

DECLARATION OF JUDIE WILKE

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2 1. I make this declaration of facts and if called upon, would and could competently
3 testify thereto.

4 2. I am and since 1990 have been an employee of the City of Burbank. I have
5 served as City Clerk (1997 – 2003), Deputy Financial Services Director (2001-2003),
6 and since 2003 have been and currently serve as the Director of the Management
7 Services Department. In that capacity I administer and oversee, among other things,
8 the Human Resources, Employee Services, and Labor Relations Divisions. These
9 divisions, under my direction, provide support services to all City departments in
10 conjunction with recruitment, selection, and administration of the City's Civil Service
11 System, collective bargaining agreements, salary classifications, employee benefits,
12 performance evaluations and discipline, among others.

13 3. My department maintains official personnel records for all City employees. These
14 files include all official City documents relating to each employee, including their
15 applications and background investigations (if applicable), all performance evaluations,
16 Personnel Action Forms (PAF) (which document hiring, termination raises, promotions,
17 etc., exit interview information) FMLA, ADA, etc. All recruitment, hiring, promotion,
18 demotion, transfers, and termination are administratively processed through my
19 Department.
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23 4. My staff (under my direction) and I are also responsible for the administration of
24 the City's merit pay program, and responding to public records requests for information
25 and documents pertaining to personnel information or issues.

26 4. In late 2010, the Burbank City Council requested a report about the City's merit
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1 pay program. At my direction, my staff assisted me with the preparation of a report,
2 dated March 3, 2011, that was presented to the Burbank City Council by myself and the
3 City Manager, Mike Flad on March 3, 2011 as part of a publicly noticed City Council
4 Study Session on the City's budget.

5 A true and correct copy of that report, "Review of Merit Pay Program", which
6 accurately summarizes information contained in public records and attaches official City
7 records is attached hereto as Exhibit B. In addition to the written memorandum from
8 myself to Mr. Flad, which summarizes the merit pay program for the represented and
9 unrepresented employee groups, attached to the March 3, 2011 Report are the
10 following:
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- 12 • Merit Pay Survey conducted by Administrative Analyst II
- 13 • Excerpts from the approved Collective Bargaining Agreement between the City
14 and the Burbank Management Association (BMA) regarding merit pay,
- 15 • City of Burbank performance appraisal form for employees in the Burbank City
16 Employees Association (BCEA) bargaining group (this form includes a space for
17 award of merit pay and justification),
- 18 • City Administrative Procedure II – 37, "Non-Represented Management Merit Pay
19 Plan",
- 20 • City of Burbank Resolution No. 22,795, approved in 1989.

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22 All of these documents are official government records of the City of Burbank.

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24 5. In late November or early December, I was informed that a reporter from the
25 Burbank Leader, Gretchen Meier, was asking for information about the City's merit pay
26 program. I was forwarded an email, in which she stated that she wanted the "same
27 thing" that Glendale had recently posted (which I understood to mean the names of
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1 executives who received merit pay and the job titles of all others). The City of Burbank
2 did not at that time have any document that contained the requested information. I was
3 directed to gather the necessary information to provide the newspaper with (1) total
4 gross payroll for 2009-10, (2) a list, by bargaining unit of the number of employees who
5 were eligible to receive merit pay, (3) how many employees actually received merit pay,
6 (4) how much was budgeted for merit pay, and, (5) how much was actually paid out of
7 that budgeted amount.
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9 My staff and I assembled that information using City payroll records and records
10 that were contained in my department and put together a chart for that purpose entitled
11 "Merit Pay Chart". A true and correct copy of the Merit Pay Chart provided to the
12 newspaper is attached here as Exhibit C.
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14 6. Subsequently, I was directed by the City Manager to compile the same
15 information for the years 2007-2008 and 2008-2009. That information was put together
16 by myself and my staff. It took approximately six hours of staff time to assemble. On
17 January 14, 2011, I sent a letter to Mr. Dan Evans advising him that the information
18 regarding merit pay amounts budgeted and awarded for fiscal years 2007 – 2008 and
19 2008-2009 was available for him to pick up. He has not to date picked up the
20 information.
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22 7. As summarized in my March 3, 2011 Report to City Manager Mike Flad (Exhibit
23 B) according to City records, the Merit Pay program was first adopted by the Burbank
24 City Council in 1987 via Resolution no. 22,094 (Attached as Exhibit D) for certain listed
25 management positions. The merit pay plan was to take the place of the tenth "merit"
26 step in an existing ten step salary range. The amount of 2.5% of the budgeted salary
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1 for each listed position (the amount of the tenth "merit" step) would be placed in a fund
2 out of which merit pay would be paid to eligible employees.

