REGULAR MEETING OF THE EL SEGUNDO CITY COUNCIL  
TUESDAY, December 18, 2012 - 7:00 P.M.

AGENDA REVISED TO ADD ITEMS 5A & 17A

7:00 P.M. SESSION

CALL TO ORDER

INVOCATION – Lee Carlile, Pastor, United Methodist Church
PLEDGE OF ALLEGIANCE – Council Member Fisher

PRESENTATIONS

ROLL CALL

PUBLIC COMMUNICATIONS – (Related to City Business Only – 5 minute limit per person, 30 minute limit total) Individuals who have received value of $50 or more to communicate to the City Council on behalf of another, and employees speaking on behalf of their employer, must so identify themselves prior to addressing the City Council. Failure to so shall be a misdemeanor and punishable by a fine of $250. While all comments are welcome, the Brown Act does not allow Council to take action on any item not on the agenda. The Council will respond to comments after Public Communications is closed.

A. PROCEDURAL MOTIONS

Consideration of a motion to read all ordinances and resolutions on the Agenda by title only.

Recommendation – Approval.

B. SPECIAL ORDERS OF BUSINESS (PUBLIC HEARING)

1. Consideration and possible action to amend El Segundo Municipal Code (“ESMC”) § 4-8-8 to allow fees relating to entertainment permits to be adopted by City Council resolution and adopting a resolution establishing an entertainment permit fee. Applicant: City of El Segundo.

(Fiscal Impact: $3,505.00)

Recommendation – 1) Open Public Hearing; 2) Discussion; 3) Introduce and waive first reading of an ordinance amendment to ESMC § 4-8-8 to allow fees required for an entertainment permit to be adopted by City Council resolution; 4) Adopt a resolution establishing a new fee to recover costs associated with issuing entertainment permits. The resolution would become effective at the same time as the ordinance amending ESMC § 4-8-8; 5) Schedule second reading and adoption of the ordinance amendment on January 15, 2013; 6) Alternatively, discuss and take other action related to this item.
2. Consideration and possible action regarding the adoption of a temporary plan check and permit surcharge to design and construct the City's One-Stop Permit Center for residential and non-residential permits.  
(Fiscal Impact: None)  
Recommendation – 1) Open Public Hearing; 2) Receive public testimony regarding the new temporary permit surcharge; 3) Close the public hearing; 4) Adopt a resolution establishing the proposed temporary plan/check permit surcharge; 5) Alternatively, discuss and take other action related to this item.

3. Consideration and possible action regarding (Public Hearing) the proposed project and budget for the FY 2013/14 Community Development Block Grant (CDBG) Program Year. Estimated CDBG budget allocation for Program Year 2013-2014 is approximately $53,767.00.  
(Fiscal Impact: $53,767.00)  
Recommendation – 1) Open Public Hearing and take testimony; 2) Close public hearing and discuss item; 3) Adopt the new 2013-2014 CDBG project and budget; 4) Authorize the City Manager to execute the contracts, in a form approved by the City Attorney, with the Los Angeles County Community Development Commission (CDC); 5) Alternatively, discuss and take other action related to this item.

C. UNFINISHED BUSINESS

4. Presentation: Update on efforts to recruit for the vacant office of the City Treasurer and potential action by City Council regarding appointing a person or calling a special election to fill the vacancy.  
(Fiscal Impact: N/A)  
Recommendation – 1) Receive and file presentation; 2) Take action regarding appointing or calling a special election to fill the vacancy in the office of the City Treasurer; 3) Alternatively, discuss and take other action related to this item.

(Fiscal Impact: N/A)  
Recommendation – 1) Receive and file oral presentation; 2) Alternatively, discuss and take other action related to this item.
5A. Update on the status of negotiations with Chevron Corporation and consideration of terms for an Alternative Tax Agreement (ATA).
(Fiscal Impact: Estimated – 134 million net new revenue over the next 15 fiscal years)
Recommendation – 1) Receive and file report and direct staff to prepare an Alternative Tax Agreement with the Chevron Corporation for the City Council consideration; 2) Alternatively, discuss and take other action related to this item.

D. REPORTS OF COMMITTEES, COMMISSIONS AND BOARDS

6. Consideration and possible action to open the recruitment process for the positions on the Committee, Commissions and Boards (“CCBs”) that will expire in the year 2013.
(Fiscal Impact: None)
Recommendation – 1) Direct staff to open the recruitment process for the positions on the CCBs, as listed; 2) Alternatively, discuss and take other action related to this item.

E. CONSENT AGENDA

All items listed are to be adopted by one motion without discussion and passed unanimously. If a call for discussion of an item is made, the item(s) will be considered individually under the next heading of business.

7. Warrant Numbers 2590472 - 2590627 on Register No. 5 in the total amount of $585,890.44 and Wire Transfers from 11/23/2012 through 12/06/2012 in the total amount of $1,231,085.36.
Recommendation – Approve Warrant Demand Register and authorize staff to release. Ratify Payroll and Employee Benefit checks; checks released early due to contracts or agreement; emergency disbursements and/or adjustments; and wire transfers.

Recommendation – Approval.
9. Consideration and possible action to approve and adopt South Bay Workforce Investment Board’s (SBWIB) proposed Amendment No. 5 to the Joint Powers Agreement No. 83-100 transferring the duties of administrative entity from the City of Hawthorne to the City of Inglewood.
(Fiscal Impact: None)
Recommendation – 1) Staff recommends that the City Council approve and adopt the proposed Amendment No. 5 to the Joint Powers Agreement No. 83-100 as amended; 2) Authorize the Mayor to sign the Amendment No. 5 to the Joint Powers Agreement No. 83-100 as amended; 3) Alternatively, discuss and take other action related to this item.

10. Consideration and possible action to approve an Amendment to the Joint Powers Agreement between the City of El Segundo and the Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force (LA IMPACT) and authorize the City Manager to execute the Joint Powers Agreement (JPA) Amendment in a form approved by the City Attorney.
(Fiscal Impact: None)
Recommendation – 1) Authorize the City Manager to execute the Amendment in a form approved by the City Attorney to the LA IMPACT JPA; 2) Alternatively, discuss and take other action related to this item.

11. Consideration and possible action to waive the bidding process per El Segundo Municipal Code § 1-7-10, as there was only one bidder that could meet the product specifications, and authorize the purchase of emergency food and water for employees, disaster service workers, and mutual aid responders in the event of a disaster.
(Fiscal Impact: Additional $36,874.23)
Recommendation – 1) Authorize the purchase of emergency food and water for employees, disaster service workers and mutual aid responders in the event of a disaster; 2) Alternatively, discuss and take other action related to this item.

12. Consideration and possible action to authorize the City Manager to sign and enter into an agreement, reviewed by the City Attorney, with the Regents of the University of California to allow the City of El Segundo to provide Paramedic Internship for students of the University of California, Los Angeles (UCLA) Emergency Medical Technician Paramedic Program.
(Fiscal Impact: None)
Recommendation – 1) Authorize the City Manager to sign and enter into an agreement, reviewed by the City Attorney, with the Regents of the University of California to allow the City of El Segundo to provide Paramedic Internship for students of the University of California, Los Angeles (UCLA) Emergency Medical Technician Paramedic Program; 2) Alternatively, discuss and take other action related to this item.
13. Consideration and possible action to award a Professional Services Agreement to the most responsible bidder for custodial/janitorial services for several City of El Segundo Facilities.  
(Fiscal Impact: To Be Determined)  
Recommendation – 1) Award a Professional Services Agreement to the contractor determined to be the most responsible bidder for City of El Segundo Building Facilities; 2) Alternatively, discuss and take other action related to this item

14. Consideration and possible action to authorize the City Manager to execute an agreement, in a form approved by the City Attorney, with NRG to promote the Sustainable El Segundo energy conservation program.  
(Fiscal Impact: None)  
Recommendation – 1) Authorize the City Manager to execute an agreement between the City and NRG in a form approved by the City Attorney for the promotion of the Sustainable El Segundo program; 2) Alternatively, discuss and take other action related to this item

15. Consideration and possible action to adopt a resolution pursuant to Public Contracts Code § 20168 finding that an emergency exists within the City and authorizing the City Manager to execute a contract in a form approved by the City Attorney with Best Contracting Services to repair the Police Department roof without the need for bidding in accordance with Public Contracts Code § 22050.  
(Fiscal Impact: $7,950.00)  
Recommendation – 1) Consider adopting a Resolution finding that an emergency exists and waiving bidding requirements pursuant to Public Contracts Code § 20168 and § 22050; 2) Authorize the City Manager to execute a standard public works contract, in a form approved by the City Attorney, with Best Contracting Services for the repair of the Police Department roof; 3) Alternatively, discuss and take other action related to this item

F. NEW BUSINESS

16. Consideration and possible action regarding approval of a revised Residential Sound Insulation (RSI) Program map and a status report on the City’s RSI Program.  
(Fiscal Impact: None)  
Recommendation – 1) Approve a revised Residential Sound Insulation (RSI) Program map; 2) Alternatively, discuss and take other action related to this item
G. REPORTS – CITY MANAGER

H. REPORTS – CITY ATTORNEY

I. REPORTS – CITY CLERK

J. REPORTS – CITY TREASURER

K. REPORTS – CITY COUNCIL MEMBERS

Council Member Fellhauer –

Council Member Atkinson –

Council Member Fisher –

17. Consideration and possible action to adopt a resolution supporting the Earned Income Tax Credit EITC and the Volunteer Income Tax Assistance program.
(Fiscal Impact: None)

Recommendation – 1) Adopt the attached resolution; 2) Alternatively, discuss and take other action related to this item.

Mayor Pro Tem Fuentes –

17A. Report on the Los Angeles County Clean Water, Clean Beaches Tax/Fee Measure that would provide revenues to the County Flood Control District to offset the costs associated with storm water runoff. Consideration and possible action by Council regarding whether the City wants to protest the proposed tax/fee.
(Fiscal Impact: None)

Recommendation – 1) Receive and file report; 2) Direct staff regarding whether the City wants to protest the proposed tax/fee on City owned properties; 3) Alternatively, discuss and take other action related to this item.
Mayor Jacobson –

18. Consideration and possible action regarding the annual request of Mr. S. Claus for variances from the Municipal Code.
   (Fiscal Impact: None)
   Recommendation – 1) Approve the request by Mr. S. Claus for a waiver of the permits required for doing business within the City of El Segundo; 2) The use of air rights and waiver of the Santa Monica Radial 160 R procedure; 3) Grant a free business license for a non-profit organization; 4) Waiver of the Noise Ordinance to permit the sound of bells; 5) Waiver of the Trespass Ordinance including dealing with trespassing animals; 6) Waiver of the ordinance on Animal Regulations; 7) Alternatively, discuss and take other action related to this item.

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MEMORIALS –

CLOSED SESSION

The City Council may move into a closed session pursuant to applicable law, including the Brown Act (Government Code Section §54960, et seq.) for the purposes of conferring with the City’s Real Property Negotiator; and/or conferring with the City Attorney on potential and/or existing litigation; and/or discussing matters covered under Government Code Section §54957 (Personnel); and/or conferring with the City’s Labor Negotiators.

REPORT OF ACTION TAKEN IN CLOSED SESSION (if required)

ADJOURNMENT
POSTED:

DATE: 12-13-12
TIME: 2:40
NAME: [Signature]
AGENDA DESCRIPTION:

Update on the status of negotiations with the Chevron Corporation and consideration of terms for an Alternative Tax Agreement (ATA) (Fiscal Impact: Estimated - 134 million net new revenue over the next 15 fiscal years)

RECOMMENDED COUNCIL ACTION:

1. Receive and file report and direct staff to prepare an Alternative Tax Agreement with the Chevron Corporation for City Council consideration
2. Alternatively, discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:

Documents relating to the 1988 voter approved tax measure, the 1991 extension by the City Council of the 1988 voter approved tax measure, the 1994 Chevron Agreement and related documents, and the 1996 ballot measure and related documents.

FISCAL IMPACT: TBD

Amount Budgeted:
Additional Appropriation:
Account Number(s):

PREPARED BY: Greg Carpenter, City Manager
REVIEWED BY:
APPROVED BY:

BACKGROUND & DISCUSSION:

In December of last year, the City Council discussed placement of a measure increasing the business license tax rate for refineries on the April 2012 municipal election. The stated intent at that time was to increase revenues from the Chevron refinery in order to address deferred capital maintenance and infrastructure projects. The rationale for the increase at that meeting focused on the imbalance that existed between the revenues collected from refineries in other nearby cities compared to those collected in El Segundo, as well as the revenue collected from other commercial/industrial properties in El Segundo compared to revenues collected from the Chevron refinery.

Based on Chevron’s request, and their commitment to work constructively to resolve the matter, the City Council chose to seek a negotiated resolution of the issue. Rather than placing the business license tax increase on the April 2012 ballot, a City Council Subcommittee (consisting of Mayor Pro Tem Fuentes and Council Member Fisher) was created to participate in the negotiations. There was no clear agreed upon financial goal from the negotiations by the City Council. While there was some information disseminated by the former City Manager that the amount would be $5 million per year there is no information that the prior Council approved such amount or whether such $5 million
included the water surcharge amount paid by Chevron (currently approximately $1.8 million per year).

Since January, a number of significant changes/events have occurred including:

- City Council election in April and the appointment of two new Council members
- A significant loss of anticipated revenues to the City, coupled with increased costs led to the adoption of FY 2012-2013 Budget that relies heavily on the use of one-time funds.
- The forecast of budget deficits over the next three years of approximately 5-6 million dollars each.

With this background, the City Council Subcommittee, staff and Chevron representatives began negotiations in April with the mutual understanding that both sides would maintain confidentiality for the purposes of open discussion and resolution of potential disputes as well as legal restrictions regarding tax payer information. The discussions can be characterized as professional and constructive. The Subcommittee’s principal objectives in these negotiations included:

- Establishing an appropriately valued, reliable, long-term source of revenue,
- Incorporating an appropriate level of escalation of the value of the agreement to keep pace with inflation,
- Extension of the current Recycled Water Surcharge Agreement (set to expire in 2015) to coincide with the term of the ATA agreement.
- Review of the natural gas usage at the refinery and compliance with the 1994 Settlement Agreement (including, Ordinance 1226 and the 1994 Administrative Tax Agreement) between the City and Chevron

**PROPOSED ALTERNATIVE TAX AGREEMENT**

The Council Subcommittee and Chevron have negotiated a possible agreement that would include the following basic terms:

- **Amount** – Chevron would agree to pay the City 11.1 million dollars in combined “2012 Taxes” and “Additional Funds”. For the purposes of this agreement, “2012 Taxes” would consist of the City’s share of the property tax, the Electric and Cogenerated Utility Users tax, Water UUT, sales and use tax, business license tax and Gas Utility Users tax generated by the Chevron refinery. “Additional Funds” would make up the balance between 11.1 million dollars and the 2011/12 taxes. The additional funds to be paid in the first year of the agreement would be approximately 6.1 million dollars.

Chevron will continue to pay gas UUT payments based upon the 1994 agreement and the Administrative Determination and Ordinance 1226 which defined the specific uses for which Chevron was obligated to make gas UUT payments.

- **Term of the Agreement** – the term of the agreement would be for 15 years, from January of 2013 through January of January of 2027.
- **Escalation** – The amount to be paid each year would be increased by applying the Consumer Price Index for all Urban Consumers (CPI-U) to the previous year’s total payment (Taxes and Additional Funds).
- **Reconciliation and Payment** – In December of each year, the City would provide Chevron with total tax receipts received in the previous fiscal year to be matched against Chevron’s payment records. This amount would be deducted from the escalated total payment and the Chevron
would pay the balance of Additional Funds. The payment would be provided in January of each year.

- **Extension of Recycled Water Surcharge** – Chevron would agree to extend the surcharge to match the term of the ATA agreement. This payment benefits the water fund and all customers of potable water including Chevron by otherwise reducing the amount charged to water customers. If this payment by Chevron were to end in 2015 pursuant to the current agreement then the City would either need to charge this amount to current water customers (assuming that the customers would not protest a proposed increase pursuant to Proposition 218). If this payment were to cease and water customers were to protest a fee increase the general fund would need to pay into the water enterprise fund an amount roughly equivalent to the amount currently paid by Chevron.

- **Effect on other Taxes/Cancellation** – This agreement would not impact the normal collection of taxes and would not serve to restrict the City’s ability to collect or raise taxes or impose new taxes. In the case where, during the December reconciliation, Chevron’s taxes equal or exceed 95% of the future year’s total payment, for two consecutive years, Chevron would have the right to cancel the agreement. In no event would Chevron be entitled to a refund or credit for previous payments made by Chevron.

The overall value (existing taxes, additional funds and the extended water surcharge) over the 15 year term is estimated to be 224.5 million dollars, or nearly 15 million per year (this amount may vary based on the CPI-U). The value of net new revenue (above and beyond the future revenues that would be collected by the existing tax rates) is more difficult to estimate due to some of the variables. Based on historic tax growth, historic CPI-U growth, an assumption that the recycled water surcharge would expire in 2015 and an assumption that there would not be any new or changed taxes, staff has estimated net new revenues at 134 million, or 8.93 million per year.

### 1994 SETTLEMENT AGREEMENT RELATED TO GAS USERS TAX

There have been media reports and public comments regarding a 1994 agreement that the City entered into with Chevron regarding Chevron’s UUT gas charges and payments. The proposed agreement is not intended to alter the methodology of such payments set forth in the 1994 Agreement and the related Administrative Agreement and Ordinance 1226 all of which were approved at public meetings and collectively provide that Chevron will not be charged a UUT for gas it owns and uses on site, gas used for its cogeneration facility (it is important to note that the City also receives UUT for the electricity produced by cogeneration plant which is explicitly set forth in the ESMC) and gas that Chevron uses for producing other products on site (referred to as “feedstock” gas”). As directed by City Council, the City undertook an audit of Chevron’s natural gas usage in accordance with the 1994 agreement earlier this year. While the audit results must remain confidential, the information was considered as part of the negotiations for the proposed Alternative Tax Agreement.

The records located by the City regarding the 1994 Agreement show that the City had not received voter approval for any of the taxes which were approved by the voters in 1988 and were being paid by businesses in the City and that were to expire in 1991 but were extended by the Council in 1991. The California Supreme Court in 1995 held that such taxes were required to be approved by the voters and the City acknowledged the potential exposure ($72 million) of not receiving such voter approval when in 1996 the voters were asked to ratify the City’s existing taxes. The documents provided to the voters stated that there was no intention to raise the City’s current taxing rates or amounts and the ballot measure was only intended to preserve existing tax revenues. Specifically, in the ballot argument in
favor of the 1996 ballot measure that was written and signed by the five sitting Council Member at that time, it stated:

"TAXES ARE NOT BEING INCREASED. No one, whether they are a business or a private citizen will experience any additional taxes as a result of Measure H."

Moreover, the ballot measure did not purport to supersede the Chevron agreement, the Administrative Tax Agreement or Ordinance 1226 which defined the gas UUT amounts to be paid by Chevron. Attached are documents relating to the 1988 voter approved tax measure, the 1991 extension by the City Council of the 1988 voter approved tax measure, the 1994 Chevron Agreement and related documents, and the 1996 ballot measure and related documents.

Additionally it should be acknowledged that while the City could have audited Chevron's gas consumption prior to the current audit, it did not do so and such may simply be attributable to the numerous changes in City staff and City Council makeup since 1994. While the City cannot legally disclose the results of the audit, the results of the audit were included for consideration of the negotiations of the Additional Payment that will result from the proposed agreement.

Finally, it should also be noted that if the City had negotiated a more favorable agreement with Chevron in 1994 that it is unknown whether Chevron would have entered into the 1998 water surcharge agreement which has resulted in significant financial support to the City’s Water Enterprise Fund (currently approximately $1.8 million a year). The public presentation made regarding this issue in December 2011 did not accurately reflect the benefit the City received from the water surcharge agreement.

SUMMARY

Assuming that there are not substantial deviations from current revenue and expenditure forecasts, the proposed agreement would provide significant, long-term stability to the City’s general and water funds. This stability would reduce otherwise anticipated budget deficits in the near term and should allow the City to maintain current service levels. In the long term, the added revenues would ideally provide for capital projects and/or expanded services. Staff recommends that the City Council approve the basic terms listed previously, and direct staff to prepare a draft agreement, and any other necessary actions for City Council consideration. It is anticipated that staff would return to Council for approval of a final agreement in late January or early February.
ORDINANCE NO. 1253

AN ORDINANCE OF THE PEOPLE OF THE CITY OF EL SEGUNDO, CALIFORNIA, VALIDATING ALL ORDINANCES ENACTED BY THE CITY COUNCIL RELATING TO BUSINESS LICENSE TAXES, TRANSIENT OCCUPANCY TAXES AND COMMERCIAL AND INDUSTRIAL UTILITY USERS TAXES FROM THE EFFECTIVE DATE OF PROPOSITION 62 THROUGH AND INCLUDING APRIL 8, 1996, EXCEPTING, HOWEVER, THOSE ORDINANCES OR PORTIONS OF ORDINANCES THAT PROVIDED FOR TRANSIENT OCCUPANCY TAX CREDIT AGREEMENTS.

WHEREAS, Proposition 62 was adopted as an initiative measure at the 1996 general election. Proposition 62 states, among other matters, that the imposition of general taxes be approved by a majority vote of the people; and

WHEREAS, several California Court of Appeal opinions, including City of Woodlake v. Logan (1991) 230 Cal.App.3d 1058, subsequently declared Proposition 62 unconstitutional insofar as it purported to apply to cities; and

WHEREAS, in good faith belief that Proposition 62 was invalid, the City Council adopted Ordinance Nos. 1128, 1138, 1165, 1166, 1167, 1219, 1227 and 1238 relating to the Business License Tax, Ordinance Nos. 1102, 1121 and 1216 relating to the Transient Occupancy Tax; Ordinance No. 1220 relating to the Business License Tax and the Transient Occupancy Tax; Ordinance Nos. 1133, 1134, and 1135 relating to the Utility Users Tax; and Ordinance Nos. 1142 and 1164 relating to the Business License Tax and the Utility Users Tax; and

WHEREAS, the recent California Supreme Court decision in Santa Clara County Local Transportation Authority v. Carl Guardino held Proposition 62 to be constitutional in some instances; and

WHEREAS, the People of the City desire to maintain the fiscal integrity of the City and to ensure that the City continues to meet its obligations to the community in the provision of vital public services; and

WHEREAS, this ordinance provides for the validation of previously enacted ordinances relating to the City's tax structure, thereby minimizing the risk to the City's fiscal integrity and the provision of services.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF EL SEGUNDO DO HEREBY ORDAIN AS FOLLOWS:

SECTION 1. "ORDINANCE NO. 1102 - AN ORDINANCE OF THE CITY OF EL SEGUNDO, CALIFORNIA, AMENDING CHAPTER 3.12, (TRANSIENT OCCUPANCY TAX) OF THE EL SEGUNDO MUNICIPAL CODE BY ADDING SECTION 3.12.075 RELATING TO A CAP OF FIVE PERCENT ON TAX REMITTANCE," including any amendments, additions or deletions thereto, is hereby validated and in full force and effect from the date of its adoption through the date of this election.

SECTION 2. "ORDINANCE NO. 1121 - AN ORDINANCE OF THE CITY OF EL SEGUNDO, CALIFORNIA, AMENDING SECTIONS 3.12.020, 3.12.040, AND DELETING SECTION 3.12.075, OF CHAPTER 3.12, TITLE 3, OF THE EL SEGUNDO MUNICIPAL CODE," including any amendments, additions or deletions thereto, is hereby validated and in full force and effect from the date of its adoption through the date of this election.
SECTION 3. "ORDINANCE NO. 1128 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL SEGUNDO, CALIFORNIA, AMENDING THE EL SEGUNDO MUNICIPAL CODE BY DELETING SECTION 5.08.012 IN ITS ENTIRETY AND AMENDING SECTIONS 5.08.020, 5.08.025, 5.08.050, 5.08.055 AND 5.08.070 OF CHAPTER 5.08, TITLE 5 OF THAT CODE, WHICH CHAPTER RELATES TO A BUSINESS LICENSE TAX," including any amendments, additions or deletions thereto, is hereby validated and in full force and effect from the date of its adoption through the date of this election.

SECTION 4. "ORDINANCE NO. 1133 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL SEGUNDO, CALIFORNIA, AMENDING SECTIONS 3.24.010(a) AND 3.24.040 OF CHAPTER 3.24 OF THE EL SEGUNDO MUNICIPAL CODE TO REMOVE THE EXEMPTION FROM THE UTILITY USERS TAX FOR AN ELECTRICAL CORPORATION USING GAS FOR THE GENERATION OF ELECTRICITY," including any amendments, additions or deletions thereto, is hereby validated and in full force and effect from the date of its adoption through the date of this election.

SECTION 5. "ORDINANCE NO. 1134 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL SEGUNDO, CALIFORNIA, AMENDING SECTION 3.24.010(a) AND ADDING A NEW SECTION 3.24.055 TO TITLE 3, CHAPTER 3.24 OF THE EL SEGUNDO MUNICIPAL CODE PROVIDING THAT TELEPHONE CALLS SHALL BE SUBJECT TO THE PROVISIONS OF CHAPTER 3.24 OF THE EL SEGUNDO MUNICIPAL CODE," including any amendments, additions or deletions thereto, is hereby validated and in full force and effect from the date of its adoption through the date of this election.

SECTION 6. "ORDINANCE NO. 1135 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL SEGUNDO, CALIFORNIA AMENDING SECTION 3.24.010 AND ADDING SECTION 3.24.035 TO CHAPTER 3.24 TITLE 3 OF THE EL SEGUNDO MUNICIPAL CODE TO PROVIDE THAT BUSINESSES WHICH ARE ELECTRICAL COGENERATORS SHALL BE SUBJECT TO CHAPTER 3.24," including any amendments, additions or deletions thereto, is hereby validated and in full force and effect from the date of its adoption through the date of this election.

SECTION 7. "ORDINANCE NO. 1138 - AN ORDINANCE OF THE CITY OF EL SEGUNDO, CALIFORNIA, AMENDING SECTIONS 5.04.125, 9.44.020; AMENDING SECTIONS 5.04.020, 5.08.030, 5.16.330, 5.16.450, 5.20.020, 5.24.020, 5.28.010, 5.36.080, 5.48.100, 5.48.105, 9.06.120; AND DELETING SECTION 5.08.035 OF THE EL SEGUNDO MUNICIPAL CODE, WHICH SECTIONS RELATE TO LICENSES AND PERMIT FEES," including any amendments, additions or deletions thereto, is hereby validated and in full force and effect from the date of its adoption through the date of this election.

SECTION 8. "ORDINANCE NO. 1142 - AN ORDINANCE OF THE CITY OF EL SEGUNDO, CALIFORNIA, AMENDING TITLE 5 (BUSINESS REGULATIONS AND LICENSING) OF THE EL SEGUNDO MUNICIPAL CODE TO DELETE AND AMEND CERTAIN SECTIONS OF CHAPTERS 5.04 AND 5.08 AND ADDING NEW SECTIONS 5.04.285, 5.04.270 AND 5.08.018 REGARDING BUSINESS LICENSE TAXES AND DELETING THE SUNSET CLAUSE ESTABLISHED BY ORDINANCE NO. 1116," including any amendments, additions or deletions thereto, is hereby validated and in full force and effect from the date of its adoption through the date of this election.

SECTION 9. "ORDINANCE NO. 1164 - AN ORDINANCE OF THE CITY OF EL SEGUNDO, CALIFORNIA AMENDING SECTIONS 3.24.030, 3.24.035, 3.24.040, 3.24.050, 5.08.020, 5.08.195 AND 5.08.065 OF THE EL SEGUNDO MUNICIPAL CODE REGARDING MUNICIPAL REVENUE SOURCES," including any amendments, additions or deletions thereto, is hereby validated and in full force and effect from the date of its adoption through the date of this election.
SECTION 10. "ORDINANCE NO. 1166 - AN ORDINANCE OF THE CITY OF EL SEGUNDO, CALIFORNIA, ADDING A NEW SECTION 5.04.222 TO TITLE 5 OF THE EL SEGUNDO MUNICIPAL CODE, GRANTING A CREDIT REGARDING TAX PENALTIES," including any amendments, additions or deletions thereto, is hereby validated and in full force and effect from the date of its adoption through the date of this election.

SECTION 11. "ORDINANCE NO. 1168 - AN ORDINANCE OF THE CITY OF EL SEGUNDO, CALIFORNIA AMENDING SECTIONS 5.04.100, 5.04.110, 5.04.220, 5.08.018, 5.08.030, 5.08.040, 5.08.050, 5.08.060, 5.08.070, 5.08.078, 5.08.080, 5.08.085, 5.08.090, 5.08.130, 5.08.140, 5.08.150, 5.08.170, 5.08.180, 5.08.200, 5.08.210, 5.08.220, 5.08.230, 5.08.235, 5.08.236, 5.08.237, 5.08.238, 5.08.240, 5.08.245, 5.08.250, 5.08.260, 5.08.300, 5.08.310, 5.08.320, 5.08.340, 5.08.350, 5.08.360, 5.08.365, 5.08.370, 5.08.390, 5.08.410, 5.08.420, 5.08.440, 5.08.460, 5.08.490, 5.08.525, 5.08.530, 5.08.540, 5.08.550, 5.08.555, 5.08.580, 5.08.585, 5.08.590, 5.08.600, 5.08.620, 5.08.630, 5.08.640, 5.08.650, 5.08.655, 5.08.660 AND 5.08.661 ADDING NEW SECTIONS 5.08.021, AND 5.08.025, AND DELETING SECTIONS 5.04.022, 5.04.220.1, 5.04.221, 5.04.270, 5.08.190, 5.08.510, REGARDING THE CITY BUSINESS LICENSE TAX," including any amendments, additions or deletions thereto, is hereby validated and in full force and effect from the date of its adoption through the date of this election.

SECTION 12. "ORDINANCE NO. 1187 - AN ORDINANCE OF THE CITY OF EL SEGUNDO, CALIFORNIA AMENDING SECTION 5.04.222 OF TITLE 5 OF THE EL SEGUNDO MUNICIPAL CODE REGARDING CREDITS FOR TAX PENALTIES," including any amendments, additions or deletions thereto, is hereby validated and in full force and effect from the date of its adoption through the date of this election.

SECTION 13. "ORDINANCE NO. 1216 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL SEGUNDO, CALIFORNIA ESTABLISHING TRANSIENT OCCUPANCY TAX RATES, CREDITS AND EXEMPTIONS," including any amendments, additions or deletions thereto, is hereby validated and in full force and effect from the date of its adoption through the date of this election.

SECTION 14. "ORDINANCE NO. 1219 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL SEGUNDO, CALIFORNIA AMENDING SECTION 5.08.195 OF THE EL SEGUNDO MUNICIPAL CODE TO GRANT A CREDIT AGAINST THE BUSINESS LICENSE TAX FOR CERTAIN BUSINESSES IN AN AMOUNT EQUAL TO A PERCENTAGE OF PAID DELINQUENT OR DISPUTED UTILITY USER TAXES," including any amendments, additions or deletions thereto, is hereby validated and in full force and effect from the date of its adoption through the date of this election.

SECTION 15. "ORDINANCE NO. 1220 - AN ORDINANCE OF THE CITY OF EL SEGUNDO, CALIFORNIA, ADDING CHAPTER 3.05 ENTITLED BUSINESS ATTRACTION PROGRAM AND AMENDING SECTION 5.08.020 ESTABLISHING BUSINESS LICENSE TAX CREDITS FOR THE BUSINESS RETENTION PROGRAM TO THE EL SEGUNDO MUNICIPAL CODE," including any amendments, additions or deletions thereto, excepting, however, that portion of Section 1 adding Section 3.08.050 to the El Segundo Municipal Code, is hereby validated and in full force and effect from the date of its adoption through the date of this election.

SECTION 16. "ORDINANCE NO. 1227 - AN ORDINANCE OF THE CITY OF EL SEGUNDO, CALIFORNIA, EXTENDING THE SUSPENSION OF THE ANNUAL AUTOMATIC CONSUMER PRICE INDEX REQUIRED BY SECTION 5.08.018, CHAPTER 5.08, TITLE 5 OF THE EL SEGUNDO MUNICIPAL CODE FOR THE PERIOD BEGINNING JANUARY 1, 1995 TO AND INCLUDING JUNE 30, 1995 AND ADDING SECTION 5.08.019 TO CHAPTER 5.08 OF TITLE 5 OF THE EL SEGUNDO MUNICIPAL CODE WHICH PROVIDES A 10% REDUCTION OF BUSINESS LICENSE TAXES FROM THE EFFECTIVE DATE OF THIS ORDINANCE TO AND INCLUDING JUNE 30, 1995," including any amendments, additions or deletions thereto, is hereby validated and in full force and effect from the date of its adoption through the date of this election.
SECTION 17. "ORDINANCE NO. 1238 - AN ORDINANCE OF THE CITY OF EL SEGUNDO, CALIFORNIA, AMENDING TITLE 5 (BUSINESS REGULATIONS AND LICENSING) OF THE EL SEGUNDO MUNICIPAL CODE TO ADD NEW SECTION 5.08.527 REGARDING SPECIFIC LICENSE FEES FOR PARKING LOT OPERATIONS," including any amendments, additions or deletions thereto, is hereby validated and in full force and effect from the date of its adoption through the date of this election.

SECTION 18. "ORDINANCE NO. 1241 - AN ORDINANCE OF THE CITY OF EL SEGUNDO, CALIFORNIA, DELETING SECTION 5.08.018, CHAPTER 5.08, TITLE 5 OF THE EL SEGUNDO MUNICIPAL CODE RELATING TO THE CONSUMER PRICE INDEX; AMENDING SECTION 5.08.019, CHAPTER 5.08, TITLE 5 OF THE EL SEGUNDO MUNICIPAL CODE TO INCLUDE A 10% REDUCTION AND AN ADDITIONAL 5% REDUCTION OF THE REMAINDER OF ALL BUSINESS LICENSE TAXES; AND AMENDING SECTIONS 5.08.20(a), 5.08.195(a) and (b) AND 5.08.220(a) AND (b) OF CHAPTER 5.08, TITLE 5 OF THE EL SEGUNDO MUNICIPAL CODE INCREASING THE NUMBER OF EMPLOYEES COVERED BY THE BASIC BUSINESS LICENSE FEE FROM 5 EMPLOYEES TO 10 EMPLOYEES," including any amendments, additions or deletions thereto, is hereby validated and in full force and effect from the date of its adoption through the date of this election.

SECTION 19. "ORDINANCE NO. 1243 - AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL SEGUNDO AMENDING THE EL SEGUNDO MUNICIPAL CODE IN CONNECTION WITH THE CLAIMS PERIODS RELATING TO THE BUSINESS LICENSE TAX, TRANSIENT OCCUPANCY TAX AND THE COMMERCIAL AND INDUSTRIAL UTILITY USERS TAX," including any amendments, additions or deletions thereto, is hereby validated and in full force and effect from the date of its adoption through the date of this election.

SECTION 20. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance or any part thereof.

SECTION 21. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be posted as required by law.

ADOPTED BY THE ELECTORATE AT THE GENERAL MUNICIPAL ELECTION HELD APRIL 8, 1996.
CLERK'S CERTIFICATE

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF EL SEGUNDO

I, Cindy Mortesen, City Clerk of the City of El Segundo, California, do hereby certify that the foregoing ordinance, being Ordinance No. 1253, is a full, true and correct original of Ordinance No. 1253 of the said City of El Segundo, California, entitled:

"AN ORDINANCE OF THE PEOPLE OF THE CITY OF EL SEGUNDO, CALIFORNIA, VALIDATING ALL ORDINANCES ENACTED BY THE CITY COUNCIL RELATING TO BUSINESS LICENSE TAXES, TRANSIENT OCCUPANCY TAXES AND COMMERCIAL AND INDUSTRIAL UTILITY USER TAXES FROM THE EFFECTIVE DATE OF PROPOSITION 62 THROUGH AND INCLUDING APRIL 8, 1996, EXCEPTING, HOWEVER, THOSE ORDINANCES OR PORTIONS OF ORDINANCES THAT PROVIDED FOR TRANSIENT OCCUPANCY TAX CREDIT AGREEMENTS."

which was duly and regularly passed, approved and adopted by the electors of the City of El Segundo, California, at the General Municipal Election held in said City on Tuesday, the 9th day of April, 1996, and that it was so passed and adopted by the following vote at said election, to wit:

"YES," 2362  Votes "Shall Ordinance No. _______ entitled:
AN ORDINANCE OF THE PEOPLE OF THE CITY OF EL SEGUNDO, CALIFORNIA, VALIDATING ALL ORDINANCES ENACTED BY THE CITY COUNCIL RELATING TO BUSINESS LICENSE TAXES, TRANSIENT OCCUPANCY TAXES AND COMMERCIAL AND INDUSTRIAL UTILITY USER TAXES FROM THE EFFECTIVE DATE OF PROPOSITION 62 THROUGH AND INCLUDING APRIL 8, 1996, EXCEPTING, HOWEVER, THOSE ORDINANCES OR PORTIONS OF ORDINANCES THAT PROVIDED FOR TRANSIENT OCCUPANCY TAX CREDIT AGREEMENTS, be approved?"

"NO," 339

and that, therefore, more than a majority of the electors voting upon the question of the adoption of said ordinance having voted in favor thereof, the said ordinance shall accordingly become effective according to its terms and a provided by law.

I do hereby further certify that pursuant to the provisions of Section 36933 of the Government Code of the State of California, that the foregoing ORDINANCE NO. 1253, was posted in the manner prescribed by law.

[Signature]
Cindy Mortesen
City Clerk of the
City of El Segundo, California
(SEAL)
ORDINANCE NO. 1252

AN ORDINANCE OF THE PEOPLE OF THE CITY OF EL SEGUNDO, CALIFORNIA, APPROVING, FROM APRIL 9, 1996 FORWARD, A BUSINESS LICENSE TAX, TRANSIENT OCCUPANCY TAX AND A COMMERCIAL AND INDUSTRIAL UTILITY USERS TAX AT THE SAME RATES AS ARE CURRENTLY SET FORTH IN THE EL SEGUNDO MUNICIPAL CODE; DELETING THEREFROM CERTAIN SECTIONS PROVIDING FOR TRANSIENT OCCUPANCY TAX CREDITS AND TAX CREDIT AGREEMENTS; AND REDUCING THE TRANSIENT OCCUPANCY TAX FROM 10% TO 8%.

WHEREAS, Proposition 62 was adopted as an initiative measure at the 1986 general election. Proposition 62 states, among other matters, that the imposition of general taxes be approved by a majority vote of the people;

WHEREAS, several California Court of Appeal opinions, including City of Woodlake v. Logan (1991) 230 Cal.App.3d 1058, subsequently declared Proposition 62 unconstitutional insofar as it purported to apply to cities;

WHEREAS, in good faith belief that Proposition 62 was invalid, the City Council adopted Ordinance Nos. 1128, 1138, 1166, 1168, 1187, 1219, 1227 and 1238 relating to the Business License Tax; Ordinance Nos. 1102, 1121 and 1216 relating to the Transient Occupancy Tax; Ordinance Nos. 1220 relating to the Business License Tax and the Transient Occupancy Tax; Ordinance Nos. 1133, 1134, and 1135 relating to the Utility Users Tax; and Ordinance Nos. 1142 and 1164 relating to the Business License Tax and the Utility Users Tax;

WHEREAS, the recent California Supreme Court decision in Santa Clara County Local Transportation Authority v. Carl Guardino held Proposition 62 to be constitutional;

WHEREAS, the People of the City desire to maintain the fiscal integrity of the City and to ensure that the City continues to meet its obligations to the community in the provision of vital public services; and

WHEREAS, this ordinance provides for the enactment of the City's tax structure.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF EL SEGUNDO DO HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 3.06 of the El Segundo Municipal Code entitled "BUSINESS ATTRACTION PROGRAM" is hereby approved to read as follows:

"CHAPTER 3.06 - BUSINESS ATTRACTION PROGRAM

3.06.010 TITLE

This chapter shall be known as the Business Attraction Program of the City.

3.06.020 PURPOSE

This chapter sets forth a mechanism for establishing financial incentives to businesses to facilitate business attraction in the City.
3.06.030 BUSINESSES ELIGIBLE FOR INCENTIVES

"Business" as used in this chapter is defined as a business proposing to locate in the City which meets most of the following criteria and is eligible for consideration for the incentives established under this chapter:

(a) The business is engaged in a Primary or Secondary Target Industry as identified in the City Economic Development Strategic Plan dated September 23, 1993, as amended from time to time by the city council.

(b) The business has developed a business plan for long-term growth.

(c) The business will provide the City with a return on investment within three years or a longer term if approved by the city council. The method used to determine the return on investment for the City shall consider the costs of City services provided to the business and the revenue and other benefits that the business provides to the City. The revenue and benefits provided to the City shall include, but not be limited to, the following factors: increase in number of jobs, increase in square footage occupied, increase in sales and use tax revenue, increase in utility users tax revenue, increase in franchise fees, and increase in any other taxes or fees paid to the City.

(d) Commitment of the business to stay in City for a minimum of six years.

(e) Business has the capability of utilizing existing businesses located in the City or attracting support industries into the City.

3.06.040 BUSINESS LICENSE TAX CREDIT.

(a) Any business which increases the amount of sales and use tax revenue received by the City from the business or its activities above its baseline, as defined hereunder, shall receive a credit to its business license tax equal to the dollar amount of the increase above the baseline. The amount of business license tax credit shall be determined annually and is subject to approval by the city manager. Said credit shall be applied to the business license tax owed in the next fiscal year only; provided that, in no event, shall the credit exceed the amount of business license tax owed.

(b) For the purposes of this section, the "baseline" for a business shall be determined as follows. For each fiscal year, the baseline shall be equal to the amount of sales and use tax and business license tax revenue projected to be generated for the City as calculated from projections based on the business plan submitted by the business to the City.

(c) A business may only be granted business license tax credits under this section for the first three years that the business operates in the City or such longer term as determined pursuant to subsection (c) of Section 3.06.030. A business is not eligible to receive any business license tax credits based on sales and use tax revenue established under Title 5 of the Code which the business is receiving a business license tax credit under this section.

3.06.050 UTILITY USERS TAX CREDIT.

The City Manager, or his or her designee, is hereby authorized to negotiate and enter into a tax credit agreement which grants to a business a credit on the utility users tax imposed by the City for a period not to exceed three years following the date of the agreement or such longer term as determined pursuant to subsection (c) of Section 3.06.030. The credit shall be calculated annually and shall be applied to the utility users tax owed for the next fiscal year only; provided that, in no event, shall the credit exceed the amount of tax owed.
3.06.070 PLANNING AND BUILDING FEES AGREEMENTS.

(a) The Director of Planning and Building Safety, or his or her designee, is hereby authorized to negotiate an agreement which reduces the planning and/or building fees applicable to a project developed by a business in an amount not to exceed fifty percent (50%) of the fees imposed. The fee reduction shall only apply to projects specified in the agreement. Said agreement shall be approved by the city manager.

(b) The Director of Planning and Building Safety, or his or her designee, is hereby authorized to negotiate an agreement which establishes a timetable for the completion of the review, approval and inspection process conducted by the City in connection with a project developed by a business. Under said agreement, the planning and/or building fees applicable to the project shall be refunded and/or waived if the failure to meet the timetable is solely caused by City inaction. The fee refund and/or waiver shall only apply to the project specified in the agreement. Said agreement shall be approved by the city manager.

(c) For the purposes of this section, "planning and/or building fees" is defined as any or all of the fees imposed by the City under the Zoning, Subdivision, Building, Electric, Plumbing, and Mechanical Codes of the City.

3.06.080 TAX REDUCTIONS AND SUSPENSIONS

The City Council of the City of El Segundo has the authority to (i) provide for the suspension of taxes collected under Title 3 and Title 5 hereof and, (ii) provide for a reduction in the tax rates assessed under Title 3 and Title 5 hereof."  

SECTION 2. Section 3.06.050 of the El Segundo Municipal Code is hereby deleted in its entirety.

SECTION 3. Section 3.12.020 of Chapter 3.12, entitled "TRANSIENT OCCUPANCY TAX," of the El Segundo Municipal Code is hereby approved to read as follows:

"3.12.020 DEFINITIONS.

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter.

"Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodginghouse, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof.

"Occupancy" means the use or possession, or the right to the use or possession of any room or rooms or portion thereof in any hotel for dwelling, lodging or sleeping purposes.

"Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this article and shall have the same duties and liabilities as his principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.
"Person" means any firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

"Rent" means the consideration charged, whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever.

"Tax administrator" means the director of finance.

"Transient" means:

(1) Any person as defined in this section, who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement, for a period of thirty (30) consecutive calendar days or less.

(2) Any individual who personally exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement, for a period of thirty (30) consecutive calendar days or less.

Any such person or individual so occupying space in a hotel shall be deemed to be a transient.

In determining whether an individual is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the ordinance codified in this section may be considered.

SECTION 4. Section 3.12.030 of the El Segundo Municipal Code is hereby approved to read as follows:

"3.12.030 IMPOSITION - RATE. For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax of eight percent (8%) of the rent charged by the operator.

The tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the tax administrator may require that the tax shall be paid directly to the tax administrator."

SECTION 5. Section 3.12.036 of the El Segundo Municipal Code is hereby deleted in its entirety.


SECTION 7. Section 3.12.120(a) of the El Segundo Municipal Code is hereby approved to read as follows:

"Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the city under this article it may be refunded as provided in subsection (b) and (c), provided (i) the tax was paid under protest and, (ii) a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the tax administrator within one year of the date of payment. The claim shall be on forms furnished by the tax administrator."
SECTION 8. Chapter 3.24, entitled "UTILITY USERS TAX," of Title 3 of the El Segundo Municipal Code is hereby approved to read as follows:

3.24.010 DEFINITIONS. The following words and phrases whenever used in this ordinance shall be construed as defined in this section.

(a) "Commercial or Industrial Utility User" shall mean any commercial or industrial utility user conducting business as described in Chapter 5.08, Business License Schedule, Sections: 5.08.020, 5.08.078, 5.08.080, 5.08.085, 5.08.100, 5.08.130, 5.08.150, 5.08.170, 5.08.180, 5.08.190, 5.08.195, 5.08.220, 5.08.230, 5.08.236, 5.08.240, 5.08.360, 5.08.370, 5.08.420, 5.08.440, 5.08.450, 5.08.510, 5.08.520, 5.08.570, 5.08.580, 5.08.585, 5.08.590, 5.08.595, 5.08.600, 5.08.640, and 5.08.665, of the El Segundo Municipal Code; and shall mean "electrical corporation," "gas corporation," and "water corporation."

(b) "Electrical corporation," "gas corporation," and "water corporation" shall have the same meaning as defined in Section 218, 222 and 241 respectively, of the Public Utilities Code of the State of California as said sections existed on January 1, 1975, except "electrical corporation," shall be construed to include any municipality, franchised agency, or cogenerator.

(c) "Tax administrator" shall mean the finance director of the City of El Segundo.

(d) "Service supplier" shall mean any entity which receives taxes paid and remits same as imposed by this chapter.

(e) "Service user" shall mean a commercial or industrial utility user required to pay a tax imposed by this chapter.

(f) "Month" shall mean a calendar month.

(g) "Cogenerator" shall mean any corporation, including an electrical corporation, or commercial or industrial utility user employing cogeneration technology for producing power from other than a conventional power source for the generation of electricity.

3.24.020 EXEMPTIONS. Nothing in this ordinance shall be construed as imposing a tax upon any person when imposition of such tax upon that commercial or industrial utility user would be in violation of the Constitution of the United States or that of the State of California or upon the City or any of its departments, agencies, boards or commissions or upon the El Segundo Unified School District, Centinela Valley Union High School District and the Wiseburn School District, or upon any other person when imposition of such tax upon that person would be in violation of the Constitution of the United States or the Constitution of the State of California. The Tax Administrator shall prepare a list of the commercial and industrial utility users exempt from the provisions of this Chapter by virtue of this section and furnish a copy thereof to each service supplier.

3.24.030 ELECTRICITY USERS TAX.

(a) There is hereby imposed a tax upon every commercial or industrial utility user in the city using electrical energy in the city. The tax imposed by this section shall be at the rate of three percent (3%) of the charges made for such energy and shall be paid by the commercial or industrial utility user paying for such energy. "Charges," as used in this section, shall include charges made for: (1) metered energy, and (2) minimum charges for service, including customer charges, service charges, demand charges, standby charges and annual and monthly charges, fuel cost adjustments, etc.

(b) As used in this section, the term "using electrical energy" shall not be construed to mean the storage of such energy by a person in a battery owned or possessed by him for use in an automobile or other machinery or device apart from the premises upon which the energy was received.
provided however, that the term shall include the receiving of such energy for the purpose of using it in the charging of batteries; nor shall the term include electricity used and consumed by an electric utility supplier in the conduct of its business as an electric public utility; nor shall the term include the mere receiving of such energy by an electric public utility or governmental agency at a point within the City of El Segundo for resale; or the use of such energy in the production or distribution of water by a public utility or a governmental agency.

(c) The tax imposed by this section shall be collected from the service user by the person providing such energy. The amount of the tax collected in one (1) month shall be remitted to the tax administrator on or before the last day of the following month. Remittance of tax may be predicated on a formula based upon the payment pattern of the supplier's customer.

3.24.035 TAX ON COGENERATED ELECTRICITY

(a) There is hereby imposed a tax on every commercial or industrial utility user in the city using cogenerated electrical energy in the city. The tax imposed by this section shall be at the rate of three percent (3%) of the value of the cogenerated energy. The value shall be equal to the price an electrical corporation serving the city, would pay to purchase electrical energy from a cogenerator. The cogenerator shall install and maintain an appropriate utility-type metering system which will enable compliance with this section.

(b) The tax shall be collected and paid by the cogenerator if the cogenerator consumes the energy. If the cogenerator sells the energy, the tax shall be paid by the commercial or industrial utility user to whom the energy is sold and collected by the cogenerator.

(c) The amount of the tax collected in one (1) month shall be remitted to the tax administrator on or before the last day of the following month.

3.24.040 GAS USERS TAX

(a) There is hereby imposed a tax upon every commercial or industrial utility user in the city other than a Gas Corporation, using in the city, gas which is delivered through mains or pipes. The tax imposed by this section shall be at the rate of three percent (3%) of the charges made for such gas and shall be paid by the commercial or industrial utility user paying for such gas. "Charges," as used in this section, shall include: (1) gas which is delivered through mains or pipes; (2) minimum charges for services, including customer charges, service charges, and annual and monthly charges.

(b) There shall be excluded from the base on which the tax imposed in this section is computed: (1) charges made for gas which is to be resold and delivered through mains or pipes; (2) charges made for gas sold for use in production or distribution of water by a public utility or governmental agency; (3) charges made by a gas public utility for gas used and consumed in the conduct of the business of gas public utilities; (4) charges made for gas used in the propulsion of a motor vehicle, as that phrase is defined in the Vehicle Code of the State of California, utilizing natural gas; and (5) charges related to late payments and returned checks.

(c) The tax imposed by this section shall be collected from the service user by the person selling the gas. The person selling the gas shall, on or before the 20th of each calendar month, commencing on the 20th day of the calendar month after the effective date of this part, make a return to the tax administrator stating the amount of taxes billed during the preceding
3.24.050 WATER USERS TAX.

(a) There is hereby imposed a tax upon every commercial or industrial utility user in the city using water which is delivered through mains or pipes. The tax imposed by this section shall be at the rate of three percent (3%) of the charges made for such water and shall be paid by the commercial or industrial utility user paying for such water.

(b) There shall be excluded from the base on which the tax imposed in this section is computed charges made for water which is to be resold and delivered through mains or pipes; and charges made by a municipal water department, public utility or a county or municipal water district for water used and consumed by such department, utility or district.

(c) The tax imposed by this section shall be collected from the service user by the person selling the water. "The amount collected in one (1) month shall be remitted to the tax administrator on or before the last day of the following month."

3.24.055 TELEPHONE USERS TAX.

(a) There is hereby imposed a tax on the amounts paid for any telephone communication services by every commercial or industrial utility user in the City (other than a telephone corporation regulated by the California Public Utilities Commission) using such services. The tax imposed by this section shall be at the rate of two percent (2%) of the charges made for such services and shall be paid by the commercial or industrial utility user paying for such services.

(b) As used in this section, the term "charges" shall not include charges for services paid for by inserting coins and coin-operated telephones except that where such coin-operated service is furnished for a guaranteed amount, the amounts paid under such guarantee plus any fixed monthly or other periodic charge shall be included in the base for computing the amount of tax due; nor shall the words "telephone communication services" include land mobile service or maritime mobile services as defined in Section 2.1 of Title 47 of the Code of Federal Regulations, as said section existed on January 1, 1970. The term "telephone communication services" shall mean that service which provides access to and use of a telephone system regardless of the mode of access to or use of the system, but shall not include equipment provided by the entity providing the service to the service user. The Telephone Users Tax is intended to, and does, apply to all charges billed to a telephone account having a situs in the City, irrespective of whether a particular communication service originates and/or terminates within the City.

(c) The tax imposed by this section shall be collected from the service user by the entity providing and/or billing for the telephone communication services. The amount of the tax collected in one (1) month shall be remitted to the Tax Administrator on or before the last day of the following month.
(d) Notwithstanding the provisions of subsection (a), the tax imposed under this section shall not be imposed upon any person for using telephone communication services to the extent that the amounts paid for such services are exempt from or not subject to the tax imposed under Division 2, Part 20 of the California Revenue and Taxation Code, or the tax imposed under Section 4251 of the Internal Revenue Code.

3.24.060 REPORTING AND REMITTING. Each service supplier shall, on or before the last day of each month, make a return to the Tax Administrator on forms provided by him, stating the amount of taxes billed by the service supplier during the preceding month, except as provided in section 3.24.040 (c) of this chapter. At the time the return is filed, the full amount of the tax collected shall be remitted to the Tax Administrator. The Tax Administrator is authorized to require such further information as he deems necessary to determine if the tax imposed hereby is being levied and collected in accordance with this chapter.

3.24.070 INTEREST AND PENALTY.

(a) Taxes collected from a service user which are not remitted to the Tax Administrator on or before the due dates provided in this ordinance are delinquent. Should the due date occur on a weekend or legal holiday, the return may be postmarked the first regular working day following a Saturday/Sunday, or legal holiday.

(b) Penalties for delinquency in remittance of any tax collected or any deficiency determination pursuant to this chapter shall attach to, and be paid by, the person required to collect and remit at the rate of fifteen percent of the total tax collected or imposed by this chapter.

(c) The Tax Administrator is hereby empowered to impose additional penalties upon persons required to collect and remit taxes under the provisions of this chapter for fraud or negligence in reporting or remitting at the rate of fifteen percent of the amount of the tax collected or as recomputed by the Tax Administrator.

(d) Every penalty imposed under the provisions of this section shall become a part of the tax required to be remitted.

3.24.080 ACTIONS TO COLLECT. Any such tax received from a service user which has willfully been withheld from the Tax Administrator shall be deemed a debt owed to the City by the person required to collect and remit. Any person holding such money contrary to the provisions of this ordinance shall be liable to an action brought in the name of the City for the recovery of such amount.

3.24.090 DUTY TO COLLECT - PROCEDURES. The duty to collect and remit the taxes imposed by this ordinance shall be performed as follows:

(a) Notwithstanding the provisions of section 3.24.040 (c), the tax shall be collected insofar as practicable at the same time as and along with the charges made in accordance with the regular billing practices of the service supplier. Where the amount paid by a service user to a service supplier is less than the full amount of the energy charge and tax which has accrued for the billing period, such amount and any subsequent payments by a service user shall be applied to the utility charge first until such charge has been fully satisfied. Any remaining balance shall be applied to taxes due. In those cases where a Service user has notified the service supplier of his refusal to pay the tax imposed on said energy charges section 3.24.110 (c) will apply.

(b) The duty to collect tax from a service user shall commence with the beginning of the first full regular billing period applicable to the service user where all charges normally included in such regular billing are subject to the provisions of this ordinance. Where a person receives more than one billing, one or more being for
different periods than another, the duty to collect shall arise separately for each billing.

3.24.100 ADDITIONAL POWER AND DUTIES OF TAX ADMINISTRATOR.

(a) The Tax Administrator shall have the power and duty, and is hereby directed
to enforce each and all of the provisions of this ordinance.

(b) The Tax Administrator shall have the power to adopt rules and regulations not
inconsistent with provisions of this ordinance for the purpose of carrying out and
enforcing the payment, collection and remittance of the taxes herein imposed. A
copy of such rules and regulations shall be on file in the Tax Administrator's office.

(c) The Tax Administrator may make administrative agreements to vary the strict
requirements of this ordinance so that collection of any tax imposed hereby may be
made in conformance with the billing procedures of particular service supplier so
long as said agreements result in collection of the tax in conformance with the
general purpose and scope of this ordinance. A copy of each such agreement
shall be on file in the Tax Administrator's office.

(d) The Tax Administrator shall determine the eligibility of any commercial or
industrial utility user who asserts a right to exemption from the tax imposed by this
ordinance. The Tax Administrator shall provide the service supplier with the name
of any commercial or industrial utility user who the Tax Administrator determines
is exempt from the tax imposed hereby, together with the address and account
number to which service is supplied to any such exempt commercial or industrial
utility user. The Tax Administrator shall notify the service supplier of the
termination of any commercial or industrial utility user's right to exemption
hereunder, or the change of any address to which service is supplied to any
exempt commercial or industrial utility user.

3.24.110 ASSESSMENT - ADMINISTRATIVE REMEDY.

(a) The Tax Administrator may make an assessment for taxes not remitted by a
person required to remit.

(b) Whenever the Tax Administrator determines that a service user has deliberately
withheld the amount of the tax owed by him from the amounts remitted to a person
required to collect the tax, or that a service user has refused to pay the amount of
tax to such person, or whenever the Tax Administrator deems it in the best interest
of the City, he may relieve such person of the obligation to collect taxes due under
this ordinance from certain named service users for specified billing periods.

(c) The service supplier shall provide the City with amounts refused and/or unpaid
along with the names and addresses of the service users neglecting to pay the tax
imposed under provisions of this ordinance. Whenever the service user has failed
to pay the amount of tax for a period of two or more billing periods, the service
supplier shall be relieved of the obligation to collect taxes due.

(d) The Tax Administrator shall notify the service user that he has assumed
responsibility to collect the taxes due for the stated periods and demand payment
of such taxes. The notice shall be served on the service user by handing it to him
personally or by deposit of the notice in the United States mail, postage prepaid
thereon, addressed to the service user at the address to which billing was made
by the person required to collect the tax; or, should the service user have changed
his address, to his last known address. If a service user fails to remit the tax to
the Tax Administrator within fifteen (15) days from the date of the service of the
notice upon him, which shall be the date of mailing if service is not accomplished
in person, a penalty of twenty-five percent (25%) of the amount of the tax set forth
in the notice shall be imposed, but not less than $5.00. The penalty shall become
part of the tax herein required to be paid.
3.24.120 RECORDS. It shall be the duty of every person required to collect and remit to the City any tax imposed by this ordinance to keep and preserve, for a period of three (3) years, all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of a remittance to the Tax Administrator, which records the Tax Administrator shall have the right to inspect at all reasonable times.

3.24.130 REFUNDS.

(a) Whenever the amount of any tax has been overpaid or paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this ordinance, it may be refunded as provided in subsections (b) and (c) of this section, provided (i) the tax was paid under protest and, (ii) a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Tax Administrator within one year of the date of payment. The claim shall be on forms furnished by the Tax Administrator.

(b) Notwithstanding the provisions of subsection (a) of this section, a service supplier may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once, or erroneously or illegally collected or received when it is established that the service user from whom the tax has been collected did not owe the tax; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the service user or credited to charges subsequently payable by the service user to the person required to collect and remit. A service supplier that has collected any amount of tax in excess of the amount of tax imposed by this ordinance and actually due from a service user, may refund such amount to the service user and claim credit for such over-payment against the amount of tax which is due upon any other monthly returns, provided such credit is claimed in a return dated no later than one (1) years from the date of overpayment.

(c) No refund shall be paid under the provisions of this section unless the claimant establishes his right thereto by written records showing entitlement thereto.

(d) Notwithstanding other provisions of this section, whenever a service supplier, pursuant to an order of the California Public Utilities Commission or a court of competent jurisdiction, makes a refund to service users of charges for past utility services, the taxes paid pursuant to this ordinance on the amount of such refunded charges shall also be refunded to service users, and the service supplier shall be entitled to claim a credit for such refunded taxes against the amount of tax which is due upon the next monthly returns. In the event this ordinance is repealed, the amounts of any refundable taxes will be borne by the City.

(e) A service supplier may refund the taxes collected to the service user in accordance with this section or by the service supplier's customary practice.

3.24.140 REDUCTION OF UTILITY USERS TAX BASED ON SALES TAX RECEIPTS. Whenever in this Title a utility users tax is imposed on any person subject to the utility users tax, the amount of the utility users tax shall be reduced proportionately whenever the preceding fiscal year exceeds the limit determined by the formula in subsection (a) of this section.

(a) The sales tax limit which will trigger a reduction in the utility users tax shall be equal to eighty percent of the sales tax revenue received in the 1979-80 fiscal year multiplied by the appropriations limit established annually since 1980 - 81 under the provisions of Article XIII B of the California constitution.

(b) In any year in which sales tax revenue exceeds the limit established in subsection (a) of this section, the utility users tax imposed the following July 1, shall be reduced by the percentage that revenue exceeds the limit.
3.24.150 Utility Users Account. The Tax Administrator shall establish a "Utility Users Tax Account" within the General Fund and shall place therein any and all taxes collected under this ordinance which are in excess of the amounts needed to balance the adopted General Fund budget during any one fiscal year.

3.24.160 Annual Review.

(a) Each year in conjunction with the annual budget deliberations and prior to September 30, the City Council shall reconsider the provisions and rate of the utility users tax as well as any taxes that may have been placed in the utility users tax account as provided in 3.24.150 during the preceding and current fiscal years. Notwithstanding the provisions of section 3.24.140, the Council may reduce or suspend all or a part of the tax rate for the current fiscal year, or may provide no tax on one or more utilities for the current fiscal year.

(b) The City will give the service supplier at least one month’s notification prior to any requested change in the utility users tax percentage.

SECTION 9. The sunset date of July 1, 1991 contained in Section 4 of Ordinance No. 1116 which provided that the utility users tax imposed by Chapter 3.24 of Title 3 of the El Segundo Municipal Code shall terminate on that date is hereby deleted and said Chapter 3.24 of the El Segundo Municipal Code shall continue in full force and effect beyond that date until such time as it shall be rescinded by the City Council.

SECTION 10. Section 5.04.020 of Chapter 5.04 of Title 5, entitled "BUSINESS REGULATIONS AND LICENSING," of the El Segundo Municipal Code is hereby approved to read as follows:

"5.04.020 Fee Deemed Tax - Established By Resolution. The fees provided for in this Title 5 are exclusively a tax imposed for revenue purposes and imposed only with the intent of the city to have each commercial activity, as herein provided, sustain its just share of the burden or expense of local government, and defray the costs of administration of this Title 5.

SECTION 11. Section 5.04.100 of Title 5 of the El Segundo Municipal Code is hereby approved to read as follows:

"5.04.100 Statement Filing (Violation Penalty). In all cases, the amount of Business License Fee to be paid under the provision of this title, by any person, is based upon the number of persons employed, or upon the number of square feet of floor space, or upon square acre of space owned, leased, or rented, or upon the number of vehicles used, or upon the number of machines or other devices used by any business, enterprise, game or activity, or upon the number of rooms or units in any building or structure.

Before any person can obtain a Business License renewal, and prior to January 31 of each year, that person must file a Business License Renewal Application signed under penalty of perjury that all information is true, with the Finance Director for guidance in ascertaining the amount the person is required to pay or deposit, and provide the following information: the number of employees employed by the person, or upon the number of square feet of floor space, or upon square acre of space owned, leased, or rented, or the number of vehicles used, or the number of machines or other devices used for any business, enterprise, game or activity by the person, or the number of rooms or units contained in the building or structure, for the quarters in the calendar year during which the person was, or will actually be doing business in the City of El Segundo.

If a business is seeking its initial El Segundo Business License, that business shall, within the first five (5) days of business activity (or upon a timely written request, the Finance Director may grant an extension of time not to exceed thirty (30) calendar days), file a Business Registration Application, signed under penalty of perjury that all information is
true, with the Finance Director for guidance in ascertaining the amount the business is required to pay or deposit, showing the number of employees employed by the business, or upon the number of square feet of floor space, or upon square acres of space owned, leased, or rented, or the number of machines or other devices used for any business, enterprise, game or activity by the business, or the number of rooms or units contained in the building or structure, for the quarters in the calendar year during which they will actually be doing business in the City of El Segundo.

Each person subject to any tax in this Title shall retain records documenting the information upon which any applicable tax is calculated and which shall support the calculation of tax reflected on that person's return. Unless a subcontractor of a taxpayer has a valid City Business License, said records shall include records of the taxpayer's subcontractors and the taxpayer shall be held responsible for the failure of any of its subcontractors to maintain records necessary to calculate any tax under this title. Said records shall be kept for three (3) years from the date upon which the tax to which the records related was due. Where no records are available or those available are insufficient to calculate the tax due hereunder, the City shall have the authority to determine the tax due. Upon fifteen (15) days notice (or upon a timely written request, the Finance Director may grant an additional extension of time, not to exceed fifteen (15) calendar days), a taxpayer or any business which the City contends should pay tax, must make available to the City, within the City of El Segundo, all records requested by the City relating to said tax.

No statement shall be conclusive upon the City, or upon any officer thereof, as to the matters therein set forth, or otherwise, and the same shall not prejudice the right of the City to recover any amount that may be ascertained to be due from the person, in addition to the amount shown by the statement to be due, in case the statement should be found to be incorrect.

If any person required by this section to provide information fails to do so, the person shall be required to pay a penalty of fifty dollars ($50) per day if the business employs ten (10) or less employees or one-hundred dollars ($100) per day if the business employs more than ten (10) employees until such time as the information required by this section is properly filed with the Finance Director. That person shall be guilty of a violation of this chapter which shall be punishable as provided in this chapter."

SECTION 12. Section 5.04.110 of Title 5 of the El Segundo Municipal Code is hereby approved as follows:

"5.04.110 APPEAL PROCEDURE; BUSINESS CLASSIFICATION METHOD. Any applicant for a Business License under this title, or any licensee hereunder, may appeal the amount of any tax, interest or penalty that has been overpaid or paid more than once or has been erroneously or illegally collected or received by the city under this Title 5, in the manner provided herein. Within 10 days of the provision of an interpretation of this Title 5, or of an opinion concerning Title 5 from a license inspector, auditor, or designated City official, any party affected thereby may pay the tax so assessed under protest and request a hearing before the Finance Director or his/her designee. Said hearing shall be held within 30 days from the date of the first appeal and a final decision shall be rendered at the hearing. Within 10 days from the date of the hearing, an appeal of the Finance Director's decision may be filed with the City Council. Within 30 days from the date of the filing of the second appeal, the matter shall be scheduled for hearing with the City Council. However, appeal to the City Council may only be made when the dispute concerns the accuracy of calculation of the amounts due, or the facts upon which a tax assessment is based.

A claim appealing the final decision of the Finance Director or of the City Council may be filed in writing, stating under penalty of perjury the specific grounds upon which the claim is founded, provided such claim is filed with the Finance Director within one year of the date of payment."
If the full amount of the tax and any penalty and interest due is not paid, there shall be no rights of appeal, and penalty and interest shall continue to run.

Any appeal rights provided for herein are lost if the procedures set forth herein are not fully complied with and if the appeal is not made in writing with the Finance Department within the time specified herein."

SECTION 13. Section 5.04.125 of Title 5 of the El Segundo Municipal Code is hereby approved to read as follows:

5.04.125 INVESTIGATION, INSPECTION AND FEE. Notwithstanding any provisions of this title, when, in the discretion of the licensing authority, it shall be deemed necessary, an application for a business license or permit, or renewal thereof, shall be forwarded to the appropriate departments of the city, including, but not limited to, city manager, city attorney, police department, fire department, and development services department for investigation and/or inspection.

The appropriate departments shall conduct any investigation and/or inspection to determine whether said license or permit should be issued in accordance with the appropriate provisions of the El Segundo Municipal Code. A period of not less than 30 days shall be allowed for the purpose of conducting said services.

In addition to the applicable licensing and permit fees all investigation and inspection fees shall be due and payable at the time the application is filed."

SECTION 14. Section 5.04.220 of Title 5 of the El Segundo Municipal Code is hereby approved in its entirety to read as follows:

"TITLE 5 - BUSINESS REGULATIONS AND LICENSING"

5.04.220 PENALTIES AND INTEREST. A license for a business from other than a fixed place of business within the City is due and payable upon the first day of business activity, and delinquent thereafter.

A license for a new business with a fixed place of business within the City is due and payable upon the first day of business activity, and delinquent five (5) days thereafter.

A license for a business previously licensed, or doing business in the City during the prior tax year from a fixed place of business, is due and payable the first day of January, and delinquent the first day of February.

(a) Interest. Any person who fails to pay any tax required to be paid by this title shall pay interest at the rate of one percent (1%) per month, or fraction thereof, on the amounts of the tax, exclusive of penalties, from the date on which the tax first became delinquent until paid. Interest shall run during any period of time for which an extension of time has been granted by the City for payment of the tax. Interest required by any of the provisions of this title shall not be subject to waiver or compromise except as the City Council may direct. Said interest shall not be compounded, but shall be on principal only.

(b) Penalties. All taxes imposed by this title shall be subject to the following penalties.

(1) Delinquency. Any person who fails to pay any tax, or any fraction thereof, required to be paid by this title within the time required, shall pay a penalty of twenty percent (20%) per month of the amount of the unpaid tax. Such penalty shall not exceed 100% of the tax for any calendar year for which the tax is unpaid. This penalty shall accrue on the first day of each calendar month for which the tax remains unpaid.

(2) Fraud. If the City official administering the tax, after notice to taxpayer and hearing determines that the nonpayment of any tax due under this chapter..."
is due to fraud, a penalty of ninety percent (90%) of the amount of the unpaid tax shall be added thereto, in addition to any other penalties set forth in this section. Where, after notice and hearing to the taxpayer, the City determines that a corporate director, officer, or shareholder is responsible for the fraud resulting in the nonpayment of the tax of a corporation, the City may designate the tax, interest, and penalties unpaid, including the penalty provided for in this subsection due to said fraud as a personal debt of said director, officer, or shareholder.

(3) **Merger of Interest and Penalties.** Such interest as is accrued, and every penalty imposed under the provisions of this section, shall become a part of the tax required to be paid under this title.

(4) **Penalties on Principle.** All penalties imposed hereunder shall be calculated on principle only, and shall not be compounded."

SECTION 15. Section 5.04.222 of the El Segundo Municipal Code is hereby approved to read as follows:

"5.04.222 CREDIT FOR PENALTIES PAID.

A credit against the Business License Tax for past penalties paid shall be granted beginning with the tax due in January, 1992, to be calculated and administered as follows:

(a) **For The Tax Due January 1, 1992**

Any taxpayer who has been assessed and has, by September 10, 1991, paid a penalty for the tax year 1989 and/or 1990 and/or 1991, shall receive a credit in a sum equal to fifty percent (50%) of the penalty paid, to be applied against the Business License Tax due in January 1, 1992 and years thereafter. Said credit shall only be effective if the entire tax (less the credit) is paid before February 1, 1992. As provided for in (c) below the credit granted hereunder may be carried over from year to year until exhausted.

(b) **For Subsequent Tax Years**

Any taxpayer who has been assessed a penalty and paid that penalty by September 30 in the year prior to the January 1 a tax is due, may claim a credit against that tax in the amount of 50% of said penalty paid if the tax (less the credit) is paid before February 1 of the year in which the tax is due.

(c) **For All Tax Years**

City staff shall calculate the credit granted hereunder and reflect the amount of said credit upon tax statements mailed to taxpayers.

No tax, to which the credit granted hereunder is applied, shall be reduced by said credit to less than 50% of the amount due before application of the credit, in any tax year. However, where the amount of the credit exceeds 50% of the tax due in any given year, the unused balance of the credit may be carried over to future tax years and applied to the tax then due so long as the full amount of the tax (less the credit) is paid by February 1st of the year in which the tax is due."

SECTION 16. Section 5.04.265 of Title 5 of the El Segundo Municipal Code is hereby approved to read as follows:

"5.04.265 CONFIDENTIALITY OF TAX RECORDS. The City shall retain as confidential all tax statements, returns and receipts submitted or provided under this Title, any records required to be submitted by a taxpayer hereunder and any business data disclosed to the City as a result of any tax audit hereunder."
SECTION 17. Section 5.04.270 of Title 5 of the El Segundo Municipal Code is hereby approved to read as follows:

"5.04.270 RECORD KEEPING AND AUDITS. Each person subject to any tax in this Title shall retain records documenting the information upon which any applicable tax is calculated and which shall support the calculation of tax reflected on that person's return. Said records shall include records of the taxpayer's subcontractors. The taxpayer shall be held responsible for the failure of any of its subcontractors to maintain records necessary to calculate any tax under this Title. Said records shall be kept for three (3) years from the date upon which the tax to which the records relate is due. Where no records are available or those available are insufficient to calculate the tax due hereunder, the City shall have the authority to determine the tax due. Upon five (5) working days notice, a taxpayer or any business which the City contends should pay tax, must make available to the City at City Hall in El Segundo all records requested by the City relating to said tax. Failure to do so may result in a fine of two hundred dollars ($200) for every day, beyond the notice period, for which the person fails to comply."

SECTION 18. Section 5.08.019 of the El Segundo Municipal Code is hereby approved to read as follows:

"5.08.019 TAX REDUCTION. Notwithstanding any other provision of Title 5 of the El Segundo Municipal Code, the amount of a business license tax imposed on any business by the said Title 5 of the El Segundo Municipal Code shall be reduced by ten percent (10%) and the remainder of such tax shall be reduced by an additional five percent (5%)."

SECTION 19. Section 5.08.020 of the El Segundo Municipal Code is hereby approved as follows:

"5.08.020 BUSINESS GENERALLY. Every person engaged in a business not specifically mentioned or classified in this chapter shall pay a license fee in accordance with the following schedule:

(a) A basic fee of one hundred and three dollars ($103) per year, which shall cover the first ten (10) employees and one hundred twenty seven dollars ($127) per year for each employee in excess of ten employees; and

(b) In addition, each such person shall pay a fee of twenty-five cents ($0.25) per square foot of floor area occupied for a business purpose in excess of 5,000 square feet. A fee of ten cents ($0.10) per square foot shall be imposed on vacant space available for rent or lease for business purposes, said fee to be payable by the person with the right to possession of the property; and

(c) In addition, each such person shall pay eleven dollars ($11.00) per year for each additional business location within the city.

(d) Notwithstanding the foregoing, a credit shall be granted against the tax imposed by this section whenever a business subject to the tax imposed by this chapter generates sales and/or use tax in the year immediately preceding the year in which the tax is due. The credit shall be applied to the business registration tax due for the following year. The credit shall be equal to fifty percent (50%) of the portion of the sales and/or use tax generated which was awarded to the City of El Segundo during the twelve month period ending on the June 30th preceding the date the tax is due. However, the amount of said credit shall under no circumstances be calculated to be greater than the total amount of tax due.

(e) Notwithstanding the foregoing, a business which increases the amount of sales and use tax revenue received by the City from the business or its activities above its baseline, as defined hereunder, shall receive a credit to the business license tax
imposed under this chapter equal to the dollar amount of the increase above the baseline. The amount of business license tax credit shall be determined annually and is subject to approval by the City Manager. Said credit shall be applied to the business license tax owed in the next fiscal year only; provided that, in no event, shall the credit exceed the amount of business license tax owed.

(1) For the purposes of this subsection, the "baseline" for a business shall be calculated as follows.

(i) For the first fiscal year in which a credit is granted, the "baseline" shall equal the sum of sales and use tax received by the City from the business and its activities and the business license tax imposed by the City in the prior fiscal year.

(ii) For each subsequent fiscal year, the baseline amount established under subsection (i) above shall be recalculated as follows: the sales and use tax component of the baseline shall be adjusted to reflect any increase from the prior fiscal year in the consumer price index as established in the report of consumer prices for all urban consumers for the Los Angeles - Anaheim - Riverside Standard Metropolitan Statistical Area. Said adjustment shall be based on the most recent month for which such price index figure is available on the date the adjustment is calculated. The business license tax component of the baseline shall be recalculated to equal the amount of business license tax imposed on the business under the fee schedule in effect at the time the recalculation is made, including any automatic increase established under this Code; provided, that, in no event, shall the amount of business license tax be less than the amount under subsection (i) above.

(2) A business in not eligible to receive any business license tax credits under this subsection (e) while the business is receiving a business license tax credit under Section 3.06.040 of this Code.

(3) The business license tax credit established under this subsection (e) shall be known as the business relation Program of the City."

For the purpose of this section, the term "employee" shall mean any person employed by the business and shall include an independent contractor and persons employed by the independent contractor, unless the independent contractor and/or persons employed by the independent contractor has a valid City of El Segundo business license as prescribed in Chapters 5.04 and 5.08 of the El Segundo Municipal Code.

The total number of employees for each business for purposes of this section shall be determined by averaging the total number of employees employed by each business during each of the four calendar quarters preceding the date the tax is paid.

For the purpose of this section, "floor area" means the total floor space in terms of square footage occupied by owner, lessee or renter in a building except:

1. Elevator shafts;
2. Stairwells;
3. Courts or atrium, uncovered and open to the sky;
4. Rooms exclusively housing building operating equipment; and
5. Parking areas."

SECTION 20. Section 5.08.021 of Title 5 of the El Segundo Municipal Code is hereby approved to read as follows:
"5.08.021 NEW BUSINESSES.

a. **Initial Tax.** Any business not specifically mentioned or classified in this chapter which is locating, or doing business in the City of El Segundo for the first time shall, before receiving a Business License from the City, pay the tax imposed by Section 5.08.020. The amount of said tax shall be calculated based upon the taxpayer’s best estimate of the average quarterly number of employees, square feet, and business locations which the business will have within the City the remainder of that calendar year.

b. **Adjustment.** Each new business shall, upon renewal of its Business License in the first full year following the year it began doing business in the City of El Segundo, be subject to an adjustment. This adjustment shall be based upon the difference between the estimates of employees, and square feet occupied supplied by the business to the City at its initial application, and the actual average quarterly number of employees, and square feet, and business locations which the taxpayer had during its initial year of doing business in the City. The Finance Director shall recalculate this initial tax based upon these actual figures and, if the resulting amount is greater than the actual tax paid by the taxpayer in the preceding year, shall impose a surcharge to be collected at the same time, and in the same way as the renewal tax. If the actual tax is less than the initial tax, the Finance Director shall apply a credit against the renewal tax in the amount of the difference."

**SECTION 21.** Section 5.08.025 of Title 5 of the El Segundo Municipal Code is hereby approved to read as follows:

"5.08.025 REFUND OF TAX ON PROPERTY AVAILABLE FOR RENT OR LEASE.

A. Any taxpayer who has paid the tax for property available for rent or lease imposed by Section 5.08.020(b) herein, who leases all or any part of the property by June 30 of the year in which the tax was due and paid, and the new occupant has paid a square footage tax for its occupancy, shall be entitled to a refund up to 100%.

B. If all or any part of the property is rented by December 31 of the year in which the tax is paid, and the new occupant has paid a square footage tax for its occupancy, the taxpayer shall receive a refund up to 50%.

C. It shall be the responsibility of the taxpayer to apply for the refund authorized herein, and to demonstrate to the satisfaction of the Finance Director that the prerequisites to receipt of the refund have been satisfied."

**SECTION 22.** The following sections of Title 5, Chapter 5.08 are hereby approved to read as follows:

"5.08.030 ADVERTISING (BILLBOARDS OR SIGNBOARDS). Every person engaged in the business of contracting, maintaining, using, or leasing billboards or signboards, or posting, sticking, tacking, or affixing or painting bills or signs, or both upon the same, shall pay a Business License Tax of fifty dollars ($50) per annum for each such billboard or signboard.

5.08.040 ADVERTISING (LIGHTS). Every person advertising by means of portable searchlights, or arc lights, or light producing apparatus or equipment, shall pay a Business License Tax of thirty dollars ($30) per quarter. The license shall be subject to compliance with all requirements of the traffic ordinances and regulations of the City.

5.08.050 ADVERTISING (VEHICLE SIGNS). Every person advertising by means of portable signs mounted on vehicles, when not in connection with any business licensed under Section 5.08.060, shall pay a Business License Tax of one hundred three dollars
($103) per year. The license shall be subject to compliance with all requirements of the traffic ordinances and regulations of the City.

5.08.060 ADVERTISING (SOUND TRUCKS). Every person advertising by means of sound trucks, portable loudspeakers, or sound-producing apparatus or equipment, shall pay a Business License Tax of one hundred three dollars ($103) per year. The license shall be subject to compliance with all requirements of the traffic ordinances and regulations of the City.

5.08.070 AGENTS, SOLICITORS, AND SALESMAEN. Agents, solicitors, and salesmen selling or soliciting, or taking orders for the sale or furnishing of any paintings, pictures, portraits, photographs, orders for advertising or for any goods, wares, merchandise, or service at retail not otherwise provided for herein, when not in connection with any fixed place of business within the City licensed under this title, shall pay a Business License Tax of sixty dollars ($60) per day, or two hundred dollars ($200) per year for each agent, salesman, or solicitor. All such sales, solicitations and/or order taking are prohibited between the hours of six p.m. (6:00 PM) and eight a.m. (8:00 AM).

5.08.078 AMUSEMENT CENTER. An amusement center is defined as any place to which the public is admitted or invited, where eight (8) or more coin-operated amusement machines are maintained, operated or available for operation.

Every person operating an amusement center shall pay a Business License Tax of four hundred dollars ($400) per year.

It is unlawful for any person to establish, maintain, conduct, or keep open any amusement center, as defined in this section, within the corporate limits of the City without first having obtained a permit, in writing, from the Finance Director. In any application for an amusement center the Finance Director may require, in addition to other information, that the applicant furnish the information necessary to enable the Chief of Police to make an investigation of any prior criminal activity of the applicant, or any operator of the amusement center.

After an investigation by the Chief of Police, the Finance Director shall approve the application for the amusement center permit, or renewal of such permit if he finds:

1. A completed written application form has therefore been filed; and

2. The required license fee has therefore been paid to the City Treasurer; and

3. As a result of his investigation, all applicable provisions of this section with regard to such permit application have been met; and

4. That the operation by the applicant will be carried on in a builcing, structure, and location which complies with and meets all of the health, zoning, fire, building and safety requirements, and standards of the laws of the State of California and this Code applicable to such business operation; and

5. That the applicant, his employee, agent, or any person connected, or associated with applicant as a partner, director, officer, stockholder, associate, or manager, has not been convicted in a court of competent jurisdiction by final judgment of an offense involving the maintenance of a nuisance, in connection with the same or similar business operation; and

6. That the business is not a public nuisance, or has not been a public nuisance at any time within the last five (5) years; and

7. That the applicant, his employee, agent, or any person connected, or associated with applicant as partner, director, officer, stockholder,
associate, or manager, has not knowingly made any false, misleading, or fraudulent statement of a material fact in the application for a permit, or in any report or record required to be filed with the Chief of Police; and

(8) That the applicant has not had a similar type permit previously revoked for good cause within the past year, unless the applicant has shown a material change in circumstances since the date of revocation.

5.08.080 AMUSEMENTS GENERALLY. Every person operating a business where an admission, fare, or fee is charged or made, or a collection or contribution is received (and which are not otherwise provided for in this chapter) for entrance to amusements, such as exhibitions, shows, games, rides, tent performances, merry-go-rounds, carousels, shoot-the-chutes, shooting galleries, Ferris wheels, pig slides, ball games, dart games, roller coasters, grint derbies, whip rides, scooter rides, sideshows, illusions and other amusements, or concessions similar in character to those, or any of those hereinabove named, shall pay a Business License Tax of twenty dollars ($20) per day, or two hundred dollars ($200) per month, and shall obtain a special permit from the City Council to do so prior to engaging in such activities. The City Council may condition such permit in any manner not prohibited by law.

5.08.085 APARTMENT HOUSE AND APARTMENT HOUSE COMPLEXES. For the purpose of this section, an apartment house complex is defined as two (2) or more individual buildings containing dwelling units located upon the same property, or on contiguous property under the same ownership.

Every person owning apartment houses, or apartment house complexes, shall pay a Business License Tax of thirty dollars ($30) per year for up to the first three (3) dwelling units; and ten dollars ($10) per year for each additional dwelling unit provided, however, that the dwelling units used in computing the obligation to pay the Business License Tax shall be the dwelling units rented or leased, and the dwelling units held for rent or lease shall not include a dwelling unit occupied by the owner.

5.08.090 AUTOMOBILE AND TRUCK WRECKING OR DISMANTLING. Every person engaging in the business of automobile, truck wrecking or dismantling, and/or operating an automobile, truck wrecking or dismantling yard, and/or outdoor yard of similar character, shall pay a Business License Tax of four hundred dollars ($400) per year, and shall obtain a special permit from the City Council to do so prior to engaging in such activities. The City Council may condition such permit in any manner not prohibited by law.

5.08.130 BANKRUPT STOCK AND FIRE SALES. Every person conducting bankrupt stock sales, fire sales, damaged goods sales, and sales of similar character (not at auction), shall pay a Business License Tax of thirty-six dollars ($36) per month, one hundred and twenty dollars ($120) per quarter, or four hundred dollars ($400) per year, and shall obtain a special permit from the City Council to do so prior to engaging in such activities. The City Council may condition such permit in any manner not prohibited by law.

5.08.140 BARBERSHOPS. Every person operating a barbershop shall pay a Business License Tax of one hundred three dollars ($103) per year.

5.08.150 BEAUTY PARLORS. Every person operating a beauty parlor and similar businesses shall pay a Business License Tax of one hundred three dollars ($103) per year.

5.08.170 BILLIARD AND POOLROOMS. Every person operating a billiard room and/or poolroom shall pay a Business License Tax of one hundred three dollars ($103) per year, which shall include the right to sell cigars, tobacco, soft drinks, chewing gum, and confections, subject to first obtaining a special permit as provided by Sections 5.23.010 and 5.25.020.
5.08.180 BOWLING ALLEYS. Every person operating a bowling academy, bowling alley, bowling center, or similar business shall pay a Business License Tax of one hundred three dollars ($103) basic, plus four dollars ($4) per lane per year. A license granted under this section shall include the right to sell bowling equipment, paraphernalia, and bowling apparel, but shall not include the right to conduct a cafe, restaurant, lunch counter, or refreshment, or confectionery stand or concession, or any other type of business, except as specifically authorized above.

5.08.195 CHEMICAL, PETROLEUM, CEMENT OR CRYOGENIC PRODUCTS; SMELTERS OR REFINERIES. Every person owning or operating a business engaged in the processing or manufacturing of chemical, petroleum, cement or cryogenic products; and every person owning or operating a business engaged in smelting or refining shall pay a business license fee in accordance with the following schedule:

(a) A basic fee of one hundred and three dollars ($103) per year which shall cover the first ten (10) employees;

(b) One hundred twenty-seven dollars ($127) per year for each employee in excess of ten (10) employees;

(c) One thousand five-hundred thirty-one dollars ($1,531) per year per square acre of space owned, leased or rented for the purpose of producing, manufacturing or processing chemical, petroleum, cement or cryogenic products; or for the purpose of smelting or refining;

(d) Thirty-six dollars ($36) per year for each vehicle in excess of six thousand pounds (gross vehicle weight) owned or operated in the conduct of the business;

(e) Eleven dollars ($11) per year for each additional business location within the city.

(f) Notwithstanding the foregoing, a credit shall be granted against the tax imposed by this section whenever a business subject to the tax imposed by this chapter generates sales and/or use tax in the year immediately preceding the year in which the tax is due. The credit shall be applied to the business registration tax due for the following year. The credit shall be equal to fifty percent (50%) of the portion of the sales and/or use tax generated which was awarded to the City of El Segundo during the twelve month period ending on the June 30th preceding the date the tax is due. However, the amount of said credit shall under no circumstances be calculated to be greater than the total amount of tax due.

(g) Any person subject to this section paying a delinquent utility user tax or a tax concerning which in the opinion of the City Manager, a Good Faith dispute exists may enter into a settlement agreement to be ratified by the City Council which entitles the taxpayer to a credit equal to 75% of the paid delinquent or disputed utility user tax (excluding penalties and interest). Said credit must be applied within three years from the date of payment. The maximum credit to be applied against the business license tax in any year shall not exceed one-third (1/3) of the total credit available hereunder.

5.08.200 CHRISTMAS TREE SALES. Every person engaged in the business of Christmas tree sales shall pay a Business License Tax of fifty dollars ($50) per year.

5.08.210 CIRCUS, WILD WEST SHOW OR SIDESHOW. Every person operating a circus or wild west show, not including any sideshows, shall pay a Business License Tax for the first day of two hundred dollars ($200), and one hundred
three dollars ($103) per day thereafter. A sideshow shall pay a Business License Tax of one hundred three dollars ($103) per sideshow for the first day, and fifty dollars ($50) per sideshow per day for each day thereafter. Every such person shall obtain a special permit from the City Council to operate such circus, wild west show, or sideshow, prior to engaging in such activities. The City Council may condition such permit in any manner not prohibited by law.

5.08.220. LUMBER YARD, BUILDING MATERIAL YARD, JUNK YARD, AND NURSERIES. Every person owning or operating a business engaged in the sale of lumber, building material, or operation of a building material wrecking yard, secondhand building material yard, junk yard, or outdoor yard of similar character or wholesale or retail nursery shall pay a Business License Tax, in accordance with the following schedule:

(a) A basic fee of one hundred three dollars ($103) per year which shall cover the first ten (10) employees;

(b) One hundred twenty-seven dollars ($127) per year for each employee in excess of ten (10) employees;

(c) One thousand five hundred thirty-one dollars ($1,531) per year per square acre of space owned, leased, or rented for the purposes set forth above;

(d) Thirty-six dollars ($36) per year for each vehicle in excess of 6,000 pounds (gross vehicle weight) owned or operated in the conduct of business;

(e) Eleven dollars ($11) per year for each additional business location within the City;

(f) Notwithstanding the foregoing, a credit shall be granted against the tax imposed by this section whenever a business subject to the tax imposed by this Chapter generates sales and/or use tax in the year immediately preceding the year in which the tax is due. The credit shall be applied to the business registration tax due for the following year. Credit shall be equal to 50% of the portion of the sales and/or use tax generated which was awarded to the City of El Segundo during the 12 month period ending on the June 30 preceding the date the tax is due. However, the amount of said credit shall under no circumstances be calculated to be greater than the total amount of tax due.

5.08.230 COIN-OPERATED VENDING MACHINES (PERSONS NOT PRIMARILY ENGAGED IN THE BUSINESS OF RENTING, LEASING OR OPERATING THE SAME). Every person not primarily engaged in the business of renting, leasing, or operating coin-operated vending machines for which a license is required by Section 5.08.235, who places, maintains, and operates, or offers for operation, a vending machine or machines, or a vending device or vending devices which vends or delivers merchandise of any character, or provides a service for which the coin or coins are inserted, shall pay a Business License Tax of fifty dollars ($50) per year per vending machine or vending device.

This section shall not apply to Sections 5.08.236, 5.08.237 and 5.08.238.

5.08.235 COIN-OPERATED DEVICES (PERSONS ENGAGED IN THE BUSINESS OF RENTING, LEASING OR OPERATING THE SAME). Every person engaged in the business of renting, leasing, or operating coin-operated vending machines, shall pay a Business License Tax of one hundred and fifty dollars ($150) per year.

This section shall not apply to Sections 5.08.236, 5.08.237 and 5.08.238.
5.08.236 COIN-OPERATED DEVICES (AUTOMATIC LAUNDRY AND DRY CLEANING ESTABLISHMENTS). Every person engaged in the laundry and dry cleaning business where coin-operated laundry and dry cleaning machines are used in the operation of the business, and which are not preempted by Section 16002.2 of the Business and Professions Code, shall pay a Business License Tax of two dollars ($2) per year per machine; provided, however, that the Business License Tax shall not be less than one hundred three dollars ($103) per year.

5.08.237 COIN-OPERATED AUTOMATIC WASHERS AND DRYERS (PERSONS NOT PRIMARILY ENGAGED IN RENTING, LEASING, OR OPERATING THE SAME). Every person not primarily engaged in the business of renting, leasing, or operating coin-operated automatic washers and dryers who places, maintains, and operates, or offers for operation automatic washers and dryers for which coins are inserted, shall pay a Business License Tax of two dollars ($2) per year per machine.

5.08.238 COIN-OPERATED AUTOMATIC WASHERS AND DRYERS (PERSONS ENGAGED IN THE BUSINESS OF RENTING, LEASING OR OPERATING THE SAME). Every person renting, leasing, or operating coin-operated automatic washers and dryers, whose business is limited exclusively to the renting, leasing, or operating of such machines shall pay a Business License Tax of one hundred three dollars ($103) per year.

5.08.240 COIN-OPERATED DEVICES (WITH AMUSEMENT FEATURES). Every person owning a coin, token operated machine or device having an amusement or skill feature connected therewith shall pay a Business License Tax of one hundred three dollars ($103) per year per machine. Licenses granted under this section shall be revocable at any time, at the pleasure of the City Council for any reason which the City Council may deem appropriate.

5.08.250 COIN-OPERATED DEVICES (SEAL). Every person owning a machine or device, which is required to pay a Business License Tax under the provisions of this title, shall have conspicuously affixed thereto a legible and current official seal or sticker issued by the license collector of the City for such machine or device licensed; the seal shall include the year of issuance, and the number of the license under which it is issued.

5.08.270 CONCERT OR OPERA. Every person operating a concert, opera, entertainment, or other show, exhibition or performance not exceeding two performances during any one calendar month shall pay a Business License Tax of four dollars ($4) per month, and shall obtain a special permit from the City Council to do so prior to engaging in such activities. The City Council may condition such permit in any manner not prohibited by law.

5.08.280 CONTRACTOR FEES (GENERAL, ELECTRICAL, PLUMBING). Every person engaged in the business of contracting, in any of the following trades, shall pay a Business License Tax of one hundred and fifty dollars ($150) per year: general building contractor, general building contractor (speculative), electrical contractor, and plumbing contractor.

5.08.300 CONTRACTOR (LATHING AND PLASTERING). Lathing and plastering contractors shall pay a Business License Tax of one hundred and twenty dollars ($120) per year.

5.08.310 CONTRACTOR (REPAIR, ALTERATIONS). Every person engaged in the business of minor construction, alterations, improvements, or repair work, or every person undertaking any project by one or more contracts, the aggregate contract price of which, for labor, materials, and all other items is less than one hundred dollars ($100), shall pay a Business License Tax of twenty four dollars ($24) per year. This type of license shall not be issued, or apply in any case wherein the work of construction is only a part of a larger or major operation, whether undertaken by the same or a different contractor, or in which a division of the operation is made on contracts of amounts less
than five hundred dollars ($500) for the purpose of evading the obtaining of a license, or
the payment of a license tax under this title or any of the provisions thereof.

Wherein repairs to damages resulting from accident or fire do not exceed one thousand
dollars ($1,000) total valuation, a general license covering the activities of all trades
involved in repair work may be issued to the prime contractor for the one project for a
Business License Tax of forty-eight dollars ($48).

5.08.320 SUBCONTRACTOR OR SPECIALTY CONTRACTOR. A subcontractor,
or specialty contractor for the purposes of this title, is defined as a person who performs
construction work requiring special skill, and whose principal contracting business involves
the use of a specialized building trade or craft, not otherwise provided for herein.

Every person commencing, or carrying on the work of a subcontractor, shall secure a
separate city license, and shall pay for the same a Business License Tax of one hundred
three dollars ($103) per year.

5.08.340 DANCES (PUBLIC). Every person conducting public dances, where an
admission fee or per dance fee is charged, shall pay a Business License Tax of three
hundred dollars ($300) per year; and shall obtain a special permit from the City Council
to do so prior to engaging in such activities. The City Council may condition such permit
in any manner not prohibited by law.

5.08.350 DANCES (OTHER). Every person engaged in a business where any
cafe, restaurant, or any similar establishment affords its patrons the privilege or
opportunity to dance, without charge for the dancing, shall pay a Business License Tax
of three hundred dollars ($300) per year; and shall obtain a special permit from the City Council
to do so prior to engaging in such activities, the City Council may condition such permit
in any manner not prohibited by law.

5.08.360 DANCING SCHOOL OR ACADEMY (TALENT SCHOOL). Every person
conducting a dancing school or dancing academy, or talent school or talent academy,
shall pay a Business License Tax of fifty dollars ($50) per year.

5.08.365 DELIVERY VEHICLES. Every person engaged in a business not having
a fixed place of business within the City which, in connection with said business, delivers
any goods or services within the City shall pay a Business License Tax of seventy-two
dollars ($72) per year per vehicle.

5.08.370 DRIVE-IN THEATERS. Every person operating a drive-in theater shall
pay a Business License Tax of three hundred dollars ($300) per year, but the license shall
not include the right to conduct a cafe, restaurant, lunch counter, refreshment or
confectionery, or like stand or concession, or any other type of business.

5.08.390 FOOD CATERERS (VEHICLE). Every person conducting sales of food
from a vehicle shall pay a Business License Tax of two hundred dollars ($200) per year
per vehicle.

5.08.410 HOME OCCUPATIONS. Every person engaged in a home occupation,
as defined by the Zoning Ordinance of the City, shall pay a Business License Tax of
twenty-four dollars ($24) per year.

5.08.420 HOTELS, MOTELS, AUTO COURT, AND LODGING HOUSES. Every
person engaged in the business of operating a hotel, motel, auto court, or lodging house,
shall pay a Business License Tax of one hundred three dollars ($103) per year where the
same has less than fifteen (15) rooms, two hundred dollars ($200) per year where the
same has fifteen (15) or more rooms, but not more than forty-nine (49) rooms, and four
hundred dollars ($400) per year where the same has fifty (50) rooms or more.

5.08.440 JUNK COLLECTORS. Every person engaged in the business of junk
collection shall pay a Business License Tax of two hundred dollars ($200) per year for
each vehicle used. "Person engaged in the business of junk collection" as used herein, 
means a person engaged in the business of going from house to house, or from place 
to place, gathering, collecting, buying, selling, or otherwise dealing in old rags, sacks, 
bottles, cans, paper, or other articles commonly known as "Junk" provided, however, that 
any person licensed under the provisions of this section shall not solicit for "free will 
offerings" of such materials as are above enumerated, or referred to under the guise or 
representation that the same are being collected by or for any charitable, or other 
organization entitled to obtain a free permit, as provided for under other provisions of this 
title. Provided, however, that the provisions of this title relating to junk collectors shall not 
apply to official collectors of the City, or collectors specially authorized by the City Council 
to make the collections as a public service.

5.08.460 LAWNSERVICE AND WINDOW CLEANING. Every person providing 
lawn service, gardening service, window cleaning service, and similar services, shall pay 
a Business License Tax of fifty dollars ($50) per year.

5.08.490 LOANS. Every person engaged in the business of lending, financing, 
or money-lending shall pay a Business License Tax of one hundred three dollars ($103) 
per year.

5.08.525 MOTION PICTURE OR TELEVISION (COMMERCIAL USE). Every 
person engaged in the motion picture or television production business not operating from 
a fixed place of business in the City, using either public or private property, shall pay a 
Business License Application fee of three hundred dollars ($300), plus a license fee of 
one hundred three dollars ($103) per day. Every person subject to this section shall also 
obtain a permit pursuant to Chapter 5.42 of this Code.

5.08.527 PARKING LOTS. Every person engaged in the business of operating 
a parking lot for vehicles which is open to the public generally and which also provides 
shuttle service from the parking lot to any other location shall pay a business license tax 
of ten dollars ($10.00) per parking stall per year. The business license tax imposed by 
this section shall not apply to the number of stalls, if any, occupied on a regular basis by 
employees of the business or by tenants of the building which is serviced by the parking 
lot.

5.08.530 PEDDLING (GENERALLY). Every person peddling services, not 
otherwise mentioned in this chapter, shall pay a Business License Tax of one hundred 
three dollars ($103) per year, and shall obtain a special permit from the City Council to 
do so prior to engaging in such activities. The City Council may condition such permit in 
any manner not prohibited by law.

5.08.540 PEDDLING (FOOD). Every person peddling foods, foodstuffs, and food 
products, other than from catering food trucks, shall pay a Business License Tax of fifty 
dollars ($50) per year where the person is on foot, and one hundred three dollars ($103) 
per year where the same is sold from a vehicle, and shall obtain a special permit from the 
City Council to do so prior to engaging in such activities. The City Council may condition 
such permit in any manner not prohibited by law.

5.08.550 PEDDLING (MISCELLANEOUS MERCHANDISE). Every person 
peddling any goods, wares, magazines, or merchandise not otherwise provided for in this 
chapter, shall pay a Business License Tax of ten dollars ($10) per day where the person is 
on foot, and twenty dollars ($20) per day where the same is sold from a vehicle, and 
shall obtain a special permit from the City Council to do so prior to engaging in such 
activities. The City Council may condition such permit in any manner not prohibited by 
law.

5.08.560 PEDDLING (POPcorn, SOUVENIRS). Every person peddling popcorn, 
peanuts, gum, candy, confections, or toys, such as balloons, flags, pennants, banners, 
canes, buttons, badges, horns, musical or noise making instruments, serpentlines, 
souvenirs, and similar articles, shall pay a license fee of ten dollars ($10) per day where 
the same is sold from a vehicle, and shall obtain a special permit from the City Council
to do so prior to engaging in such activities. The City Council may condition such permit in any manner not prohibited by law.

5.08.580 REST, CONVALESCENT, GUEST AND FAMILY CARE HOMES, & CHILD CARE NURSERY. Every person operating rest, convalescent, guest homes, and child care service, shall pay a Business License Tax of twenty-four dollars ($24) per year. Every person operating a family care home shall pay a Business License Tax of twelve dollars ($12) per year. No such license shall be issued without the written approval of:

1. The State Social Welfare Board;
2. The health officer;
3. The Chief of the Fire Department;
4. The Building Safety Director.

All such establishments shall be subject to inspection by the City at any time.

5.08.590 RUBBISH OR GARBAGE COLLECTION. Every person engaged in the operation of rubbish or garbage collection shall pay a Business License Tax of two hundred dollars ($200) per year for each vehicle used in the City.

5.08.600 SCHOOLS (PRIVATE). Every person operating a private school shall pay a Business License Tax of twenty-four dollars ($24) per year.

5.08.620 STREET STANDS. Every person operating street stands for the selling of any goods, wares, or merchandise on any portion of the public streets within the City, shall pay a Business License Tax of fifty dollars ($50) per month, provided, that no license shall be issued for the stand until a permit has been obtained from the City Council, and that the application for the permit shall be accompanied by the written consent of the owner or occupant of the premises abutting immediately upon that portion of the street which the applicant desires to use; and further provided, that the City Council shall have the right to grant, conditionally grant, or deny the permit under this section in its discretion.

5.08.630 TAXICAB OR AUTOMOBILE FOR HIRE (PERMIT AND FEE). Every person engaged in the business of providing taxicabs or automobiles for hire, shall obtain a special permit from the City Council prior to engaging in such activities, and the City Council may condition such permit in any manner not prohibited by law. Permittee shall pay an annual Business License Tax of (1) one hundred three dollars ($103) per year for each vehicle operated within the City limits; or (2) a flat Business License Tax for the entire fleet of taxicabs or automobiles for hire of three hundred dollars ($300) per year, whichever is greater.

5.08.640 THEATERS AND SHOWS. Every person engaged in the business of operating a theater, motion picture show, playhouse, events, and all other shows or exhibitions (except those conducted in the open or under canvas) not otherwise provided for in this chapter, shall pay a Business License Tax of one hundred three dollars ($103) per year. Any such license, however, shall not include the right to conduct a cafe, restaurant, or lunch counter.

5.08.650 TRANSIENT FOOD VENDOR. Every transient food vendor shall pay a Business License Tax of forty-eight dollars ($48) per day, and shall obtain a special permit from the City Council to do so prior to engaging in such activities. The City Council may condition such permit in any manner not prohibited by law.

5.08.660 TRANSIENT MERCHANTS. Every transient merchant, which shall include all such persons doing business at a fixed place of business for a period of less than thirty (30) consecutive days, and who does not deal exclusively in food or
food stuffs for human consumption, shall pay a Business license Tax of forty dollars ($40) per day.

5.08.661 TRANSIENT MERCHANT/FAIRS. Notwithstanding Section 5.08.660, every transient merchant, which shall include any person doing business at a fixed place of business for a period of less than thirty (30) consecutive days and who is participating in a charitable or a civic event such as a fair, shall pay a Business License Tax of ten dollars ($10), which shall cover the period during which the charitable or civic event is open to the public.

5.08.665 WAREHOUSES. Every person engaged in the business of operating a warehouse or storage facility shall pay a license fee of one hundred and three dollars ($103) per year plus fourteen cents ($0.14) per square foot of space used for such purpose for each business location within the city.

SECTION 23. Section 5.16.330 of Chapter 5.16, Title 5 of the El Segundo Municipal Code entitled "DRIVER'S PERMIT - APPLICATION" shall be amended to read as follows:

"5.16.330 DRIVER'S PERMIT - Issuance. Application for a driver's permit shall be processed upon payment to the city of a processing fee for the first application by any applicant and for each application for renewal. Each successful applicant shall be issued an identification card which he shall have in his immediate possession while in charge of or driving a taxicab."

SECTION 24. Section 5.16.450 of Chapter 5.16, Title 5 of the El Segundo Municipal Code entitled "VEHICLE PERMIT - ISSUANCE" is hereby approved to read as follows:

"5.16.450 VEHICLE PERMIT - Issuance. Application for a vehicle permit shall be processed upon payment to the city of an annual inspection fee. Each applicant shall be issued a vehicle permit upon successful completion of an inspection of the vehicle. The permit shall be posted in a conspicuous place on the rear bumper, driver's side of the vehicle."

SECTION 25. Section 5.20.020 of Chapter 5.20, Title 5 of the El Segundo Municipal Code entitled "LICENSE FEE" is hereby approved to read as follows:

"5.20.020 LICENSE FEE. A license fee for an auction house and for each employee thereof, in excess of ten employees, shall be required.

In addition, each auction house shall pay a fee per square foot of floor area occupied for the business purpose in excess of five thousand square feet; and

In addition, each auction house shall pay a fee for each additional business location within the city.

For the purpose of determining the number of employees of the business subject to this section, the term "employee" shall mean any person employed by the business; and shall include an independent contractor, and persons employed by the independent contractor, unless the independent contractor and/or persons employed by the independent contractor has a valid City of El Segundo business license as prescribed in Chapters 5.04 and 5.08 of the El Segundo Municipal Code.

The total number of employees for the business for purposes of this section shall be determined by averaging the total number of employees employed by the business during each of the four calendar quarters preceding the date the tax is payable.

For the purpose of this section, "floor area" means the total floor space in terms of square footage occupied by an owner, lessee or renter in a building except: (1)
Elevator shafts; (2) Stairwells; (3) Courts or atriums uncovered and open to the sky; (4) Rooms exclusively housing building operating equipment, and (5) Parking area."

**SECTION 26.** Section 5.24.020 of Chapter 5.24, Title 5 of the El Segundo Municipal Code entitled "BUSINESS LICENSE - FEE" is hereby approved to read as follows:

"5.24.020 BUSINESS LICENSE - FEE. Before engaging in any of the businesses hereinafter defined or referred to in Section 5.24.010, the licensee shall obtain the required business license so to do, and in addition thereto the licensees shall be subject to each and all of the terms, conditions and provisions of this chapter. A nonrefundable fee shall be established to cover the cost of investigation and processing and the amount therefor shall be fixed from time to time by city council resolution."

**SECTION 27.** Section 5.28.010 of Chapter 5.28, Title 5 of the El Segundo Municipal Code entitled "APPLICATION AND PERMIT - FEES" is hereby approved to read as follows:

"5.28.010 APPLICATION AND PERMIT - FEES. It is unlawful for any person to conduct, carry on, operate or maintain in the city, any public poolroom or billiard room without a written application for permit or renewal of such permit therefor granted by the city council. The permit shall be required in addition to any license required by any ordinance of the city. The permit shall be granted or refused by the city council, in its discretion, upon formal written application, therefor by the person, and the application shall specify the name of the person applying for the permit and the location of the premises where it is proposed to conduct the poolroom or billiard room, and that the applicant is the only person to be in any manner connected with the management and control of the poolroom or billiard room. The application shall be accompanied by a nonrefundable fee which is established to cover the cost of the investigation and processing of applications."

**SECTION 28.** Section 5.36.080 of Title 5 of the El Segundo Municipal Code entitled "IDENTIFICATION CARDS - FEES" is hereby approved as to subsection (5) only, to read as follows:

"(5) Fee. Permittee shall pay a fee for any such identification card required by this chapter."

**SECTION 29.** Section 5.48.100 of Chapter 5.48, Title 5 of the El Segundo Municipal Code entitled "ALARM SYSTEM PERMIT FEE" is hereby approved to read as follows:

"5.48.100 ALARM SYSTEM PERMIT FEE. The fee for an alarm system permit shall be a one time fee."

**SECTION 30.** Section 5.48.105 of Chapter 5.48, Title 5 of the El Segundo Municipal Code entitled "POLICE DEPARTMENT RESPONSE SERVICE" is hereby approved to read as follows:

"5.48.105 POLICE DEPARTMENT RESPONSE SERVICE.

(a) Permittee of Silent Alarms. A service fee shall be paid to the city by each subscriber of an alarm system, or permittee of a silent alarm not exempt, for each response made by the police department to the location of a false alarm after the first three responses are made during the same fiscal year.

(b) Billing. The licensing authority shall cause to be issued a monthly bill for the unpaid service fees accrued during the billing period and any prior periods. Such bill shall be due and payable within fifteen days after the billing date."
SECTION 31. The following Sections shall be deleted in their entirety from Chapters 5.04 and 5.08 of Title 5 of the El Segundo Municipal Code: 5.04.022; 5.04.105; 5.04.220.1; 5.04.221; 5.04.270; 5.08.100; 5.08.275; 5.08.510; 5.08.520; 5.08.570; 5.08.586; 5.08.635 and 5.08.670. All Sections of the El Segundo Municipal Code in effect on and before November 6, 1986 contained in Titles 3 and 6 of the El Segundo Municipal Code and which are not contained in this Ordinance, remain in effect.

SECTION 32. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance or any part thereof.

SECTION 33. Certification. The City Clerk shall publish or post the ordinance according to law.

ADOPTED BY THE ELECTORATE AT THE GENERAL MUNICIPAL ELECTION HELD APRIL 9, 1996.
CLERK'S CERTIFICATE

STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES  
CITY OF EL SEGUNDO  

I, Cindy Mortensen, City Clerk of the City of El Segundo, California, do hereby certify that the foregoing ordinance, being Ordinance No. 1252, is a full, true and correct original of Ordinance No. 1252 of the said City of El Segundo, California, entitled:

"AN ORDINANCE OF THE PEOPLE OF THE CITY OF EL SEGUNDO, CALIFORNIA, APPROVING, FROM APRIL 9, 1996 FORWARD, A BUSINESS LICENSE TAX, TRANSIENT OCCUPANCY TAX AND A COMMERCIAL AND INDUSTRIAL UTILITY USERS TAX AT THE SAME RATES AS ARE CURRENTLY SET FORTH IN THE EL SEGUNDO MUNICIPAL CODE; DELETING THEREFROM CERTAIN SECTIONS PROVIDING FOR TRANSIENT OCCUPANCY TAX CREDITS AND TAX CREDIT AGREEMENTS AND REDUCING THE TRANSIENT OCCUPANCY TAX FROM 10% TO 8%.

which was duly and regularly passed, approved and adopted by the electors of the City of El Segundo, California, at the General Municipal Election held in said City on Tuesday, the 9th day of April, 1996, and that it was so passed and adopted by the following vote at said election, to wit:

"YES," 2398  
"NO," 335

Votes "Shall Ordinance No. _______ entitled:
AN ORDINANCE OF THE PEOPLE OF THE CITY OF EL SEGUNDO, CALIFORNIA, APPROVING, FROM APRIL 9, 1996 FORWARD, A BUSINESS LICENSE TAX, TRANSIENT OCCUPANCY TAX AND A COMMERCIAL AND INDUSTRIAL UTILITY USERS TAX AT THE SAME RATES AS ARE CURRENTLY SET FORTH IN THE EL SEGUNDO MUNICIPAL CODE; DELETING THEREFROM CERTAIN SECTIONS PROVIDING FOR TRANSIENT OCCUPANCY TAX CREDITS AND TAX CREDIT AGREEMENTS" AND REDUCING THE TRANSIENT OCCUPANCY TAX FROM 10% TO 8%," be approved?

and that, therefore, more than a majority of the electors voting upon the question of the adoption of said ordinance having voted in favor thereof, the said ordinance shall accordingly become effective according to its terms and a provided by law.

I do hereby further certify that pursuant to the provisions of Section 36933 of the Government Code of the State of California, that the foregoing ORDINANCE NO. 1252, was posted in the manner prescribed by law.


CINDY MORTENSEN  
City Clerk of the  
City of El Segundo, California  
(SEAL)
IMPARTIAL ANALYSIS OF MEASURE H

The proposed Measure, if passed by the voters, approves into the future the City's current business license tax, commercial and industrial utility users tax, at the same tax rates as are now in effect, except for the transient occupancy tax, the rate of which is reduced from 10% to 8%. The following provisions of the El Segundo Municipal Code relating to the transient occupancy tax are not approved into the future: (1) the provisions allowing for transient occupancy tax credits, and (2) the provisions allowing for transient occupancy tax credit agreements for all-suites hotels.

City Attorney

"The above statement is an impartial analysis of Ordinance No. __. If you desire a copy of the ordinance, please call the City Clerk's office at 310-607-2208 and a copy will be mailed at no cost to you.

ARGUMENT IN FAVOR OF MEASURE H

A YES Vote on Measure H will continue, AT CURRENT RATES, the collection of business license taxes, commercial and industrial utility users taxes and transient occupancy taxes. TAXES ARE NOT BEING INCREASED. No one, whether they are a business or private citizen, will experience any additional taxes as a result of Measure H. Revenues from these business oriented taxes support police and fire protection, parks and recreation programs, trash collection, street sweeping, and other basic City services.

A NO Vote on Measure H will cripple the City's police and fire services as well as many other municipal services to its residents and businesses.

The reason the City Council placed Measure H on the ballot is that in late 1995 the State Supreme Court reversed numerous appellate court decisions upon which the City had relied when it adopted taxes. The Supreme Court decision, if it is applied to cities, would require that local taxes be approved by the voters.

Placing this Measure on the ballot has significant support from active residential groups, civic organizations and commercial and industrial businesses in El Segundo.

The taxes being continued are:

A Business License Tax imposed on businesses.
A Utility Users Tax imposed only on businesses.
A Transient Occupancy Tax imposed upon visitors to hotels.

These taxes amount to 31% of the general revenues to the City in 1995.

The business license tax, commercial and industrial utility users tax and transient occupancy tax have been in existence for many years. The commercial and industrial utility users tax was originally passed by the voters in 1989.

Measure H WILL NOT INCREASE TAXES. Your YES Vote will continue current tax reductions made by the City Council during the past two years and will sustain quality municipal services in El Segundo.

Mayor Jacobson
Mayor Pro Temp Weston
Councilman Robbins
Councilman Switz
Councilwoman Friedkin

ARGUMENT AGAINST MEASURE H

(None Filed)
IMPARTIAL ANALYSIS OF MEASURE I

The proposed Measure, if passed by the voters, approves retroactively and validates the City's business license tax, transient occupancy tax and commercial and industrial utility users tax as those taxes existed in November 1986 and as amended since November 1986 through the date of this election, April 9, 1996. The following provisions of the El Segundo Municipal Code relating to the transient occupancy tax are not approved retroactively and validated: (1) the provisions allowing for transient occupancy tax credits, and (2) the provisions allowing for transient occupancy tax credit agreements for all-suites hotels.

City Attorney

"The above statement is an Impartial analysis of Ordinance No. __. If you desire a copy of the ordinance, please call the City Clerk's office at 310 607-2208 and a copy will be mailed at no cost to you.

ARGUMENT IN FAVOR OF MEASURE I

A YES Vote for Measure I will protect the City's financial health validating the business license tax, the commercial and industrial utility users tax and transient occupancy tax, as each was amended by the City since 1987.

The Supreme Court case, also mentioned in the arguments in favor of Measure H, may mandate the refund of these business oriented taxes of as much as 72 million dollars, an amount equivalent to three year's of the City's budget.

A NO Vote would cripple the City's police and fire services and all other municipal services provided to its residents and businesses.

A YES Vote on Measure I will allow the City to sustain the quality of municipal services and life in El Segundo.

Mayor Jacobson
Mayor Pro Tem Weston
Councilman Robbins
Councilman Switz
Councilwoman Friedkin

ARGUMENT AGAINST MEASURE I

(None Filed)
MINUTES OF THE REGULAR MEETING  
OF THE EL SEGUNDO CITY COUNCIL  
TUESDAY, JANUARY 2, 1996 - 7:00 P.M.

CALLED TO ORDER by Mayor Jacobson at 7:00 p.m.

PLEDGE OF ALLEGIANCE led by Councilwoman Friedkin.

INVOCATION - NONE  
PRESENTATIONS - NONE

ROLL CALL

Mayor Jacobson - Present
Mayor ProTem Weston - Present
Councilman Switz - Present
Councilwoman Friedkin - Present
Councilman Robbins - Present

PUBLIC COMMUNICATIONS - (Related to City Business Only - 5 minute limit per person, 30 
minute limit total) - NONE

A. PROCEDURAL MOTIONS

1. Consideration of a motion to read all ordinances and resolutions on this Agenda 
by title only.

MOVED by Councilman Robbins; SECONDED by Councilwoman Friedkin to 
read all ordinances and resolutions on this agenda by title only. MOTION 
passed by UNANIMOUS VOICE VOTE 5/0.

B. SPECIAL ORDERS OF BUSINESS -

1. Presentation of measures to be submitted to the electorate to maintain current 
revenues and services in light of California Supreme Court decision regarding 
Proposition 62. Fiscal impact - maintain current revenues and services.

City Manager Morrison stated there were some changes to Page 26 Section 
3.06.030 Sub-section 3 remove the words located next to last line as follows: 
"increase in transient occupancy tax revenue", and on Page 29 the paragraph 
immediately above Section 12 3rd and 4th line to remove "five" and replace 
with "ten" employees.

Mayor Jacobson stated he and Mayor ProTem Weston visited several 
businesses to discuss this decision regarding Proposition 62 which came down 
from the California Supreme Court, and asked Mayor ProTem Weston to give a 
brief report on the results of those meetings.

Mayor ProTem Weston stated he and the Mayor met with approximately fifteen 
major employers in the City, including one organization which was a 
combination of both resident and business representatives, and brought with 
them charts which spelled out the chronology in specific terms that most cities 
by 1986 already had a large amount of their tax base established. They 
presented a detailed description of those few options available to the City, and 
that the City had no real option other than to proceed with a ballot measure to 
validate with the voters the current business tax base, utility users tax, and 
the transient occupancy tax which were passed subsequent of 1986. Further 
stating for those individuals not acquainted with it, the Supreme Court decided 
to uphold Proposition 62, and El Segundo has always complied with it from 
the beginning of this initiative by a vote to validate the previous taxes when this 
measure was first passed in the two year time frame it has allowed. After the 
Appellate Courts threw it out as unconstitutional, abided then by those rulings 
and now with the change, the Council has been placed in a position to find 
what the best way would be to maintain the solvency and tax base of our City, 
the continuity and upswing in growth in jobs they have been able to bring into 
the City during the last two years, and to do this in a way that raises the proper 
revenue to maintain the high level of service presently available in the City 
without drastically changing it. He did not feel there was a great amount of
adversity or animosity on behalf of the larger businesses in the City with regards to this tax, and they seemed to have the interest to see the continuity and consistency in the way that the City is run. Should this measure pass then the City could avoid any legal battles or difficulties relevant to how the City will comply with the recent Supreme Court decision.

Mayor Jacobson felt the City was taking a pro-active stand in meeting with the businesses since they will be the ones affected since the City has not raised any residential taxes since 1996. The businesses understood after it was explained to them and felt that services the City provides is important to them, and keeping a consistency and continuity on how they were paid for was the proper thing to do.

Councilman Robbins stated these resolutions and ordinances would allow the City Council in the future to lower taxes but not raise them; Mayor Jacobson responded that it allowed the City Council to suspend them. Councilman Robbins asked if they also meant that they would not have to go back to the voters and put it on a ballot; City Attorney Dolley responded that was correct if all of the resolutions and urgency ordinance is adopted this evening.

City Manager Morrison stated another point of clarification before the Council tonight is to add a section to Section 33 to the first ordinance that it should include that additional section which states that all of the sections of Title 3 and Title 5 of the ESMC which are not contained in the ordinance will remain effective.

Mayor ProTem Weston stated that there are two ballot measures, one which validates the tax that already exists and one to validate it for continuity in the future, and he wanted the public to know that the Council is not proposing any change in the tax they pay or any substantial way the businesses pay tax in the City. They are only validating so that the City is not vulnerable later, depending upon how the Supreme Court decision is interpreted as it relates to General Law City's, that the City is simply doing this for the protection of the City.

Mayor Jacobson stated that the Council was doing basically what they did when Proposition 62 was passed by validating the previous and now are doing it again and in the future. These two measure will protect the City depending on what the Supreme Court may decide in the future.

City Attorney Dolley read resolution by title only:

RESOLUTION NO. 3957


City Attorney Dolley stated with those changes noted by City Manager Morrison, this resolution was ready for adoption by the City Council.

MOVED by Councilman Robbins; SECONDED by Councilman Switz to adopt Resolution 3957 with changes which calls an election for April 9, 1996 at which the voters will be asked to approve or disapprove: a) An ordinance which approves from April 9, 1996 forward a Business License Tax, a Transient Occupancy Tax and a Commercial and Industrial Utility Users Tax at the same rates as are currently set forth in the El Segundo Municipal Code, and which deletes sections providing for transient occupancy tax credit agreements, and which reduces the transient occupancy tax from 10% to 8%; b) An ordinance which validates and approves all ordinances enacted by the City Council related to a Business License Tax, a Transient Occupancy Tax and a Commercial and Industrial Utility Users Tax from the effective date of Proposition 62 through and including April 8, 1996, excepting ordinances or portions of ordinances which provide for Transient Occupancy Tax Credit.
Agreements - (incorporates by reference City Council Resolution Number 3945 which requests the County Board of Supervisors to render election services, and Resolution Number 3950 which orders a canvass of the election). MOTION PASSED BY UNANIMOUS VOICE VOTE 5/0.

Mayor Jacobson stated the next resolution was to set the priorities for filing of written arguments regarding city measures and the City Attorney's preparation of an impartial analysis.

City Attorney Dolley read resolution by title only:

RESOLUTION NO. 3958

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL SEGUNDO, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS REGARDING CITY MEASURES AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS.

City Attorney Dolley stated that the City Council needs to decide under Section 1 on Page 56 of the agenda, Councilmembers who are authorized to file an argument in favor. Mayor Jacobson suggested that the motion on that include all five members of the Council.

MOVED by Mayor ProTem Weston; SECONDED by Councilwoman Friedkin to adopt Resolution Number 3958 setting priorities for filing written arguments regarding and directing the City Attorney to prepare an impartial analysis. Also, to include that all five councilmembers be authorized to file an argument in favor. MOTION PASSED BY UNANIMOUS VOICE VOTE 5/0.

City Attorney Dolley stated that City Clerk Mortesen would be setting dates for the filing of the arguments and the City Attorney's analysis, and that would be distributed tomorrow.

City Attorney Dolley read resolution by title only:

RESOLUTION NO. 3959

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL SEGUNDO, CALIFORNIA PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS FOR CITY MEASURES SUBMITTED AT MUNICIPAL ELECTIONS.

MOVED by Councilwoman Friedkin; SECONDED by Councilman Switz to adopt Resolution 3959 which provides for the filing of rebuttal arguments for City measures submitted at municipal elections. Also to include that all five members of the City Council be authorized to file. MOTION PASSED BY UNANIMOUS VOICE VOTE 5/0.

City Attorney Dolley read urgency ordinance by title only:

URGENCY ORDINANCE NO. 1243

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL SEGUNDO AMENDING THE EL SEGUNDO MUNICIPAL CODE IN CONNECTION WITH THE CLAIMS PERIODS RELATING TO THE BUSINESS LICENSE TAX, TRANSIENT OCCUPANCY TAX AND THE COMMERCIAL AND INDUSTRIAL UTILITY USERS TAX AND RELATING TO TAX REDUCTIONS AND SUSPENSIONS.

City Attorney Dolley stated this urgency ordinance could be adopted by a four-fifths vote by the City Council.

MOVED by Councilman Switz; SECONDED by Councilwoman Friedkin to adopt Urgency Ordinance Number 1243 which will make the appeal procedures for the Business License Tax, the Commercial and Industrial Utility Users Tax and the Transient Occupancy Tax consistent with each other and with State law. The ordinance also provides authority for the City Council to suspend or reduce
these taxes in the future (the contents of this ordinance will also be included in both of the ordinances to be submitted to the voters).  

MOTION PASSED BY UNANIMOUS VOICE VOTE 5/0.

Mayor Jacobson asked that the City Manager and City Attorney prepare informational material which factually explains the current local tax structure and its effects, and explains the measures that will be on the ballot.

City Attorney Dolley stated that this could be prepared and made available to the public at the pleasure of the City Council; no objections by any members of the City Council.

C. UNFINISHED BUSINESS  
   - NONE

D. REPORTS OF COMMITTEES, BOARDS AND COMMISSIONS  
   - NONE

E. CONSENT AGENDA

All items listed are to be adopted by one motion without discussion and passed unanimously. If a call for discussion of an item is made, the item(s) will be considered individually under the next heading of business.

1. Warrant Numbers 227438-227648 on Demand Register Summary Number 25 in total amount of $434,111.76.  
   Approved Warrant Demand Register and Authorize staff to release.  Ratify: Payroll and Employee Benefit checks; checks released early due to contracts or agreements; emergency disbursements and/or adjustments.

2. Warrant Numbers 227648-227761 on Demand Register Summary Number 26 in total amount of $85,273.80, and Wire Transfers in the amount of $137,232.23.  
   Approved Warrant Demand Register and Authorize staff to release.  Ratify: Payroll and Employee Benefit checks; checks released early due to contracts or agreements; emergency disbursements and/or adjustments; and wire transfers from 12/16/95 to 12/22/95.

3. PULLED FOR DISCUSSION BY COUNCILMAN ROBBINS.

4. A Resolution of the City Council of the City of El Segundo, California establishing a revised salary range for the at-will job classification of Director of Finance.  Fiscal Impact: The position is currently vacant. The annualized increase in total compensation (including estimated fringe benefits), based on a comparison of the "E" step of the current and proposed salary range is $6443.
   Adopted Resolution 3960.

MOVED by Councilman Switz; SECONDED by Councilwoman Friedkin to approve Consent Agenda Item Numbers 1, 2 and 4.  
MOTION PASSED BY UNANIMOUS VOICE VOTE 5/0.

CALLED ITEMS FROM CONSENT AGENDA

   
   Councilman Robbins requested to hold the minutes over to the January 16, 1996.
   
   Council consensus to hold over to City Council meeting of January 16, 1996.

F. NEW BUSINESS - CITY MANAGER  
   - NONE

G. NEW BUSINESS - CITY ATTORNEY  
   - NONE

H. NEW BUSINESS - CITY CLERK  
   - NONE

I. NEW BUSINESS - CITY TREASURER  
   - NONE

J. NEW BUSINESS AND REPORTS - CITY COUNCILMEMBERS

   Councilwoman Friedkin announced there was a public workshop regarding the LAX Master Plan scheduled for January 18, 1996 from 7:00-9:00 p.m. at the Hacienda Hotel.  Also, a memo from Harvey Holden is suggesting that as many residents as possible attend this workshop in order to demonstrate the community's concerns about the airport issues, particularly the future impact of the airport on the City because there will be a great deal of expansion at the airport in the future.  In addition, there will be another meeting on January 17, 1996 at the Airport Marina Hotel on Lincoln Boulevard in Westchester, and a
ORDINANCE NO. 1226

AN ORDINANCE OF THE CITY OF EL SEGUNDO,
CALIFORNIA, AMENDING SECTION 3.24.040 OF TITLE
3 OF THE EL SEGUNDO MUNICIPAL CODE REGARDING
APPLICATION OF GAS USERS TAX

THE CITY COUNCIL OF THE CITY OF EL SEGUNDO, CALIFORNIA DOES
HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Subsection (d) is hereby added to Section 3.24.040
of Chapter 3.24 of Title 3 of the El Segundo Municipal Code to read
as follows:

"(d) The tax imposed by this section is not intended to apply
to gas not purchased from third party vendors and gas used for non-
utility purposes.

(1) For the purposes of this subsection (d), the phrase
"gas not purchased from third party vendors" shall mean gas which
is produced and owned by the same legal entity where ownership is
not the result of a sale or purchase transaction.

(2) For the purposes of this subsection (d), the phrase
"gas used for non-utility purposes" shall mean gas which is a
component part of a manufactured product produced by an entity
which is subject to the utility users tax."

SECTION 2. Severability. If any section, subsection,
subdivision, paragraph, sentence, clause, or phrase of this
ordinance is for any reason held to be invalid or unconstitutional
by a decision of any court of competent jurisdiction, such decision
shall not affect the validity of the remaining portions of the
ordinance or any part thereof. The El Segundo City Council hereby
declares that it would have passed each and every section
subsection, subdivision, paragraph, sentence, clause, or phrase,
irrespective of the fact that any one or more sections,
subsections, subdivisions, paragraphs, sentences, clauses, or
phrases be declared invalid or unconstitutional.

SECTION 3. This ordinance shall become effective immediately
upon adoption.

SECTION 4. The City Clerk shall certify to the passage and
adoption of this ordinance; shall cause the same to be entered in
the book of original ordinances of said City; shall make a note of
the passage and adoption thereof in the records of the meeting at
which the same is passed and adopted; and shall within 15 days
after the passage or adoption thereof cause the same to be
published or posted in accordance with the law.

PASSED, APPROVED, AND ADOPTED on August 2, 1994.

[Signature]
MAYOR OF THE CITY OF EL SEGUNDO

[Signature]
CITY CLERK

APPROVED AS TO FORM:
[Signature]
CITY ATTORNEY

LAC 008297
JOA 46384
laclaw.org
I, Cindy Mortesen, City Clerk of the City of El Segundo, California, DO HEREBY CERTIFY that the whole number of members of the City Council of the said City is five; that the foregoing ordinance, being ORDINANCE NO. 1226 is a full, true correct original of ORDINANCE NO. 1226 of the said City of El Segundo, California, entitled:

AN ORDINANCE OF THE CITY OF EL SEGUNDO, CALIFORNIA, AMENDING SECTION 3.24.040 OF TITLE 3 OF THE EL SEGUNDO MUNICIPAL CODE REGARDING APPLICATION OF GAS USERS TAX.

which was duly passed and adopted by the said City Council, approved and signed by the Mayor of said City, and attested by the City Clerk of said City, all at a regular meeting of the said Council held on the 2ND DAY OF AUGUST, 1994, and the same was so passed and adopted by the following vote:

AYES: Mayor Jacobson, Mayor ProTem Weston, Councilman Robbins, Councilman Switz, and Councilwoman Friedkin.

NOES: None

ABSENT: None

NOT PARTICIPATING: None

I do hereby further certify that pursuant to the provisions of Section 36933 of the Government Code of the State of California, that the foregoing ORDINANCE NO. 1226, was posted and/or published in the manner prescribed by law.

CINDY MORTESEN
City Clerk of the
City of El Segundo, California
(SEAL)
ORDINANCE NO. 1219

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF EL SEGUNDO, CALIFORNIA AMENDING SECTION
5.08.195 OF THE EL SEGUNDO MUNICIPAL CODE TO
GRANT A CREDIT AGAINST THE BUSINESS LICENSE
TAX FOR CERTAIN BUSINESSES IN AN AMOUNT EQUAL
TO A PERCENTAGE OF PAID DELINQUENT OR DISPUTED
UTILITY USER TAXES

WHEREAS, as an inducement to businesses subject to existing
section 5.08.195 of the El Segundo Municipal Code which owe
delinquent utility users taxes to the city or dispute amounts owed
to the city to pay those taxes or settle those disputes and give
the city the benefit of cash in hand it is in the best interest of
the city to grant a credit in the amount of a percentage of delin-
quent or disputed utility users taxes which are now paid.

SECTION 1. Section 5.08.195 of the El Segundo Municipal Code
shall be amended to add a new subsection (g) to read as follows:

"(g) Any person subject to this section paying a delinquent utility user tax or a tax
concerning which, in the opinion of the City Manager, a Good Faith dispute exists may enter
into a settlement agreement to be ratified by the City Council which entitles the taxpayer
to a credit equal to 75% of the paid delin-
quent or disputed utility user tax (excluding penalties and interest). Said credit must be
applied within three tax years from the date
of payment. The maximum credit to be applied
against the business license tax in any year
shall not exceed one-third (1/3) of the total
credit available hereunder.

SECTION 2. Severability. If any section, subsection,
subdivision, paragraph, sentence, clause, or phrase of this
ordinance is for any reason held to be invalid or unconstitutional
by a decision of any court of competent jurisdiction, such decision
shall not affect the validity of the remaining portions of the
ordinance or any part thereof. The El Segundo City Council hereby
declares that it would have passed each and every section subsec-
tion, subdivision, paragraph, sentence, clause, or phrase, irrespective of the fact that any one or more sections, subsections,
subdivisions, paragraphs, sentences, clauses, phrases be
declared invalid or unconstitutional.

SECTION 3. This ordinance shall become effective immediately
upon adoption.

SECTION 4. The City Clerk shall certify to the passage and
adoption of this ordinance; shall cause the same to be entered in
the book of original ordinances of said city; shall make a note of
the passage and adoption thereof in the records of the meeting at
which the same is passed and adopted; and shall within 15 days
after the passage or adoption thereof cause the same to be
published or posted in accordance with the law.

PASSED, APPROVED, AND ADOPTED this 1st day of March, 1994.

MAYOR

ATTAST: [Signature]
MAYOR

CITY CLERK

APPROVED AS TO FORM: [Signature]
CITY ATTORNEY
I, Cindy Mortesen, City Clerk of the City of El Segundo, California, DO HEREBY CERTIFY that the whole number of members of the City Council of the said City is five;

that the foregoing ordinance, being ORDINANCE NO. 1219 is a full, true correct original of ORDINANCE NO. 1219 of the said City of El Segundo, California, entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL SEGUNDO, CALIFORNIA, AMENDING SECTION 5.08.195 OF THE EL SEGUNDO MUNICIPAL CODE TO GRANT A CREDIT AGAINST THE BUSINESS LICENSE TAX FOR CERTAIN BUSINESSES IN AN AMOUNT EQUAL TO A PERCENTAGE OF PAID DELINQUENT OR DISPUTED UTILITY USER TAXES.

which was duly passed and adopted by the said City Council, approved and signed by the Mayor or said City, and attested by the City Clerk of said City, all at a regular meeting of the said Council held on the 1ST DAY OF MARCH, 1994, and the same was so passed and adopted by the following vote:

AYES: Mayor Jacobson, Mayor ProTem Wise, Councilman West, Councilman Switz and Councilman Robbins.

NOES: NONE

ABSENT: NONE

NOT PARTICIPATING: NONE

I do hereby further certify that pursuant to the provisions of Section 36933 of the Government Code of the State of California, that the foregoing ORDINANCE NO. 1219, was posted and/or published in the manner prescribed by law.

CINDY MORTESSEN
City Clerk of the 
City of El Segundo, California

(SFA1)
MINUTES OF THE
REGULAR MEETING OF THE EL SEGUNDO CITY COUNCIL
February 1, 1994 - 7:00 P.M.

CALL TO ORDER Mayor Jacobson at 7:05 P.M.

INVOCATION - Rev. Timothy Schepman, St. John's Lutheran Church

PLEDGE OF ALLEGIANCE - Councilman Robbins

PRESENTATIONS

1. Presentation to the El Segundo Police Department of the 1994 Hero Award by D. Kahl and City Council.

   Donna Kahl presented to Tim Grimmond, Police Chief, on behalf of the El Segundo Police Department, Coping Magazine's 1994 Heros Award

2. Presentation of proclamation by the City Council to Ron Green, President of Sister City Association, reaffirming El Segundo's commitment to foster the ideals of the Sister City Program to effectuate world peace.

   Mayor Jacobson presented a proclamation reaffirming El Segundo's commitment to foster the ideals of the Sister City Program to effectuate world peace to Ron Green El Segundo Sister City President and Michelle Barr Sister City Queen.

ROLL CALL

Mayor Jacobson - Present
Mayor ProTem Wise - Absent
Councilman West - Present
Councilman Switz - Present
Councilman Robbins - Present

PUBLIC COMMUNICATIONS - (Related to City Business Only) (3 minute limit per person, 30 minute limit total)
Nine (9) individuals addressed Council

1. June Cox, 615 E. Holly; representing the Park Vista residents; requested Council to take a closer look at Park Vista and the current management before considering a change in management. Requested Council to delay the agenda item until this matter can be further investigated.

2. Rich Reed, resident; thanked the Council for their long term president of free speech at Council meetings.

3. Park Vista resident; stated he favors the current management and requested Council to investigated before changing.

4. Thomas Dickten, 648 W. Walnut; spoke regarding the occupancy of the house located at 910 Hillcrest.

5. Howard Perine, Park Vista resident; stated he supports the current management

6. Nedra Andrant, Park Vista resident; stated she supports the current management.
7. Jean Clark, Park Vista resident, stated she supports the current management.

8. Calvin Martin, 829 Pepper, stated he supports the current management.

9. S.L. McKinney, City Clerk Mortensen read the attached letter.

Closed Public Communications

A. PROCEDURAL MOTIONS

1. Consideration of a motion to read all ordinances and resolutions on this Agenda by title only.

MOVED by Councilman Robbins SECONDED by Councilman Switz to read all ordinances and resolutions on this Agenda by title only. MOTION PASSED BY THE FOLLOWING VOICE VOTE. AYES: MAYOR JACOBSON, COUNCILMAN WEST, COUNCILMAN SWITZ, AND COUNCILMAN ROBBINS. NOES: NONE. ABSENT: MAYOR PROTEM WISE. 4/0/1

B. SPECIAL ORDERS OF BUSINESS

City Attorney Lee Dooly announce a settlement agreement between the City of El Segundo and both Chevron U.S.A. and M.R.C. concerning the collection of taxes the vote was AYES: MAYOR JACOBSON, COUNCILMAN WEST AND COUNCILMAN SWITZ. NOES: NONE. ABSENT: MAYOR PROTEM WISE AND COUNCILMAN ROBBINS 3/0/2

Chevron agreement dealt with the utility users tax code of the City and certain sections thereof. There was a dispute concerning the collection of the utility users tax which included a dispute over the statute of limitation, feed stock gas, cogeneration of electricity and gas, equity gas and evaluation of that gas, and certain penalties. After discussion, ultimate agreement after debate to the various issues, avoiding considerable and possibly expensive litigation, the City Council has authorized a settlement with Chevron that provides that Chevron will agree to pay the City the sum of $800,000 as full satisfaction of the liabilities. There are certain tax credit mechanisms, to the business license tax built in for Chevron in the future. There is an agreement as to the amount of the tax as authorized by the code in the future, and there is an obligation for the City to consider certain changes to the tax code to clarify. There is a full release by both parties as to the issues that were discussed, debated, and ultimately resolved between the parties. The second agreement in connection there with, deals with Municipal Resources Corporation which is the contractor for the City to review the tax situation, in relation to any taxpayer, and to bring to the attention of the City Council taxes that may be due. Under the contract with MRC they were due certain fees in connection with the collection of this tax. The settlement agreement provides that they will accept the full sum of $200,000 as full payment for any alleged liability under the terms of the contract with MRC. These settlement agreements accomplish a somewhat long term, but none the less well debated, issue between Chevron, MRC, and the City and has been highly recommended to you by the City Attorney, and the Management of the City. These items will be public record as soon as the documents are signed.

C. UNFINISHED BUSINESS

1. Discussion of proposed ordinance to increase the Transient Occupancy Tax and to allow for tax credits to existing El Segundo hotels.
Mayor Jacobson stated this is the time and place here fixed for a public meeting on a proposed ordinance to increase Transient Occupancy Tax and to allow for tax credit to existing El Segundo Hotels. He asked if proper notice was done in a timely manner and if any correspondence had been received regarding this matter.

Clerk Mortensen stated that public notice was done by the Clerk’s Department and no correspondence had been received regarding this matter.

Two (2) individuals addressed Council on this matter. Council discussion followed.

1. John Savage, DoubleTree Hotel; stated that this is a very complicated issue and encouraged citizens to get as much detail about the program and how it affects the City of El Segundo. This does create a level playing field for all. He also offered to discuss with anyone this matter.

2. Jeanne Yeagley, 824 Maryland; stated that hotels benefit from the City bringing in a large customer base, and that is what the TOT is meant to pay for. She further stated she is against the TOT increase.

MOVED by Councilman Switz SECONDED by Councilman West to close the Public Meeting and schedule March 1, 1984 for the Public Hearing. MOTION PASSED BY THE FOLLOWING VOICE VOTE. AYES: MAYOR JACOBSON, COUNCILMAN WEST, COUNCILMAN SWITZ, AND COUNCILMAN ROBBINS. NOES: NONE. ABSENT: MAYOR PROTEM WISE. 4/0/1

2. Retention of landscape maintenance contractor to provide temporary golf course maintenance following completion of the current contractor’s obligation.

MOVED by Councilman Switz SECONDED by Councilman Robbins to approve the retention of Landscape West, Inc. to provide golf course maintenance on a month-to-month basis, beginning February 23, 1984 or when the landscaping is accepted. The Fee for service is to be $13,333 per month. And authorize staff to develop an agreement/contract with Landscape West, