



County of Los Angeles CHIEF EXECUTIVE OFFICE

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December 22, 2008

To: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

EXPENDITURE PROGRAM TO UTILIZE PROJECT FUNDS FROM THE LOS ANGELES DEPARTMENT OF WATER AND POWER SETTLEMENT

On November 18, 2008, on the motion of Supervisor Yaroslavsky, your Board directed the Chief Executive Officer (CEO) to report back to your Board within 30 days with an expenditure program to utilize the energy conservation project funds made available as a result of the settlement in *County of Los Angeles et al., ex rel. Barakat v. Los Angeles Department of Water and Power* (DWP) on eligible projects that will: 1) be consistent with State and Federal regulations; 2) achieve the greatest long-term energy savings at the lowest initial cost; and 3) be consistent with ongoing County efforts to achieve Leadership in Energy and Environmental Design certification for Existing Buildings (LEED) in order to improve employee health, make the operation of County buildings more environmentally sustainable, and increase the public's awareness of steps that everyone can take to reduce their own electricity bills.

Overview of Complaint and Settlement

The complaint and settlement agreement result from DWP overcharges to public agencies for electricity. The complaint and settlement agreement have been described to your Board during the litigation process and most recently in a confidential attorney-client privileged memorandum to your Board from County Counsel dated September 2, 2008. In summary, the settlement provides as follows:

- Total Global Settlement: \$160 million (due to all plaintiffs)
- County's Share of Global Settlement (gross): \$32,339,005
- County's Net Share: \$24,979,460

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The County will receive settlement funds as up front cash, cash over time, bill credits, and cash for energy conservation projects. The County's net share reflects deductions for the relator, Barakat, and legal costs. Attachment I provides additional details on the County's share of the settlement.

State and Federal Regulations

Consistent with State and Federal accounting regulations and requirements, the CEO and Auditor-Controller recommend an allocation of settlement funds to each department in proportion to their damages. The proposed allocation will provide the departments with their proportional share of settlement funds through a combination of up front cash, cash over time, bill credits and funding for energy conservation projects. The proportional amount of the settlement owed to departments is shown on Attachment II, "DWP Lawsuit Settlement Allocation."

The Auditor-Controller has advised that subvention rules apply to the settlement. A number of departments that were subjected to the overcharges are subvened. Under applicable subvention rules, the state and federal funding agencies are entitled to their proportional share of the settlement recovery. The estimated amount of recovery owed to subvening agencies is \$3.99 million.

Proposed Use of the Funds for Energy Conservation Projects

It is recommended that the following criteria be applied to prioritize the distribution of funds for energy conservation projects:

- County departments that were overcharged most heavily by DWP;
- County departments that are not subvened or not heavily subvened;
- County departments that have not had extensive retrofit or retrocommissioning projects implemented under the County's Energy Efficiency Program; and
- Projects will not be implemented in Superior Court facilities.

Applying the above criteria, the Internal Services Department (ISD) has prepared a list of proposed projects for implementation as shown on Attachment III. The County is required to submit a project certification to DWP when funds are to be expended on energy conservation projects. Generally the project certification will state that the projects will be completed in DWP service territory and they will create energy savings. The specific certification requirements are summarized at Attachment IV.

Long Term Savings and LEED Certification for Existing Buildings

Most of the proposed projects (Attachment III) call for retrocommissioning major County facilities. Facility retrocommissioning (RCx) requires the following:

- A comprehensive inspection and engineering analysis of the facilities heating, ventilating and air conditioning systems;
- Upgrades and equipment replacements to improve energy efficiency, lower energy costs, improve indoor air quality, and enhance facility operations and maintenance practices;
- Implementation of a facilities management training program to help ensure long-term, sustainable savings in RCx facility; and
- Implementation of the County's Enterprise Energy Management Information System to monitor and maintain the resulting energy savings.

Each of the above RCx components satisfies point requirements towards LEED.

