items only.)

**COUNCIL AND STAFF RESPONSE TO AGENDA ITEM ORAL COMMUNICATIONS:**

**JOINT MEETINGS WITH THE REDEVELOPMENT AGENCY:**

2. **PROFESSIONAL SERVICES AGREEMENT FOR DEVELOPMENT IMPACT FEE NEXUS STUDY:**

At the December 17, 2002 Council meeting, during the annual review of the City's Development Impact Fee Schedule, staff indicated to Council that a nexus study would be conducted to review and update the existing fees. In February 2003, an in-house committee was formed with representatives from the various affected City departments, including: Community Development, Police, Fire, Library Services, Park, Recreation and Community Services, the City Attorney's office, Information Technology, and Public Works. The Committee met on several occasions to review the existing fees, evaluate the methodology used to develop fees during the first nexus study, conduct a preliminary assessment of the future needs of the City, and discuss options for proceeding with the study.

Generally speaking, Development Impact Fees allow cities to collect funds from new development projects for infrastructure and facilities relating to the impact of new development on those facilities. In order to impose Development Impact Fees, a reasonable connection or nexus must exist between the new development and the improvement of a facility for which the fees are to be assessed. In addition, it must also be determined that the projected improvements to be financed by the impact fees will benefit those required to pay them, and this fee must be proportionate to the amount of benefit received.

Given the very specialized nature of nexus studies, staff feels that the best method for facilitating the development of new fees would be to retain the services of a qualified consultant, one that is familiar with the intricacies of impact fees, the methodologies for calculating them, the applicable State law such as the Mitigation Fee Act (Assembly Bill 1600) that affects impact fees, and the procedures for implementing them.

In June 2003, a Request for Proposals (RFP) was sent to ten consulting firms. Of the ten requests that were sent, the City received three proposals, three notifications of non-submittal, with no response from the remaining four firms. Proposals were received from: Maximus; Gruen Gruen & Associates (GG&A); and Economic & Planning Systems, Inc. (EPS), and are summarized below.

The EPS approach involves reviewing City data such as the Capital Improvement Program (CIP), General Plan, the existing fee structure, demographic information, and land use projections. These documents will be used to develop land use assumptions and growth projections, future facility requirements and the accompanying cost

estimates, the allocation methodology of the fees, and their economic impact. Based on these findings, a new fee structure will be formed. Lastly, EPS will prepare draft and final reports for review and final approval.

The approach outlined by Maximus involves a comprehensive review and analysis of City data. Based on this analysis, Maximus will organize the development data and determine the needs and service levels of the community. Future facilities and their costs will also be identified. From this analysis, the new impact fee structure will be derived. Lastly, Maximus will prepare draft and final reports, will aid staff in the implementation of the fees, and present the report to the Council, key stakeholders, and the public.

GG&A proposes to conduct a comprehensive review of the existing fee structure, research applicable State law, analyze available City data, and review the existing fee calculation methodology to develop recommendations for updating the existing fees. A customized model that calculates updated impact fees will be developed, the appropriate metrics/indicators for model inputs will be tested, then crossed with the City's growth forecasts, to arrive at the new fees. GG&A plans to study impact fees imposed by neighboring communities, develop a credit system to avoid potential double payments, and research and recommend alternate funding sources. After preparing a draft report and presenting the draft study to Council, GG&A will modify and refine the report, and lastly, submit the final document.

Each of the proposals received demonstrated a great deal of expertise with, and interest in, this type of project. The tasks outlined by each of the proposals generally met the intent of staff's request. However, after considerable review by the Nexus Study Committee and further interviews with EPS and Maximus, staff feels that EPS is the strongest candidate for the study. Their proposal includes analyzing all types of community facility, utility, and public services fees common to other cities. EPS intends to involve the public and key stakeholders in the process and has expressed flexibility and interest in pursuing fees such as technology development, or Geographic Information Systems (GIS) fees relatively uncommon to this process. The firm has experience in conducting nexus studies and will determine the appropriate level of each fee by conducting an analysis of the future needs of public facilities based on growth projections, testing these fees to ensure that the market will support them, and ensuring that Burbank will remain competitive in attracting desired development. From the soundness of their approach and the level of service that they would provide, to their background in economics, land use, local government and public infrastructure financing, for a cost not to exceed \$50,000, staff feels that an agreement with EPS should be pursued for this study.

Based on the proposals received from the RFP process, the cost per study ranged from \$50,000 to \$112,955. Should the Council support staff's recommendation, the proposed resolution would authorize the City Manager to enter into a Professional Services Agreement with EPS for an amount of up to \$50,000, recommended to be funded from the Golden State Redevelopment Project Area, Unappropriated Fund Balance. Any appropriation from the General Fund Unappropriated Fund Balance would have a

negative impact on the Public Employees Retirement System and budget stabilization funds. By utilizing Redevelopment Agency (Agency) funds, the General Fund will not be impacted. In addition, the Agency would benefit from the study as it will provide additional funding sources for costs related to infrastructure improvements that are part of future redevelopment projects.

Recommendation:

1. Adoption of proposed Redevelopment Agency resolution entitled:  
A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF BURBANK APPROVING A COOPERATION AGREEMENT BETWEEN THE REDEVELOPMENT AGENCY AND THE CITY OF BURBANK AND AMENDING THE FISCAL YEAR 2003-2004 ANNUAL BUDGET IN THE AMOUNT OF \$50,000 FOR THE PURPOSE OF FUNDING A NEXUS FEE STUDY.
2. Adoption of proposed Council resolution entitled:  
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING A COOPERATION AGREEMENT BETWEEN THE CITY OF BURBANK AND THE REDEVELOPMENT AGENCY OF THE CITY OF BURBANK, AND A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF BURBANK AND ECONOMIC & PLANNING SYSTEMS, INC.
3. SECOND AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT WITH THE UNITED CEREBRAL PALSY FOUNDATION FOR AN INDEPENDENT LIVING FACILITY AT 600 SOUTH SAN FERNANDO BOULEVARD:

Staff is requesting that the Redevelopment Agency Board (Agency) and Council consider approval of the Second Amendment to the Disposition and Development Agreement (DDA) with the United Cerebral Palsy/Spastic Children's Foundation of Los Angeles and Ventura Counties (UCP). This would amend the Schedule of Performance and increase funding by the Agency to allow UCP to acquire and develop an independent living facility for very low-income persons with disabilities (Project) at the Agency-owned site at 600 South San Fernando Boulevard. This action would amend the City's Fiscal Year (FY) 2003-04 Consolidated Plan Annual Update.

This Project responds to an unmet housing need in the community, one that is most pressing to a specific segment of the population. According to the 2000 Census, approximately 17 percent (17,200 persons) of Burbank residents have a disability. Within this special needs population, the City's 2003-2008 Consolidated Plan further finds that, "Many persons with disabilities have lower incomes since the disability may affect their ability to work. Thus, persons with disabilities have a greater need for affordable housing as well as supportive services." It is this community need that makes this project so compelling; it addresses the affordable housing needs of very low-income disabled persons and provides an array of supportive services to those with developmental or physical disabilities.

Further, the proposed second amendment is consistent with the City and Agency affordable housing strategy outlined at the July 29, 2003 Study Session, as well as the recommendation by the Blue Ribbon Task Force on Affordable Housing (Task Force) regarding the importance of promoting affordable and accessible housing to special needs populations. The housing strategy specifically quotes a Task Force finding by stating that, “the City is looking to encourage new construction of special needs housing through Agency financial assistance and site assembly, and integration of community-serving uses with housing (e.g., the Burbank Accessible Apartments project) that also provides needed support services to allow special needs populations to live independently.” The proposed amendment follows a protracted history associated with development of an independent living facility at 600 South San Fernando Boulevard, a site that presaged a recommendation posed by the Task Force encouraging residential development along corridors.

On May 9, 2000, the Agency and Council approved entitlements and executed a DDA for the construction of a proposed 18-unit independent living facility restricted to very low-income (annual household income not exceeding 50 percent of median income for Los Angeles County), disabled households. The Project was designed as two and three-story multifamily apartment buildings comprised of four two-bedroom (inclusive of one manager’s unit) and 14 one-bedroom units. Prior to Project approval, the Agency acquired a 0.4-acre development site at 600 South San Fernando Boulevard. The Project was competitively positioned to receive an allocation during FY-2000-01 United States Housing and Urban Development (HUD) funding cycle for Federal Section 811 funds. Although UCP was not awarded the anticipated HUD funds, it was concluded that the Section 811 allocation remained as the preferred way of financing construction of the Project and subsidizing rents. Under the Section 811 Program, HUD advances funds to nonprofit organizations to develop and construct rental housing with supportive services (typically off-site) for very low-income persons with disabilities achieved through a double subsidy from HUD. From a development standpoint, the nonprofit sponsor receives a capital advance to finance new construction of rental housing, funds that are interest-free and not repaid if the housing remains available to these special needs households for at least 40 years. In addition, the Program provides annual operating subsidies to bridge the gap between the rental income and a project’s operating expenses. In doing so, this allows UCP to accept very low-income households without affecting the financial feasibility of a project.

Accordingly, on May 8, 2001, the Council and Agency approved the First Amendment to the DDA specifically authorizing UCP to apply for another round of Section 811 funding by submitting a new (second) application and revised Schedule of Performance in conformance with the timeline imposed by Section 811 funds application guidelines. UCP subsequently submitted a second application for Section 811 funds for the Burbank Accessible Apartments Project and, after a one-year delay, was notified by HUD in February 2002 that the Project was selected for a \$2.15 million allocation. UCP notified the Agency in early October 2002 that during preparation of the final HUD budget



documents (Final Commitment Application, HUD Form 923013), a shortfall of \$151,544 was discovered that would delay start-up of the Project.

