



COUNCIL AGENDA - CITY OF BURBANK
TUESDAY, SEPTEMBER 30, 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 Labor Negotiator:
Pursuant to Govt. Code §54957.6
Name of the Agency Negotiator: Management Services Director/Judie Sarquiz.
Name of Organization Representing Employee: Represented: Burbank City Employees Association, Burbank Management Association, International Brotherhood of Electrical Workers, Burbank Firefighters Association, Burbank Firefighters Chief Officers Unit, and Burbank Police Officers Association; Unrepresented, and Appointed Officials.
Summary of Labor Issues to be Negotiated: Current Contracts and Retirement Issues.

- b. Conference with Legal Counsel – Anticipated Litigation (City as potential defendant):
Pursuant to Govt. Code §54956.9(b)(1)
Number of potential case(s): 2

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: Reverend Ron Degges, Little White Chapel.

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 MAGNOLIA PARK COMMUNITY ADVISORY COMMITTEE APPLICATIONS.

ANNOUNCEMENT: COMMUNITY MEETING ON DESIGN OF CHILDCARE FACILITY/FAMILY RESOURCE CENTER.

RECOGNITION: REGIONAL OCCUPATIONAL FIRE PROGRAM GRADUATES.

PRESENTATION: BURBANK FIRE DEPARTMENT PUBLIC EDUCATION PROGRAM.

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).

6:30 P.M. CONTINUED PUBLIC HEARING:

1. CONTINUATION OF REVOCATION OF CONDITIONAL USE PERMIT NOS. 98-18 AND 99-34 (GITANA):

On September 23, 2003, the Council continued the hearing to revoke Conditional Use Permit Nos. 98-18 and 99-34 (ADRD, Inc. dba Gitana, 260 East Magnolia Boulevard) to allow ADRD, Inc. time to consider the following proposed amendments to the existing conditional use permits:

1. The nightclub/dance floor portion of the business shall be immediately closed and remain closed.

2. The floor area of Gitana shall be decreased by approximately 5,000 square feet (the area devoted to nightclub use) by making modifications to the structure to eliminate any access to and from the nightclub and Gitana. This separate space would no longer be part of the conditional use permits and could not be utilized as part of Gitana's business. This condition may require the provision of additional exiting from Gitana and/or the former nightclub area to comply with provisions of the California Building Code and Burbank Municipal Code pertaining to building egress and accessibility. If the provision of such exiting is not possible or if other actions are necessary to maintain code compliance, alternative means of restricting the use of, and access to, the nightclub area shall be required.
3. Gitana hours of operation shall be limited to 10:00 a.m. to 1:00 a.m. seven days per week.
4. ADRD, Inc. shall agree that Conditional Use Permit Nos. 98-18 and 99-34 shall terminate/sunset six months from September 30, 2003 unless that time period is extended by the Council. The Council's decision to grant an extension shall occur at a public meeting but may occur without a noticed public hearing. In addition, the Council is not precluded from holding another revocation hearing in the event any of the new or current conditions are violated before the end of the six month period.
5. Should ADRD, Inc. wish to continue operating a use that involves alcohol (other than a restaurant with incidental alcohol as defined by the Burbank Municipal Code) beyond the six months allowed under these conditions, ADRD, Inc. should submit a completed application for a new conditional use permit within 60 days so that the application can be reasonably processed within six months of September 30, 2003 and prior to the termination of the existing conditional use permits.

In addition to these conditions proposed by the Council, staff is recommending that the Council adopt one additional condition as follows:

6. Gitana shall make timely payments toward its bills for cost recovery for police services pursuant to its payment plan and all future bills shall be paid in full within 30 days of receipt of the bill. Any late payments shall cause all outstanding payments or bills to be paid immediately, including any payments which otherwise would be paid pursuant to a payment plan.

The Council will continue deliberations on this matter and receive input from ADRD, Inc. as to the desire to accept the Council's interim conditions.

Staff continues to recommend the immediate revocation of the conditional use permits. However, in accordance with Council direction, a resolution has been prepared to implement the requested conditions.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AMENDING CONDITIONAL USE PERMIT NOS. 98-18 AND 99-34 IN-LIEU OF IMMEDIATE REVOCATION (ADRD, INC. dba GITANA, 260 E. MAGNOLIA BOULEVARD)

REPORTING ON CLOSED SESSION:

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:

RECESS for the Redevelopment Agency meeting.