Implementing an RCx program in a facility is a very effective way to attain energy savings over a long period of time for a small amount of initial cost. The Internal Services Department has retrocommissioned or is in the process of retrocommissioning 60 major facilities in the County. The department's experience to date is that it costs an average of \$1.50 per square foot on a County facility to RCx (one time cost), resulting in ongoing annual savings of \$.50 per square foot. The average RCx project pays for itself in approximately three years.

The Board's motion requests a plan to increase the public's awareness of steps that everyone can take to reduce their own electricity bills. The certification requirements (Attachment IV) do not permit the Energy Conservation Project funds to be used for this purpose. However, the County's Energy & Environmental intranet website, www.green.lacounty.gov, will soon be converted into an internet site and will contain information which will increase the public's awareness of energy savings measures.

If you have any questions concerning our recommendations, please contact me or Tom Tindall, Director, Internal Services, at (323) 267-2101.

WTF:ES
TT:HWC
GS:CL:cg

Attachments

c: Director of Internal Services
Acting Auditor-Controller
County Counsel

County's Share of the Los Angeles Department of Water and Power (DWP) Settlement

County Share

Up Front Cash: The County's share of Up front Cash is \$12,410,120 and is to be received within 30 days after the dismissal of the complaint. The Relator's 19% fee, legal costs, and fees are to be deducted from this amount. The deductions and net amount to the County are indicated below. The Net Up front Cash was received on November 19, 2008.

- Relator's 19% fee and Legal Fees/Costs - \$3,573,057
- Net Up front Cash - \$8,837,063

Cash Over Time: The County's share of Cash Over Time is \$3,102,530 and is to be received in three equal payments. The first payment shall be paid no later than one year after the delivery of the dismissal (October 22, 2008); the second payment shall be paid no later than two years after the delivery of the dismissal; and the third payment shall be paid no later than December 15, 2010. The Relator's 19% fee will be deducted from each amount; the County's Net Cash Over Time is indicated below:

- Relator's 19% fee - \$589,481 (3 payments of \$196,494)
- Net Cash Over Time - \$2,513,049 (3 payments of \$837,683)

Bill Credits: The County will receive \$3,826,354 in credits off of DWP utility bills spread over ten years. The Relator's 19% fee and net credit to the County are shown below.

- Relator's 19% fee - \$727,007
- Net Credit Over ten years - \$3,099,347
- Annual Net Credit - \$309,935

The Internal Services Department (ISD) will accept the credits in equal annual installments under the ISD Utilities Budget. The Utilities Budget will reflect the annual bill credit and 19% fee payment owed to the Relator. Each department will receive their proportionate share of the bill credit minus the Relator's share. The department will issue a check to the Relator annually for his fee.

Funding for Energy Conservation Projects: The County was awarded \$13 million which is to be used on qualified energy efficiency projects in DWP service territory. This funding element allows the County to be reimbursed \$3.1 million for past qualified projects implemented by ISD in DWP territory. The Relator's 19% fee of the Energy Conservation funds component of the settlement, which is equal to \$2.47 million, is deducted from the \$3.1 million reimbursement; the remaining amount of \$630,000 will be used by ISD in Southern California Edison's (SCE) service territory under the County's partnership with SCE. A total of \$10.53 million will remain in the restricted account for qualified projects in DWP territory.