Absent further Agency financial participation, UCP and Agency staff have, over the ensuing months, continued reviewing options to bridge the funding gap. As a starting point, UCP's Attorney has indicated receipt of notification from HUD that the Project's fund reservation of \$2.14 million has been extended through October 30, 2003, and that UCP has been exploring additional funding sources for the Project as well as reviewing project soft and hard costs to see if there are any further savings that may be recognized.

An additional \$100,000 in new funding sources has been secured from an Ahmundson Foundation grant and UCP has committed \$250,000 of its funds to the Project in addition to applying for an Affordable Housing Program (AHP) grant from the Federal Reserve Bank. However, the AHP program is competitive and there is no assurance the Project will be funded.

In addition to these new sources, the DDA stipulates that the Agency is to convey the Site, previously purchased with \$560,000 in Agency Low Moderate-Income Housing Funds, at no cost to UCP, which constitutes the reuse value. In turn, the City will provide up to \$750,000 in HOME Investment Partnership Program funds to defray assemblage (e.g., relocation payments, abatement and demolition) and UCP's construction costs, making the total warranted assistance \$1,310,000. Further more, certain construction items have been value engineered in an effort to reduce costs, while ensuring that any alterations remain in substantial conformance to the approved plans, and the choice of building materials, building and the Agency-approved landscape plan remains intact.

While the Agency could terminate the DDA because the Developer is in default for not closing escrow by the outside date, the need for special housing warrants providing UCP with another time extension. UCP was selected because of its unique qualifications in developing and operating disabled housing primarily financed with Section 811 funds that would allow the Project to be affordable to very low-income disabled households.

Recommendation:

1. Adoption of proposed Redevelopment Agency resolution entitled:  
A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF BURBANK APPROVING THE SECOND AMENDMENT TO DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE AGENCY, THE CITY OF BURBANK AND UNITED CEREBRAL PALSY/SPASTIC CHILDREN'S FOUNDATION OF LOS ANGELES AND VENTURA COUNTIES.
  
2. Adoption of proposed Council resolution entitled:  
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE SECOND AMENDMENT TO DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE REDEVELOPMENT AGENCY OF THE CITY OF BURBANK, THE CITY OF BURBANK AND UNITED CEREBRAL PALSY/SPASTIC CHILDREN'S FOUNDATION OF LOS ANGELES AND VENTURA COUNTIES.

RECESS for the Redevelopment Agency meeting.

RECONVENE for the City Council meeting.

CONSENT CALENDAR: (Items 4 through 8)

The following items may be enacted by one motion. There will be no separate discussion on these items unless a Council Member so requests, in which event the item will be removed from the consent calendar and considered in its normal sequence on the agenda. A **roll call** vote is required for the consent calendar.

4. MINUTES:

Approval of minutes for the regular meetings of August 19, August 26, September 2 and September 9, 2003.

Recommendation:

Approve as submitted.

5. APPROVING CONTRACT DOCUMENTS AND AWARDING A CONSTRUCTION CONTRACT FOR THE STORMWATER IMPROVEMENT PROJECT, BURBANK LANDFILL NO. 3 – BID SCHEDULE NO. 1148:

Staff is requesting Council approval of contract documents and award of a construction contract for Bid Schedule No. 1148, Stormwater Improvement Project, Burbank Landfill No. 3. The Burbank Landfill No. 3 is a Class III, non-hazardous waste landfill located within an unnamed canyon in the northern portion of the City. The landfill is regulated under several permits issued by the California Regional Water Quality Control Board, the California Integrated Waste Management Board, the South Coast Air Quality Management Board, and the County of Los Angeles Department of Health Services. The landfill also operates under Conditional Use Permit No. 2000-16, approved by the City of Burbank Planning Board Resolution No. 2802 on November 13, 2000.

During heavy rains in February 2003, the landfill's perimeter drainage pipes were damaged when excessive soil material sloughed off the hillside, filling and dislodging the pipes. These pipes must be replaced in order to remain in compliance with the operating permits. The proposed project will re-align the pipes and provide additional upslope erosion protection to prevent future damage.

On August 26, 2003, six contractors submitted responsive bids for this bid schedule, ranging from \$373,373 to \$550,900. A seventh contractor submitted a bid for \$449,963 that was considered non-responsive because the bidder did not use the revised

proposal page. Union Engineering Company, Inc. (Union Engineering) of Ventura, California, submitted the apparent low bid, which is approximately 19.7 percent below the engineer's estimate of \$465,000. Staff contacted the State of California Contractor's State License Board and has found Union Engineering's license to be current, active, and in good standing. Staff also contacted several references, which provided confirmation that Union Engineering had satisfactorily completed their projects. Construction of this project is planned to occur between September and October 2003 in advance of the next rainy season.

Sufficient funding for this project is available. The cost of this project was included in the Refuse Fund's five-year financial forecast and will not cause a rate increase.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING AND ADOPTING CONTRACT DOCUMENTS, PLANS AND SPECIFICATIONS, AND DETERMINING THE LOWEST RESPONSIBLE BIDDER, ACCEPTING THE BID, AND AUTHORIZING EXECUTION OF A CONTRACT FOR STORMWATER IMPROVEMENT PROJECT BURBANK LANDFILL NO. 3, BID SCHEDULE NO. 1148.

6. BURBANK PUBLIC LIBRARY'S REQUEST TO ENTER INTO A MULTI-YEAR AGREEMENT FOR MANAGED TECHNOLOGY SERVICES:

Staff is requesting Council approval to enter into a three-year agreement with Data Systems Worldwide (DSW) to provide the Library's technology managed services (consisting of firewall monitoring and administration, licensing, and software), replacement hardware, and hardware maintenance.

Currently the City pays an annual cost of \$45,439.25 for the Library's managed services which no longer include hardware maintenance. Information Technology staff was directed to assist the Library Services Department in an attempt to decrease the cost for these services. Staff requested three-year proposals from SBC Datacomm, the current vendor, and DSW which are summarized below.

<b>Summary of Submitted 3-Year Proposals</b>		
<b>Description</b>	<b>SBC DataComm</b>	<b>DSW</b>
Monitoring and Firewall Administration (3yr)	\$ 81,000.00	\$ 78,900.00
Licensing (taxable)	\$ 2,870.40	\$ 2,800.00
Software (taxable)	\$ 17,101.50	Included
Replacement Hardware (taxable)	Not Offered	\$ 3,399.80
Services for Hardware (3yr)	Not Offered	\$ 3,600.00
Hardware Maintenance (3yr)	Not Offered	\$ 1,624.50
Subtotal	\$ 100,971.90	\$ 90,324.30
Tax	\$ 1,647.68	\$ 511.48

Grand Total | \$ 102,619.58 | \$ 90,835.78 |

After reviewing the proposals staff recommends that the City enter into a three-year agreement with DSW which will result in an \$11,783.80 savings over the three-year term plus provide replacement hardware and hardware maintenance. The annual savings is \$15,160.65 over the current annual cost, for a total savings of \$45,481.95 over the three-year term of the agreement.

The \$90,835.78 for the renewal is appropriated in the Library Service Department's Fiscal Years 2003-06 operating budgets.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE PROFESSIONAL SERVICES AGREEMENT FOR MANAGED SERVICES, HARDWARE AND HARDWARE MAINTENANCE BETWEEN THE CITY OF BURBANK AND DATA SYSTEMS WORLDWIDE.

7. APPROVAL OF A RESOLUTION AMENDING RESOLUTION NO. 21,732 RELATING TO THE EXECUTIVE COMPENSATION PLAN TO ALLOW TWO ELIGIBLE EXECUTIVES TO PARTICIPATE IN THE VOLUNTARY EMPLOYEE BENEFICIARY ASSOCIATION:

The purpose of this report is to request Council approval of a proposed resolution that would amend Resolution No. 21,732 to allow two eligible Executives to participate in the Voluntary Employee Beneficiary Association (VEBA).

In 1997, as part of the Burbank Police Officers' Association labor negotiations, the City agreed to the establishment of the VEBA. The VEBA, an employer-sponsored welfare benefit plan, is authorized under Section 501 (c)(9) of the Internal Revenue Code. This type of IRS-approved trust allows employees on a collective basis to accumulate funds in a tax-deferred account for the purpose of paying for retiree medical benefits, life insurance, and employee or dependent education benefits.

In October 1998, the Council approved the participation of the Executives in the VEBA. The VEBA contributions consist of one-half of the dollar value of sick leave and the dollar amount of all other accrued leave time at the time of retirement. The eligible participants must be 50 years of age and have a minimum of five years of service with the City of Burbank.

At the present time, there are two eligible Executives that would like to be included as participants in the VEBA, the former City Manager and the Fire Chief. Adoption of this proposed resolution by the Council will enable the participants to deposit one-half of the

dollar value of their sick leave and the dollar amount of all other accrued leave at the time of their retirement. Due to the fact that all employee accrued leave is handled as an unfunded liability for the City, there will be a financial impact to the General Fund to pay the dollar value of the accrued leave of these participants at the time of their retirement. However, regardless of what a retiring employee chooses to do with their accrued leave, the City is responsible to pay them the actual dollar value.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AMENDING RESOLUTION NO. 21,732 RELATING TO THE EXECUTIVE COMPENSATION PLAN TO ALLOW TWO ELIGIBLE EXECUTIVES TO PARTICIPATE IN THE VOLUNTARY EMPLOYEE BENEFICIARY ASSOCIATION (VEBA).

8. APPROVAL OF A RESOLUTION AMENDING RESOLUTION NO. 26,384 RELATING TO THE CIVIL SERVICE STATUS OF UNREPRESENTED MID-MANAGEMENT EMPLOYEES:

On December 10, 2002, the Council adopted a resolution that specifically listed a number of unrepresented mid-managers to be exempt from Civil Service. The staff report indicated that the purpose was to make all newly-appointed unrepresented mid-managers exempt from Civil Service effective December 10, 2002. The resolution attempted to include all unrepresented mid-manager positions that were not currently exempt from Civil Service as this process had always worked well in the past.

However, certain classifications can now be either represented by the Burbank Management Association (BMA) or be an unrepresented mid-manager. Thus, an employee can move back and forth between BMA representation or no representation. As such, it would not be practical to request a new resolution every time that such a transfer occurred. Therefore, a new resolution has been prepared for Council consideration which will ensure that the City's current policy is consistently implemented. This proposed resolution does not represent a change from the current policy adopted on December 10, 2002.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AMENDING RESOLUTION NO. 26,384 RELATING TO THE CIVIL SERVICE STATUS OF UNREPRESENTED MID-MANAGEMENT EMPLOYEES.

END OF CONSENT CALENDAR

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## REPORTS TO COUNCIL :

### 9. TRAFFIC AND TRANSPORTATION COMMITTEE APPOINTMENT:

The purpose of this report is to request the Council to make an appointment from the qualified applicants for one vacancy of an unexpired term ending on June 1, 2004 on the Traffic and Transportation Committee.

At the July 15, 2003 meeting, the Council appointed members to the Youth Endowment Services Fund Advisory Committee and Planning Board to fill unexpired term vacancies ending June 1, 2005. At that meeting, Mr. Daniel Humfreville, a member of the Traffic and Transportation (T&T) Committee, was appointed to the Planning Board. Following Mr. Humfreville's resignation from the T&T Committee, the City Clerk's office began advertising for this vacancy with the issuance of a press release on August 6, 2003. Notice was also placed on the City's web site, the Channel 6 Scroll, and announcements made at Council meetings. The deadline to submit applications for the vacancy was Friday, August 29, 2003.

It should be noted that all Board, Commission, and Committee members serve without compensation from the City and no person shall serve on more than one Board, Commission, or Committee (established by the Burbank Municipal Code) at the same time. In addition, any person appointed to be a member of a Board, Commission, or Committee must be an elector of, and actually reside in, the City of Burbank.

### **PROCEDURE FOR VOTING**

#### **RANDOM DRAWING OF BOARDS/COMMISSIONS/COMMITTEES AND THE APPLICANTS:**

The City Clerk's office conducted a random drawing to select the order that the applicants will appear on the voting sheets.

#### **VOTING PROCESS:**

The Council votes based on the number of vacancies on the Board, Commission, or Committee. For example, if there are three vacancies on the Board, each Council Member is allowed three votes. Then, the applicants receiving a majority of the votes in the first round move into the second round. The process continues for as many rounds as are necessary to attain the correct number of applicants to fill the vacancies.

It is important to point out that even though each Council Member is allowed a certain number of votes, that does not obligate each Council Member to vote that specified

number of times.

This process is based on past practice. The Council could make any desired changes to the process. If changes should be requested, staff would recommend that the process be clarified prior to any voting.

#### TRAFFIC AND TRANSPORTATION COMMITTEE

The Traffic and Transportation Committee consists of ten members, with five members appointed by the Council and the remaining five members appointed as follows: one representative each from the City Manager's Office, Public Works Department, Police Department, Community Development Department and the Superintendent of the Burbank Unified School District. There is currently one vacancy on this Committee for an unexpired term ending June 1, 2004, created by the resignation of Board Member Daniel Humfreville who was appointed to the Planning Board. Applications were received from the following interested individuals:

#### One Vacancy

1. William Thomas Stevens
2. Brian Anthony Malone
3. Larry Wayne Cutler

#### Recommendation:

Staff recommends the Council consider making the appropriate appointment to the Traffic and Transportation Committee or give staff direction as desired.

#### 10. INFORMATION ITEM REGARDING FUTURE COUNCIL ACTION CONCERNING A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK ESTABLISHING A RENEWABLES PORTFOLIO STANDARD:

At the June 24, 2003 Council meeting, staff presented an update on Burbank Water and Power's (BWP) renewable energy related activities and a draft for a Renewables Portfolio Standard (RPS). Based on feedback received at that time, staff has revised the report and RPS.

The next step is to hold public meetings over the course of the next month and a half to inform the public and receive input to be incorporated into the final document and presented to the Council for approval by the end of the calendar year. To achieve this goal, staff proposes the following specific milestones:

1. Mid-September through October 2003, hold public meetings to inform the public and get input from customers on the proposed RPS.
2. November 6, 2003, present the final RPS to the BWP Board for approval.
3. December 9, 2003, or earlier, present the final RPS to the Council for approval.

**The Renewables Portfolio Standard** represents Burbank’s commitment to renewable resource procurement consistent with the provisions of Senate Bill (SB) 1078. BWP will increase procurement of electricity from eligible renewable resources until a target portfolio level of 20 percent is reached by 2017, measured by the amount of energy required in making retail sales of electricity.

**Qualifying Resources:**

Electricity produced from the following technologies constitute “eligible” resources: biomass, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, hydroelectric generation, digester gas, municipal solid waste, landfill gas, ocean wave, ocean thermal, tidal current, renewable components of sales from other parties (green tickets), or renewable distributed generation on the customer side of the meter. Facilities can be located anywhere in the interconnected transmission system located in the west.

**Timing of Long-Term Resource Additions:**

Renewable resources will be procured to the extent they fulfill unmet needs identified in BWP’s long-term resource procurement plan. BWP will not uneconomically terminate, abrogate, or otherwise end any existing long-term contract in order to meet the renewable target portion of its energy portfolio.

**Price Benchmarking:**

In considering the appropriate reasonable prices to be paid for renewable resources, Burbank will consider but not be limited to the price benchmarks set by the California Public Utilities Commission (CPUC) for the State’s investor owned utilities and shall include the costs associated with transmission.

**Limit on Subsidies:**

The procurement obligation is contingent upon BWP having sufficient funds available to make “supplemental energy payments” to subsidize the above-market costs of renewable energy. Any subsidy will come from public benefit expenditures that BWP is required to make pursuant to the provisions of Assembly Bill (AB) 1890. Renewable energy subsidies from Public Benefits Funds will not come at the expense of conservation programs. The availability of sufficient Public Benefits Funds will be a de facto limit on the annual renewable purchase obligation and compliance with this Standard will be deemed achieved where noncompliance is caused by the unavailability of public benefits charge expenditures in an amount not to exceed 17 percent annually.

**Rate Impact:**

The addition of renewable energy resources should not materially increase system-wide rates.

Recommendation:

Note and file.



11. UPDATE ON BURBANK WATER AND POWER'S PUBLIC BENEFITS PROGRAMS:

The purpose of this report is to provide the Council a summary of existing Burbank Water and Power (BWP) utility public benefits programs and to introduce several proposed programs:

**EXISTING PROGRAMS**

**Made in the Shade** - Introduced in March 2003, this shade tree program provides for up to three shade trees selected by and delivered to residents at no charge.

**Compact Fluorescent Light (CFL) Coupon Program** - In the February 2003 municipal services bill, BWP ran a \$3-off coupon for the purchase of any Energy Star-rated CFL purchased by May 1, 2003 at the Do-It Center, Lowe's, or OSH stores. This program continued BWP's efforts to introduce CFLs into Burbank homes.

**Torchiere Exchange Program**- On May 17, 2003, BWP held a Torchiere Exchange Program where Burbank residents received over 700 new, energy-efficient fluorescent floor lamps (torchieres) in exchange for old halogen floor lamps. Halogen lamps use about four times the energy as fluorescent lamps. Also, halogen lamps burn at up to 1100° Fahrenheit, while fluorescent lamps burn at a cool 100° Fahrenheit.

**Clean Green Support**- Residents who enroll in Clean Green Support select either a \$3 or \$5 monthly premium amount to show on their municipal services bill. The \$3 amount covers 50 percent of the kilowatt-hours used by their household during the month; the \$5 option supports 100 percent of the household's energy use. BWP is using the funds from this program to purchase Green Tickets on the participants' behalf. Green Tickets represent the added cost to produce green energy and the environmental value of it. The purchase of Green Tickets directly supports green energy production. As green energy is produced, non-green energy sources may be displaced.

**Splash into Savings** - In August 2001, BWP offered the Splash into Savings program to Burbank homeowners with built-in pools. BWP rewards participants with a \$5 credit on their monthly municipal services bill in exchange for the resident setting their pool pump to run during off-peak energy hours throughout the year. Those off-peak hours are 10:00 p.m. to noon.

**Energy Solutions** - BWP offers rebates to Burbank businesses under the Energy Solutions Program which is an umbrella program offering financial assistance for facility audits, energy-efficient projects, solar photovoltaic projects and cool roof projects.

**Home Rewards** – BWP's successful Home Rewards program offers rebates to Burbank residents who purchase and install high efficiency appliances and products.

**Power Down Summer Campaign** - City employees are once again participating in the Power Down Summer Campaign. All City offices have set air conditioning thermostats

to 76 degrees, all lights and computer monitors will be shut off when employees are away from their offices, and all computers will be shut down completely at the end of each workday.

## **PROPOSED PROGRAMS**

**On-Line Residential Audits** - BWP will provide an on-line energy audit service for Burbank residents in the next few weeks. This service is easy to use and provides valuable energy usage information and recommendations. The product is a package of services that includes a fast track audit, a more detailed audit, an energy library with defined terms and frequently asked questions, and energy calculators.

**Business Audit Program** - Staff is proposing a change in the energy audit model for businesses and contract with a specific company to perform the audits for smaller business customers at pre-determined costs to BWP. This approach will ensure that both businesses and BWP get quality service at fair prices. More importantly, the likelihood of having retrofits installed, to achieve the goal of helping businesses reduce energy usage, will be greatly enhanced.

**Solar Photovoltaic Installation** - Solar Photovoltaic (PV) systems generate electricity by using energy from the sun. These systems have several advantages: while still too expensive to be cost effective in urban or suburban areas, PV systems are cost-effective alternatives in rural areas where extending a utility power line is very expensive; they have no moving parts and require little maintenance; and, produce electricity without polluting the environment. In Burbank, PV systems are definitely not a cost-effective alternative to other energy production methods, however, they are nonetheless of interest for their environmental advantages and long term commitments to renewable energy. To this end, BWP has surveyed a number of City properties with an eye toward optimal demonstration project locations. Staff proposes that BWP serve as the guinea pig for the first project and build a PV system on its parking lot. Proposed is a 38-kilowatt employee carport demonstration project on Lake Street. The estimated 60,000 kilowatt-hours produced by this system annually would flow directly into Burbank's electrical distribution system, displacing other non-renewable sources of production. An important project goal is demonstrating the value of PV systems and to encourage interested residents, agencies and businesses to view the project and would answer any questions about it. Anticipated project costs are estimated to be \$330,000 to \$394,000, to be refined during the bid process. These costs include the carport structure itself, solar PV equipment, and installation. Approximately \$400,000 has been earmarked in the FY 2003-04 Public Benefits budget for this installation.

**Solar Education Program** - In October 2002, BWP hired a solar consultant to conduct day-long solar learning workshops and demonstrations at four Burbank schools. This pilot program engaged third grade students at Miller, Washington, Jefferson, and McKinley elementary schools in the science of solar energy. The sessions gave the students hands-on experiences that were fun as well as instructional.

**Landfill Microturbines Retrofit** - In July 2001, Burbank became the first city in California to operate a full-time landfill power plant using microturbine technology. When the ten microturbines were installed at the landfill, BWP began producing nearly 300 kilowatts of clean energy. However, for the past few months the microturbines have been unable to operate due to the corrosive acids that exist in the landfill gas that have been eating away at the rotating components of the gas compressors that provide the fuel to the microturbines. BWP staff recommends changes and replacement of the landfill gas handling, and further evaluating and developing its utilization. Staff will be returning to the Council with specific recommendations to changes regarding landfill gas handling equipment, further utilization of the available gas, and related funding including the possible use of available grants.

**Business Waterbroom Program** - Waterbrooms are low-tech devices that can save a dramatic amount of water. Waterbrooms attach to garden hoses and use a combination of air and water pressure to clean surfaces such as kitchen floors, restaurant patios, walkways, industrial yards, etc. and are available in four sizes to accommodate different work areas. Compared to the typical method of hosing down an area which uses 8 to 18 gallons of water per minute, use of a Waterbroom reduces water consumption to three or four gallons per minute. Staff has been in the process of creating a Waterbroom program for Burbank businesses for presentation to the Council at this meeting. However, in late August, staff became aware of the City's stormwater discharge permit issued by the Regional Water Quality Control Board which allows sidewalk rinsing, but only if it is limited to 0.006 gallons per square feet of sidewalk area, or about four teaspoons of water per square feet. With this standard, the permit essentially excludes water rinsing of sidewalks. Runoff from water cleaning of parking lots and other paved areas is not an allowable discharge under the permit. Staff is reviewing possible options where the Waterbroom could be an effective water-saving tool that adheres to the stormwater discharge permit. Additionally, the Waterbroom manufacturers are working on a water capturing and containment device that can be attached to the Waterbroom. Staff will be returning to the Council with specific recommendations for a Waterbroom business program once the stormwater discharge issue has been resolved.

Recommendation:

Approve the proposed FY 2003-04 Public Benefits programs and projects.

12. REQUESTING A CHANGE ORDER (INDUS AGREEMENT) FOR BURBANK WATER AND POWER FOR CUSTOMER INFORMATION & BILLING SYSTEM IMPLEMENTATION SERVICES:

In September 2002, the Council approved an agreement with Systems and Computer Technology, Inc. (SCT) for a new Customer Information and Billing System (CIS) for Burbank Water and Power. SCT has been purchased by Indus Utility Systems, Inc. (Indus) who is now responsible, in cooperation with City staff, for fulfilling the agreement

to license and implement the new system.

Currently, the CIS project is underway, with 37 of 78 deliverables complete. Forty three percent of the total project budget of \$4,678,300 has been expended and use of the new system will commence before the end of June 2004. During the implementation process, staff recognized the implementation team was lacking expertise in the area of information technology (IT) project management and technical competence, which is vital to the project's success. Initially, staff expected that these critical skills would be in place well before the project became dependent upon them. It was understood that IT needed to redevelop its capabilities, however, this development is taking significantly longer than planned, posing a significant challenge to the successful implementation of the CIS project. To correct the situation and reestablish the probable success of this project, staff explored three options: put the project on hold until resources could be developed; outsource the entire implementation and operation; or, "outsource to in-source". Staff determined that the first two options would not be optimal solutions. Putting the project on hold would merely waste the time, effort, and money spent on the project to date, while Indus' estimate for outsourcing at the cost of \$2,000,000 was an expensive option, and provided no viable mechanism to maintain the system in the future without continued support. The third option, "outsource to in-source" is the best all around solution. It would entail outsourcing sufficient IT activity to Indus to complete the implementation phase, and rather than displace IT staff completely, Indus would work in cooperation with IT staff, training them to eventually reassume responsibility for CIS administration and operation after the system was in use. This option allows staff to secure the skills needed to successfully implement CIS while simultaneously rebuilding IT staff competency.

There are several advantages to partnering with Indus to help with the IT portion of implementation. The project's success probability is restored, the additional project cost is cut in half, and IT develops technical capabilities to support the City independently in the future.

Staff is requesting a Change Order to the Indus contract in an amount not to exceed \$1,000,000 for the provision of additional implementation support services.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF BURBANK AND INDUS UTILITY SYSTEMS, INC.

13. APPROVING A RESOLUTION AND ORDINANCE ESTABLISHING THE SPECIFICATION OF DEPUTY CITY MANAGER/PUBLIC WORKS AND CAPITAL PROJECTS:

The purpose of this report is to establish the specification for the classification of Deputy

City Manager/Public Works and Capital Projects CTC No. 0268.

When the Deputy City Manager/Capital Projects retired on December 29, 2000, his duties and responsibilities were willingly assumed by the Public Works Director. However, to date there has been no specification amendments and/or title change to the Public Works Director classification to acknowledge these additional duties and responsibilities.

This proposed new title and specification will formalize the duties that are currently being performed by the Public Works Director. As such, it will provide the recognition of the additional responsibilities that were assumed by this position. The existing classification of Public Works Director will be maintained in the City's Classification and Pay Plan due to the fact that the next incumbent may not possess the skills, expertise and abilities to assume the responsibility of managing the City's capital projects program.

The addition of this classification requires an amendment to Burbank Municipal Code Section 2-312. In general, this Code Section discusses the composition of the Public Works Department and states that it will be supervised and directed by the Public Works Director. Although this new classification is proposed to be established, it is intended to fully absorb the job responsibilities of the Public Works Director. The amendment to the Municipal Code provides that the Public Works Director, as established in the Charter, may, at the discretion of the City Manager, be appointed to the new position.

As with all other Executive positions, this new classification will be exempt from Civil Service, will not be subject to Fair Labor Standards Act (FLSA), and will not be represented by any bargaining group. This position will also be included in the City's Conflict of Interest Ordinance.

The Civil Service Board was advised of this establishment at their regular meeting on September 3, 2003.

There is no fiscal impact from the establishment of this specification because the capital project duties were assigned to the Public Works Director without additional compensation.

Recommendation:

1. Adoption of proposed resolution entitled:  
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK ESTABLISHING THE TITLE AND CLASSIFICATION OF DEPUTY CITY MANAGER/PUBLIC WORKS AND CAPITAL PROJECTS (CTC No. 0268 – EXEMPT) AND PRESCRIBING CLASSIFICATION CODE NUMBER, SALARY AND SPECIFICATION THEREOF.
2. Introduction of proposed ordinance entitled:  
AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK AMENDING

CHAPTER 2 OF THE BURBANK MUNICIPAL CODE RELATING TO THE PUBLIC WORKS DEPARTMENT.

RECONVENE the Redevelopment Agency meeting for public comment.

**FINAL OPEN PUBLIC COMMENT PERIOD OF ORAL COMMUNICATIONS:** (Two minutes on any matter concerning the business of the City.)

This is the time for the Final Open Public Comment Period of Oral Communications. Each speaker will be allowed a maximum of **TWO** minutes and may speak on any matter concerning the business of the City. However, any speaker that spoke during the Initial Open Public Comment Period of Oral Communications may not speak during the Final Open Public Comment Period of Oral Communications.

For this segment, a **GREEN** card must be completed, indicating the matter to be discussed, and presented to the City Clerk.

**COUNCIL AND STAFF RESPONSE TO THE FINAL OPEN PUBLIC COMMENT PERIOD OF ORAL COMMUNICATIONS:**

ADJOURNMENT.

**For a copy of the agenda and related staff reports,  
please visit the  
City of Burbank's Web Site:  
[www.ci.burbank.ca.us](http://www.ci.burbank.ca.us)**