

ATTACHMENT 1

RESOLUTION NO. _____

RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
ADOPTING THE MITIGATED NEGATIVE DECLARATION (SCN
NO. 2019129091) FOR THE BURBANK WATER AND POWER
STORMWATER IMPROVEMENT PROJECT IN ACCORDANCE
WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT
(CEQA), APPROVING MITIGATION MONITORING AND
REPORTING PROGRAM AND AUTHORIZING THE BWP
GENERAL MANAGER TO EXECUTE THE NOTICE OF
DETERMINATION

THE COUNCIL OF THE CITY OF BURBANK FINDS:

A. The Burbank Water and Power (BWP) campus is an industrial site with stormwater discharges to the Burbank western channel, which is subject to the National Pollutant Discharge Elimination System General Permit No. CAS00001 (Permit) issued under the Federal Water Pollution Control Act (Clean Water Act). The Permit requires industrial facilities to collect, at a minimum, four stormwater samples per reporting year and compare them to effluent limitations applicable to the site. If the effluent limitations are exceeded, then BWP must implement additional technologies and practices, as necessary. BWP's stormwater sample results continue to indicate ongoing compliance issues with the Permit's metals effluent limitations, specifically iron, zinc, and copper. As a result, BWP is proposing the BWP campus stormwater improvement project (the "Project") to address the stormwater compliance issues.

B. The proposed Project consists of a combined storage and reuse with infiltration and diversion. The proposed Project will divert a city-owned stormwater line which currently combines with the BWP Campus stormwater prior to discharging into the Burbank western channel. The Project also proposes to install an on-site stormwater capture, retention, reuse, and infiltration system. The proposed Project is currently in the permitting phase and adoption of the Project's Mitigated Negative Declaration (MND) is required prior to obtaining the final permits. The contract for the Project will be presented to the City Council for approval at a later time.

C. As an interim measure, the Los Angeles Regional Water Quality Control Board (LAWQCB) issued BWP a time schedule order (TSO). The TSO includes interim stormwater limits, which are achievable for this site. These interim limits apply until the Project is completed. The TSO also includes milestone achievements, and Project completion must be achieved as soon as possible, but not later than by March 28, 2025.

D. The City has evaluated potential environmental effects of the Project through the preparation and circulation of a proposed MND (State Clearinghouse No. 2019129091) and consideration of all comments and responses as attached hereto as Exhibit A and incorporated herein by this reference. This process included the following actions:

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1. The 30-day review period for the proposed MND was initiated on June 22, 2022, with the submittal of the proposed MND to the State Clearinghouse for public review and distribution to responsible, trustee, and public agencies with jurisdiction over the resources affected by the Project. The Notice of Intent (NOI) to adopt the MND was filed with the Los Angeles County Clerk on or about June 28, 2022. On June 22, 2022, the NOI was published in the Los Angeles Times newspaper. Copies of the environmental documents were available for review at the City of Burbank Community Services Building, the Burbank Water and Power offices, as well as on the BWP website (www.burbankwaterandpower.com/).
2. One comment letter on the proposed MND was received by the City before the end of the 30-day public review period on July 14, 2022.

E. All actions required to be taken by applicable law related to the preparation, circulation, and review of the proposed MND have been taken.

F. A final MND has been prepared consisting of the proposed MND, all comments received during the public review period, and responses to all significant environmental points raised during the public review period. This final MND was posted on the BWP's website at www.burbankwaterandpower.com/ on or about May 26, 2023.

G. The City Council of the City of Burbank considered the MND, and the Project at an open and public meeting on June 13, 2023. The City Council, after staff analysis of the same, independently reviewed and analyzed reports and declarations which became a part of the record of this decision.

H. This Project should not have a potentially significant effect on the environment with mitigation measures incorporated. This finding is based upon the criteria of the Guidelines of the State Secretary for Resources, Sections 15064 (Determining Significant Effect), 15065 (Mandatory Findings of Significance), and 15070 (Decision to prepare a Mitigated Negative Declaration), and the following reasons as documented in the MND for the Project, attached hereto. Therefore, mitigation measures are needed for this Project which have been incorporated in the Project. In the independent judgment of the City Council, there is no substantial evidence that the Project, with the mitigation measures incorporated, could have a significant effect on the environment.

I. No new significant information, as defined by CEQA Guidelines Section 15073.5, was received by the City after circulation of the draft MND such that recirculation is required. The information contained in the final MND supports the draft MND's analysis and conclusions and clarifies certain items in the draft MND based on inquiries from commenters (See Exhibit A, Response to Comments). Therefore, no recirculation is required.

J. The City Council made its decision to adopt the MND for this Project in light of the record as a whole as set forth in these findings; and,

K. The City Council, in adopting the MND for this Project, of which these

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findings are a part, did so through the exercise of their independent judgment and review after finding substantial evidence, in light of the record as a whole, to support the adoption of the MND; and,

L. The City Council has made its decision to adopt the MND in the light of all the testimony and evidence presented at or prior to the close of the public meeting, including letters, reports, comments, analyses, etc., which the City Council after review and comment by its staff critically reviewed, corrected, and augmented where necessary, as set forth in the record and procedural findings on this Project; and,

THE COUNCIL OF THE CITY OF BURBANK RESOLVES:

1. CEQA FINDINGS. The City Council incorporates the findings set forth in Paragraphs A through L above as if restated herein in their entirety.

2. CITY COUNCIL INDEPENDENT JUDGMENT AND REVIEW. The City Council further certifies that the MND was presented to the City Council, which reviewed and considered the information contained in said MND prior to deciding whether to approve the proposed Project. The MND has been thoroughly reviewed and analyzed by the City's staff, and the City Council. The draft documents circulated for public review reflect the City's own independent judgment and the MND as certified by this Resolution also reflects the independent judgment of the City Council.

3. CEQA – MITIGATED NEGATIVE DECLARATION ADOPTION. Based on the findings set forth above, and on the record of the meeting, the City Council hereby approves the MND for the Project, as presented to Council and set forth in the staff report and certifies that the MND is an adequate and complete document prepared in compliance with the CEQA, as amended, and the state and local guidelines promulgated there under.

4. MITIGATION MONITORING AND REPORTING PROGRAM ADOPTION. The City Council hereby adopts the Mitigation Monitoring and Reporting Program (MMRP) set forth in the MND and incorporated herein by this reference, as the MMRP for the Project. The City Council finds that the MMRP has been prepared in accordance with CEQA and the CEQA Guidelines and directs the General Manager of BWP to oversee the implementation of the MMRP.

5. APPROVAL OF THE PROJECT. The City Council has reviewed and considered the Project and approves the Project. The General Manager of BWP is authorized to implement the Project.

6. FILING OF NOTICE OF DETERMINATION. The City Council hereby directs the General Manager of BWP to file a Notice of Determination within five (5) working days after approval of the Project.

7. AVAILABILITY OF PROJECT APPROVALS AND MITIGATED NEGATIVE DECLARATION. The General Manager of BWP shall make the staff report, project plans and other related materials that constitute the record of the proceedings upon which its

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decision is based available at Burbank Water and Power offices, 164 Magnolia Boulevard, Burbank, California, and in other locations the General Manager deems appropriate to facilitate public access to these documents.

PASSED and ADOPTED this 13th day of June, 2023.

Konstantine Anthony
Mayor of the City of Burbank

Attest

Approved as to Form:
Office of the City Attorney

Kimberley Clark, City Clerk

By: _____
Chris Chwang
Senior Assistant City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF BURBANK)

I, Kimberley Clark, City Clerk of the City of Burbank, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the Council of the City of Burbank at its regular meeting held on the ____ day of June, 2023, by the following vote:

AYES:

NOES:

ABSENT:

Kimberley Clark, City Clerk