- Total Project Funding - \$13.0 million
- Reimbursement for Past, Qualified Projects - \$3.1 million
- Relator's 19% fee (paid out of \$3.1 million) - \$2.47 million
- Remainder to be used in SCE partnership - \$630,000
- Net Amount for DWP territory - \$10.53 million

DWP LAWSUIT SETTLEMENT ALLOCATION

Fund Org #	Utilities Budget Fund Org Description	11 Yr % of Utilities	Judge's Award	Settlement	Settlement
			Gross	Gross	Net
			\$ 45,214,189	\$ 32,339,005	\$ 24,979,460
11155	Affirmative Action	0.0418%	18,896	13,515	10,439
15575	Alternate Public Defender	0.2752%	124,424	88,993	68,740
18950	Animal Care & Control	0.0000%	13	9	7
10200	Assessor	1.7713%	800,879	572,821	442,461
10700	Auditor-Controller	0.7109%	321,413	229,887	177,571
27510	Beaches & Harbors	0.3006%	135,900	97,201	75,081
10010	Board of Supervisors	0.8799%	397,823	284,539	219,785
10100	CEO	0.6392%	289,005	206,708	159,666
98906	CEO-Asset Management-Utility Support	0.0038%	1,727	1,235	954
10070	Chief Information Office	0.0306%	13,820	9,885	7,635
26200	Children & Family Services	0.9427%	426,219	304,849	235,473
26560	Community & Senior Services	0.5645%	255,248	182,564	141,017
19100	Consumer Affairs	0.0688%	31,127	22,263	17,197
11050	County Counsel	0.4594%	207,717	148,568	114,757
19150	Department of Coroner	0.0124%	5,586	3,995	3,086
14280	Dist Atty Family Support	0.0041%	1,839	1,315	1,016
14030	District Attorney	2.9040%	1,313,024	939,128	725,406
12810	Extraordinary Maintenance	0.0001%	34	24	19
40100	Fire Department	0.3748%	169,446	121,195	93,614
40082	Fire Department - Lifeguard	0.0613%	27,696	19,809	15,301
20890	Grand Jury	0.0561%	25,354	18,134	14,007
64100	HS - Coastal Cluster (Harbor)	0.0392%	17,745	12,692	9,804
60250	HS - Harbor UCLA Med Center	0.0261%	11,804	8,443	6,521
20600	HS - Juvenile Court	0.0396%	17,927	12,822	9,904
61000	HS - LAC/Olive View Med. Ctr.	3.0071%	1,359,643	972,471	751,161
61500	HS - LAC/USC Medical Ctr.	20.6153%	9,321,043	6,666,785	5,149,592
63700	HS - Northeast Cluster (USC)	1.1739%	530,764	379,624	293,231
23450	HS - Prev/Public Health	0.6373%	288,142	206,091	159,190
64700	HS - SFV Cluster (Olive View)	0.2894%	130,831	93,576	72,280
64300	HS - Southwest Cluster (MLK)	1.1519%	520,839	372,525	287,748

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20115	HS-Admin-Facilities Support	2.7352%	1,236,718	884,550	683,249	
20000	HS-Administration	0.0017%	777	556	429	Health Services Total
24951	HS-Public Health Services-Admin.	0.6137%	277,470	198,458	153,294	
19050	Human Relations Comm.	0.0898%	40,621	29,054	22,442	
11201	Human Resources	0.1839%	83,150	59,472	45,938	
13100	Internal Services Dept	0.0002%	78	56	43	
13328	ISD-Countywide Mail Section	0.0001%	33	24	18	
13162	ISD-Custodial Services Division	0.0014%	619	443	342	
13160	ISD-Dept Wide Programs Division	0.2864%	129,515	92,634	71,553	
13103	ISD-Facilities Oper. Svcs	0.0069%	3,115	2,228	1,721	
13183	ISD-ITS Admin Division	0.0451%	20,410	14,598	11,276	
13141	ISD-Maintenance & Operations Division	0.1143%	51,690	36,971	28,557	
13277	ISD-Parking Services	1.4900%	673,705	481,861	372,201	ISD
10870	ISD-Purchasing & Contracts Svcs	0.0093%	4,200	3,004	2,320	
						\$ 488,032
20800	LA City - Police Dept.	0.0792%	35,813	25,615	19,786	
19140	Local Agency Form Comm.	0.0018%	809	579	447	
99998	Los Angeles City Attorney	0.0471%	21,284	15,223	11,759	
20500	Mental Health	2.1615%	977,291	698,998	539,923	
26500	Military & Veterans Affairs	0.1222%	55,264	39,527	30,532	
28300	Museum of Natural History	2.5158%	1,137,517	813,598	628,443	
28350	Music Center Operations	4.8646%	2,199,489	1,573,163	1,215,151	
16280	Office of Public Safety	0.0976%	44,115	31,553	24,372	
99988	Other Misc NCC	0.0033%	1,511	1,081	835	
99986	Other NCC	0.0077%	3,474	2,485	1,919	
27640	Parks & Recreation	0.0007%	299	214	165	
99990	Philharmonic Association	0.0435%	19,669	14,068	10,867	
99991	PI-313 N. Figueroa	0.0108%	4,876	3,488	2,694	
99997	PI-Community Devel Comm	0.0076%	3,424	2,449	1,892	
99980	PI-LAPA/CALARTS/WDCH	0.0499%	22,565	16,139	12,466	
99985	PI-Office of Education	0.0114%	5,132	3,671	2,835	
17000	Probation Department	1.2243%	553,579	395,942	305,836	
17002	Probation Department-Executive Office	0.0324%	14,632	10,465	8,084	