3 The salary range would no longer have that tenth or "merit" step – in other words, the
4 top of the range was lowered by 2.5%. The employee must have a written performance
5 evaluation to justify payment of the merit pay and no person could receive more than
6 5% of his or her base salary. (Resolution no. 22,094, attached hereto, Exhibit D.) The
7 Resolution provided that the salary ranges for the applicable employees would be
8 adjusted (lowered) accordingly.
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10 In the years subsequent to 1987 this same merit pay program was expanded
11 through collective bargaining to the Burbank Management Association (BMA), Burbank
12 City Employee Association (BCEA) and the Burbank Firefighters Chief Officers Unit of
13 the Fire Fighters Association (BFFCOU). The format remained unchanged in that 2.5%
14 of the employee's base salary, the equivalent to what had formerly been the 10th "merit"
15 step in the salary range, was placed into the merit pay pool to be used for eligible
16 employees who were awarded merit pay.
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18 8. Not every City employee who is eligible for merit pay receives it. As set forth in
19 my March 3, 2011 Report, Exhibit B, during fy 2009-2010, 874 of the City's employees
20 were eligible for merit pay, and 445 received merit pay. The total combined merit pay
21 pools were budgeted at \$1,812,257.54 and the total amount paid out was
22 \$1,162,247.88. The excess budgeted amount is returned to the General Fund. All this
23 information has been provided and/or made available to the newspaper.
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25 9. The City has an adopted Administrative Policy that outlines the process to be
26 followed for awarding merit pay to an eligible employee. This policy, with the exception
27 of a few updates, has been in effect since the merit pay program was implemented. Last
28 year, the City Council increased the pool amount for the unrepresented managers group

1 to 3.5% of their base salary. A true and correct copy of the City's Administrative Policy
2 is attached here as Exhibit E.

3 10. Each month my staff prepares a spread sheet that shows the amount of the merit
4 pay pool for the eligible employees, by department, and sends it to each City
5 department. If the Department head chooses to award merit pay, he or she indicates so
6 on the spreadsheet and it is returned to my department. For employees in the BCEA
7 bargaining unit, the merit pay award is part of the actual performance evaluation and on
8 the evaluation form itself. That evaluation, with the merit pay designation becomes part
9 of the employee's personnel file. With the assistance of my staff, I review the personnel
10 file for the employees to make sure that there is the required personnel evaluation on
11 file for the applicable period. If there is not an appropriate performance evaluation on file
12 or accompanying the merit pay request, it is rejected. If it is determined that the
13 employee qualifies for merit pay, the amount is proper, there is an appropriate
14 evaluation on file, etc., the information is entered into the City's Oracle payroll system
15 for processing.

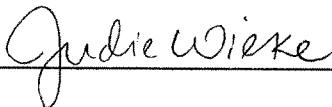
16 11. All personnel records in the City of Burbank are treated as confidential and
17 private. They may only be reviewed by the employee, City Manager, the employee's
18 department director or by subpoena. Any request to review an employee's personnel file
19 must be made on the City of Burbank form entitled "Request to Review Personnel File"
20 attached hereto as Exhibit G. Merit pay information is likewise treated as confidential
21 and private. Merit pay checks are delivered in sealed envelopes addressed directly to
22 the individual employee.

23 12. My department's link on the City of Burbank official website contains links to all
24 salary ranges, differentials, memoranda of understanding with all the City's bargaining
25 units, and a list of each City employee's gross earnings and a separate list of all
26 employees earning more than \$100,000 for fiscal year 2009-2010. (Exhibit A)

27 13. I believe that on the basis of my experience and expertise as a human resources
28 professional, and Director of the City of Burbank's Management Services Department
that publicly releasing individual merit pay information by name and amount of merit pay

1 would be detrimental to the working relationships between city employees and city
2 management. The merit pay program has, since its very beginning been directly tied to
3 performance. Every City employee, not to mention the public, will be privy, for the first
4 time to the performance evaluations of his or her fellow employees. I believe it will
5 create embarrassment, morale disruptions and personal dissension in the workplace. I
6 know from discussing this issue with fellow department heads, that we all fear it will
7 impair relationships among workers and between workers and supervisors due to
8 resentment on the part of some who didn't receive it or receive as much and discomfort
9 on the part of those who did. I believe it will make managers less willing to candidly
10 evaluate some employees.

11 I declare under penalty of perjury that the foregoing is true and correct and that this
12 declaration was executed on April 15, 2011 at Burbank California.

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14 Judie Wilke, Management Services Director