RECONVENE for the City Council meeting.

CONSENT CALENDAR: (Items 2 through 5)

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.

2. MINUTES:

Approval of minutes for the regular meeting of September 16, 2003.

Recommendation:

Approve as submitted.

3. LICENSE AGREEMENT WITH THE AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS:

The American Society of Composers, Authors and Publishers (ASCAP), an organization that monitors the use of copyrighted music and collects and distributes royalties for the public performance of copyrighted works, has recently developed a license agreement (Agreement) specifically designed for local governments that enables these governments to meet their obligations for the performance of copyrighted materials at sponsored functions. The Agreement for Local Government Entities would most directly pertain to Starlight Bowl performances, but would include other City-sponsored events as well.

While a license agreement for local governments has not been previously available, it will benefit the City to secure one at this time as ASCAP has agreed to waive potential claims for prior use of copyrighted works, as long as jurisdictions execute a license for the 2003 calendar year.

The Copyright Law of the United States, Title 17 USC, establishes property rights in musical works and grants creators and owners of copyrighted musical works the exclusive right to perform or authorize the performance of their works publicly. This means that, generally, other parties cannot publicly perform or authorize others to perform copyrighted works without the permission of the copyright owner. Also, as is the case with other property rights, the owner has the right to be paid for the use of such musical property.

The law requires users to obtain authorization not only for performance by live musicians, but also for performances by mechanical means including videotapes, CDs, tapes, music on hold, karaoke, jukeboxes and radio, and television reception. Use of musical property without permission can result in awarded minimum damages of \$750 per work infringed, as well as attorney and court costs.

As a means for protecting public entities from such infringement penalties, and the

administrative burden of securing authorization for each musical work used, ASCAP working in conjunction with the International Municipal Lawyers Association has crafted a license agreement which covers almost all non-dramatic performance on government property and at functions and events at other locations.

The fee for the ASCAP License Agreement for Local Government Entities is based on population and will be \$816 as a base license fee, plus one percent of gross revenue for special events, defined as exceeding \$25,000. The term of the license would be for one year beginning January 1, 2003.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE LICENSE AGREEMENT BETWEEN THE CITY OF BURBANK AND THE AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS.

4. BURBANK-GLENDALE TRAFFIC-RELATED ELECTRICAL DEVICES MAINTENANCE AGREEMENT:

Staff is requesting Council approval of an agreement to continue providing traffic-related electrical devices maintenance to the city of Glendale for a period of one year with the option of a one-year extension under a new agreement to begin October 1, 2003.

In 1991, the cities of Burbank, Glendale, Pasadena and La Canada-Flintridge investigated the possibilities of making more efficient use of their resources. Burbank and Glendale decided that the level of service and efficiency could be increased by jointly maintaining traffic signals in order to reduce the overhead costs of personnel and equipment.

The City of Burbank has provided traffic signal maintenance for the city of Glendale since February 1, 1993, in accordance with a seven-year agreement approved by the Councils of Burbank and Glendale on October 27, 1992, by Resolution No. 23,758. This agreement expired on September 30, 2000, and on September 5, 2000, by Resolution 25,833, Council approved a new three-year agreement.

The existing agreement provides for ordinary and extraordinary maintenance of 205 Glendale traffic signals, six flashing beacons and related communication equipment. The city of Burbank also maintains Glendale's flashing beacons, safety lighting above the traffic signals, and tests and repairs traffic signal equipment in the signal lab. This agreement is set to expire on September 30, 2003.

Traffic staff from the cities of Burbank and Glendale recently evaluated the benefits of renewing the maintenance agreement and determined that the current level of enhanced service and efficiency outweighs the advantages of hiring a private company. Both cities

will retain the benefit of flexible shifts in manpower when an emergency or major repair requires more personnel than is normally assigned. At the same time, each city will maintain a high level of traffic-related electrical device maintenance service and share in the latest advances and techniques. This is especially important as the cities of Burbank and Glendale finalize construction plans to install Intelligent Transportation Systems and to connect Traffic Management Centers in both communities by fiber-optic communications cable.

The proposed agreement has a contract term of one year, with the option of one additional one-year extension upon mutual agreement of both cities. The Scope of Work has been revised to reflect changes to Glendale's traffic signal equipment and maintenance needs over the last three years. For example, the existing agreement began with 205 traffic signals and six flashing beacons, and fewer special services; however, subsequent agreement revisions added maintenance of in-roadway warning light systems, closed circuit televisions (CCTV) and trailblazer signs. The installation of Light Emitting Diodes (LEDs) and the reduction of traffic signal routine (preventive) maintenance from once every four months to once every six months made additional man-hours available for maintaining other traffic devices and providing special services. Special services include the installation and removal of portable camera/recorders and driver feedback speed signs. These services will be provided to Glendale at no additional charge up to a specified limit per device. Additional charges will occur when they exceed the limit.

While most of the proposed terms are similar to the current agreement, there are several new and modified conditions. The new agreement provides the following:

Burbank will:

- Perform routine (preventive) maintenance on in-roadway warning light systems, closed circuit television cameras, and trailblazer signs.
- Provide installation and removal of portable driver feedback speed signs and portable camera and recorders (limited number of installations allowed per unit, subsequent requests will require an additional fee).
- Decrease traffic signal routine (preventive) maintenance tasks, including battery backup systems, from once every four months to once every six months.
- Maintain the same level of field personnel and supervision, and increase clerical services to 10 percent.

Glendale will:

- Increase their annual payment to \$504,000 (\$42,000 a month) to reduce the balance due at fiscal year end.

The proposed agreement, as with the current agreement, establishes for the payment of all maintenance services provided by Burbank at actual cost plus 10 percent for administrative overhead. No change in the Glendale or Burbank annual budget is expected as a result of the new agreement. Glendale has agreed to an initial annual payment of \$504,000 (\$42,000 per month) for ordinary traffic signal maintenance

services. Any remaining credit or debit balance for ordinary services will be credited or paid once annually at the end of fiscal year. In addition, Burbank will invoice Glendale monthly for parts and materials of extraordinary services over \$1,000 per occurrence and for all emergency/special services at actual cost plus 10 percent.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE BURBANK-GLENDALE TRAFFIC-RELATED ELECTRICAL DEVICES MAINTENANCE AGREEMENT BETWEEN THE CITY OF BURBANK AND THE CITY OF GLENDALE.

5. STORMWATER TOTAL MAXIMUM DAILY LOAD CONSULTANT COST-SHARING AND RETENTION AGREEMENT:

The City of Burbank has been asked by the Los Angeles County Executive Advisory Committee (EAC) to join a Total Maximum Daily Load (TMDL) consultant cost-sharing and retention agreement. The EAC is an ad hoc committee of cities in Los Angeles County whose purpose is to facilitate municipal stormwater permit activities among the permittees and to represent the permittees before the Los Angeles Regional Water Quality Control Board (Regional Board) and other Federal, State, and regional agencies.

The purpose of the agreement is to fund technical and scientific studies related to the development of TMDLs. A TMDL is the maximum amount of a pollutant a water body can receive from all sources on a daily basis without impairing the water's beneficial uses. The Federal Clean Water Act requires that TMDLs be developed for certain impaired water bodies. All entities that discharge to an impaired water body must comply with the TMDLs once they are adopted. TMDLs will be incorporated into various discharge permits, including the City's municipal stormwater permit, either through a mendment of the current permit or as part of the permit renewal process.

There are 92 TMDLs scheduled for the Los Angeles region, each requiring extensive analytic work to guide their development. The Regional Board has included the opportunity for stakeholder participation in the development of TMDLs in its Draft Strategy for Developing TMDLs, released in December 2002. This participation can take a variety of forms including notice and comment, policy coordination and technical collaboration through advisory groups, and formal responsibility for completing all or a substantial amount of the work necessary to adopt TMDLs.

The TMDL consultant cost-sharing agreement will facilitate the participation of Los Angeles region cities in the development of TMDLs as encouraged by the Regional Board's Draft Strategy. The agreement enables the cities to procure professional services to provide scientific data and technical analysis that can be used to develop and

review TMDLs. The information will also help cities better understand the potential operational and financial impact of TMDLs. Development of this type of information can be expensive, and the agreement enables the cities to cost effectively obtain consultant services by combining resources.

The County of Los Angeles will administer a trust fund to receive the funds collected from participants and from which to pay the consultant. The initial cost to the City to participate in the TMDL Consultant Cost-Sharing and Retention Agreement is \$7,500. Sufficient funds are available in the current budget. Should additional assessments be approved by the participants, and staff determines that continued participation in the agreement would benefit the City, staff will use funds currently available in the Fiscal Year (FY) 2003-04 budget and, if needed, will budget funds for this purpose in the FY 2004-05 budget.

Recommendation:

Adoption of proposed resolution entitled:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE TOTAL MAXIMUM DAILY LOAD (TMDL) CONSULTANT COST-SHARING AND RETENTION AGREEMENT.

END OF CONSENT CALENDAR *** *** ***

REPORTS TO COUNCIL:

6. YOUTH BOARD APPOINTMENTS:

The purpose of this report is to make recommendations to the Council for the approval and appointment of the 2003 Youth Board candidates. The Youth Board is comprised of 17 members with a representative designated from each high school and middle school within Burbank. The school representatives include both the public and parochial schools in the City. The remaining six positions are designated as At-Large members. All appointments are for two-year terms, with the school representatives and the At-Large positions alternating expiration dates.

Currently, the 11 school positions are due for appointment. In addition, due to a resignation, there is one At-Large vacancy which requires a mid-term appointment.

For the vacant high school and middle school positions, each school was contacted and requested to provide the name of their respective representative. Each school has responded and staff has received applications for the vacancies. For the At-Large position, five applications were received for the one vacancy.

In past years, when the number of At-Large applications exceeded the number of

vacancies, the Council has appointed additional At-Large members.

There is no fiscal impact as a result of the recommended action.

The following are recommended High School and Middle School appointments:

Bellarmine Jefferson High School	Nicole Diller
Burbank High School	Gladys Sarabia
John Burroughs High School	Sara Rebman
Monterey High School	Lillian Calzadilla
Providence High School	Alex Knopper
Jordan Middle School	Caitlin Cwik
John Muir Middle School	James Nagy
Luther Burbank Middle School	Stephanie Farag
St. Finbar School	Cassandra Pozos
St. Francis Xavier School	Shannon Stone
St. Robert Bellarmine School	Ashley Diller

The following are applicants for a one-year mid-term appointment for the At-Large position:

Elisabeth Coleman
Santosh Desai
Tony Galvez
Michael Gasson
Aliza Vecchiarelli

Recommendation:

Staff recommends the Council approve the school representative recommendations for two-year appointments, and appoint one At-Large member for a one-year mid-term appointment.

7. BURBANK WATER AND POWER MONTHLY OPERATION REPORT:

Staff has prepared the Burbank Water and Power (BWP) Monthly Report regarding water quality and power issues for September 2003.

WATER UPDATE

Water quality during August met or exceeded State and Federal drinking water standards.

Fiscal Year 2002-03 Year-To-Date preliminary Water Fund Financial Results as of August 31, 2003:

	Year - to - Date			
	Actual	Budget	Variance	% Variance
CCF	1,878,868	1,986,392	(107,524)	(5%)
Potable Revenues	3,042	3,227	(185)	(6%)
Reclaimed Revenues	130	87	43	49%
Purchased Water	1,603	1,325	(278)	(21%)
Gross Margin	1,570	1,990	(420)	(21%)
Direct Operating Expenses	1,100	1,241	141	11%
Allocated Operating Expenses	195	216	21	10%
Operating Income	274	532	(258)	(48%)
Other Income/(Expenses)	2	42	(39)	(94%)
Income before Contr. & Transfers	277	574	(297)	(52%)
Contributed Capital (A.I.C)	111	206	(96)	(46%)
Transfers (In Lieu)	152	161	(9)	6%
Change in Net Assets	235	619	(384)	(62%)

ELECTRIC UPDATE

The following table shows the systemwide reliability statistics for Fiscal Year 2003-04 through August 2003, compared to Fiscal Year 2002-03.

Reliability Measure	Fiscal Year 2002-03	Fiscal Year 2003-04, Through August 31
Average Outages Per Year	0.16634	0.0783
Average Outage Duration	91.75 minutes	100.93
Average Service Availability	99.9971%	99.9908

Financial and Operations Update

Fiscal Year 2002-03 year-to-date preliminary Power Financial Results as of August 31, 2003:

	Year - to - Date			
	Actual	Budget	Variance	% Variance
NEL MWh	233,580	225,046	8,534	4%
Weather Normalized NEL MWh	225,667	225,046	621	0%
Sales MWh	206,112	213,796	(7,684)	(4%)
Weather Normalized Sales MWh	214,384	213,796	588	0%
Retail Revenues	25,792	27,586	(1,793)	(7%)
Retail Power Supply Expenses	17,077	17,727	651	4%
Retail Gross Margin	8,716	9,859	(1,143)	(12%)
Wholesale Revenues	25,453	2,683	22,769	849%
Wholesale Expenses	23,887	2,083	(21,803)	(1047%)
Wholesale Gross Margin	1,566	600	966	161%
Gross Margin	10,282	10,459	(177)	(2%)
Telecom Revenues	140	133	8	6%
Operating Expenses	6,539	6,818	279	4%
Operating Income	3,883	3,773	109	3%
Other Income & (Expense)	(514)	(359)	(155)	(43%)
Net Inc. before Contributed Capt.	3,368	3,414	(46)	(1%)
Contributed Capital (A.I.C)	491	401	91	23%
Change in Net Assets (N.I.)	3,860	3,815	45	1%
Net Power Supply Cost - Cents/Kwh	7.53	8.01	0.49	6%

August 2003 Unit Data

Unit	Availability	Operating Hours	MW Net	NOx, lbs.
M-5	100%	23:15	372	-
L-1	100%	252:46	9601	1765

O-1	100%	739:51	7231.5	560.2
O-2	0%	129:44	1162.3	2319.6
O-3	100%	0.0	0.0	-
O-4	100%	7:23	106.3	-

Recommendation:

Note and file.

8. CHANGE ORDER TO INDUS UTILITY SYSTEMS, INC. CONTRACT FOR CUSTOMER INFORMATION AND BILLING SYSTEM IMPLEMENTATION SERVICES:

In January 2003, staff began implementation of a new Customer Information and Billing System (CIS) for Burbank Water and Power (BWP). Implementation of major systems such as a CIS require about 12 to 18 months of intensive vendor and staff time. Halfway through the implementation process, project monitoring has revealed that additional information technology support and expertise is required for project success.

On September 16, 2003, staff presented several options to the Council to acquire the necessary technical support. The options were to put the project on hold until the required staff resources have been sufficiently developed, completely outsource the implementation and operation of the CIS, or, "outsource to insource".

The Council unanimously supported the "outsource to insource" option as the least expensive short-term solution and the most durable long-term solution for operating and supporting the CIS. However, exception was taken with the hourly rate of the proposed agreement and staff was asked to reopen discussions with Indus to lower the rate. The hourly rate originally proposed by Indus, \$179 per hour, was a blended rate representing a range of staff and skills. This approach is frequently taken with technology projects. The rate was also all inclusive of labor, travel and associated expenses.

Further discussions revealed that Indus has several existing contracts with large clients that include a favored nation's clause, promising clients the lowest rate offered by Indus to any other client. That rate is \$135 per hour which Indus has now offered to the City. This rate is blended and covers all Indus project participants but does not include travel and associated expenses. Indus has agreed to work with the City to secure the lowest possible travel and hotel rates.

The change order calls for 5,604 hours of work by Indus staff. At the original rate, the change order cost would be \$1,003,116. With the new negotiated rate, the change order cost will be \$756,540, \$246,576 less than the original rate, plus travel and associated expenses. Indus anticipates having staff on-site 50 percent of the time during the 40 week contract period, ending June 30, 2004. Although staff intends to work diligently to minimize travel and associated expenses, for budgeting purposes, about \$120,000 is estimated for travel.

Funds budgeted within the existing BWP capital outlay program for the Oracle project will not be significantly used this fiscal year. Therefore, these funds are available for other technology projects.

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.

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**