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17001	Probation Department-Executive Services	0.2649%	119,770	85,664	66,169	
17150	Probation-Detention Services	1.8480%	835,566	597,630	461,625	
17390	Probation-Main	0.7733%	349,630	250,069	193,160	
17890	Probation-Residential Treatment	0.1187%	53,660	38,380	29,646	
						Probation Total
						\$ 1,064,519
15200	Public Defender	1.1140%	503,702	360,268	278,280	
25900	Public Social Services	6.6660%	3,013,998	2,155,732	1,665,142	
47000	Public Works	0.0989%	44,732	31,994	24,713	
19350	Regional Planning Comm.	0.3581%	161,933	115,821	89,463	
11300	Registrar-Recorder/County Clerk	0.0177%	7,999	5,721	4,419	
97000	Rent Expense (98906)	0.0048%	2,192	1,568	1,211	
14790	Los Angels Muni Court-L.A. Oper.	2.6258%	1,187,221	849,148	655,903	
20700	Misc Courts Total	3.2271%	1,459,117	1,043,619	806,118	
29228	SC-Central Arraignment Court	0.0473%	21,365	15,281	11,804	
29206	SC-Central Arraignment Court	0.1166%	52,698	37,692	29,114	
29500	SC-Chatsworth Courthouse	0.1545%	69,849	49,959	38,589	
29545	SC-Chatsworth Courthouse	0.2807%	126,919	90,778	70,119	
29031	SC-County Courthouse	1.5625%	706,457	505,286	390,296	
29029	SC-County Courthouse	3.2340%	1,462,210	1,045,831	807,826	
29202	SC-Criminal Courts Building	0.5256%	237,634	169,965	131,286	
29183	SC-Criminal Courts Building	1.0796%	488,135	349,134	269,680	
29151	SC-Eastlake Juvenile Court	0.0220%	9,953	7,119	5,499	
29140	SC-Eastlake Juvenile Court	0.0531%	23,995	17,162	13,257	
29033	SC-Hall of Record	0.0405%	18,289	13,081	10,104	
29223	SC-Hollywood	0.0313%	14,159	10,127	7,822	
29145	SC-Kenyon JJC	0.0074%	3,348	2,395	1,850	
29130	SC-Kenyon JJC	0.0195%	8,836	6,320	4,882	
29165	SC-Mental Health Fac	0.0245%	11,060	7,911	6,110	
29148	SC-Mental Health Fac	0.0623%	28,167	20,146	15,561	
29237	SC-Metropolitan Courthouse	0.2785%	125,931	90,071	69,573	
29215	SC-Metropolitan Courthouse	0.6685%	302,266	216,193	166,993	
29570	SC-San Pedro Courthouse	0.0325%	14,680	10,500	8,110	
29620	SC-San Pedro Courthouse	0.0898%	40,612	29,047	22,437	
29149	SC-Sylmar Juvenile Court	0.0216%	9,762	6,982	5,393	

