

**MEMORANDUM**

To: Board of Recreation and Park Commissioners

From: Mark L. Brown, Sr. Asst. City Attorney <sup>mlb</sup>

Date: October 25, 2001

Re: Woodley Lakes Golf Concession Food Service RFP/Contract (Bd. Rpt. 01-393)

At the meeting on October 17, 2001, the Commission acted in connection with Board Report 01-393 to approve release of an RFP for the concession, contingent upon receipt of written advice from the City Attorney concerning whether a contract for the concession had previously been "deemed approved" pursuant to Los Angeles Administrative Code Section 10.5 (hereinafter, "Sec. 10.5").

Sec. 10.5 states in relevant part:

*...no board, officer or employee of the City shall make any contract, obligating the City, or any department of the City, to make or receive payments of money . . . for a period longer than three (3) years, unless such contract shall have been first approved by the Council. The Council shall have 60 days from the date the contract is transmitted by the board, officer or employee and received by the City Clerk, to approve it. The contract shall be deemed approved if the Council does not disapprove it within this period." (Emphasis added).*

Our review of Council File No. 97-0300 confirms the facts alleged by Burrito King, Inc.'s representative during the Commission meeting. On December 13, 2000, the Commission approved Bd. Rpt. 00-485 recommending award of contract to Burrito King, Inc. A copy of the Commission's action was transmitted to the Mayor on December 26, 2000. The Mayor's recommendation to approve the contract (dated August 8, 2001) was transmitted to the Council along with the City Administrative Officer's report (dated August 1, 2001). The Mayor's transmittal was received by the City Clerk on August 9, 2001, and referred to the Arts, Health & Humanities Committee on August 10, 2001. The Arts, Health & Humanities Committee considered the contract at their meeting on September 25, 2001 and voted to recommend that the Council disapprove the contract. The City Council voted to adopt the Committee report disapproving the contract at their meeting on October 10, 2001.

The day the Council voted to reject the contract—October 10, 2001—was the 62<sup>nd</sup> day from the date the matter was received by the City Clerk (August 9, 2001). Therefore, pursuant to Section 10.5 and prior to the Council's action, the contract was "deemed approved" on October 8, 2001. By operation of law a contract with Burrito King, Inc. was approved by the City on October 8, 2001. Therefore, it is our advice that the Department may not release an RFP seeking an operator for the concession at this

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time.

If you have any questions, please do not hesitate to contact me at (213) 485-4247.

cc: Councilmember Jack Weiss  
Councilmember Mark Ridley-Thomas  
Councilmember Eric Garcetti  
Councilmember Cindy Miscikowski  
Ellie Oppenheim  
Ronald Katzman  
Richard Hamar

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