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			Gross	Gross	Net	
			\$ 45,214,189	\$ 32,339,005	\$ 24,979,460	
29136	SC-Sylmar Juvenile Court	0.0527%	23,823	17,039	13,161	
29520	SC-Van Nuys Courthouse-East	0.1141%	51,609	36,913	28,512	
29565	SC-Van Nuys Courthouse-East	0.2973%	134,405	96,132	74,255	
29535	SC-Van Nuys Courthouse-West	0.3553%	160,649	114,903	88,754	
29580	SC-Van Nuys Courthouse-West	0.8206%	371,027	265,373	204,981	
29805	SC-West LA Courthouse	0.0400%	18,084	12,934	9,991	Courts Total
29880	SC-West LA Courthouse	0.0993%	44,900	32,114	24,806	\$ 3,992,785
15681	Sheriff	17.4036%	7,868,891	5,628,147	4,347,322	Sheriff Total
16188	Sheriff Department	0.1101%	49,769	35,597	27,496	\$ 4,374,818
10950	Treasurer & Tax Collector	1.2894%	582,970	416,964	322,073	
28351	Walt Disney Concert Hall	0.0076%	3,446	2,465	1,904	
	TOTALS	100.00%	\$ 45,214,189	\$ 32,339,005	\$ 24,979,460	

List of Proposed Energy Conservation Projects

Site	Scope	Net Cost
County/USC Hospital/Campus	Upgrades to the old power plant and facilities it still serves. Employ ISD's Enterprise Energy Management Information System (EEMIS) throughout.	\$5.2 million
Olive View Hospital	Hospital and power plant RCx, equipment upgrades. EEMIS integration throughout.	\$750,000
DHS Administration HQ	Additional support for planned RCx project, new chillers and other equipment upgrades, EEMIS integrations	\$684,000
Northeast Cluster (USC)	Facility RCx and equipment upgrades; EEMIS integration.	\$294,000
Southwest Cluster (MLK)	Facility RCx and equipment upgrades; EEMIS integration.	\$288,000
San Fernando Valley Cluster (Olive View)	Facility RCx and equipment upgrades; EEMIS integration.	\$72,000
DHS Sub-Total		\$7.3 million
Men's Central Jail, Twin Towers	Plant upgrades, HVAC upgrades, EEMIS integration (excludes \$1.1 million subvention)	\$3.2 million
Barry Nidorf Juvenile Hall, other Probation sites	Facility and plant RCx, equipment upgrades, EEMIS integration, solar installation (excludes \$200,000 subvention)	\$600,000
Others Sub-Total		\$3.8 million
Total		\$11.1 million

Energy Cost Adjustment Factor Project Certification

Under the Settlement Agreement, the entire funding for Energy Conservation Projects is currently being held in a trust account managed by the County; any interest earned will belong to the County and will be used on projects. The County may withdraw funds to implement a project upon submittal of a Project Certification to the Los Angeles Department of Water and Power (DWP). The Certification requires that:

- Funds for projects to be reimbursed must have been used after July 1, 2006;
- The projects are designed to lower energy demand or consumption, analyze energy demand or consumption with the goal of lowering demand or consumption, shift demand load, or lower and control DWP power system demand;
- The projects are not otherwise mandated by applicable Title 24 provisions; and
- Plaintiffs can claim no more than 5% of project costs for general & administrative costs.

The Certification language is very broad and allows nearly any type of project that the Internal Services Department has been implementing throughout the County to qualify for funding. In addition, the language is flexible enough to allow renewable energy projects (e.g. solar), demand reduction or response, and further integration of the Enterprise Energy Management Information System.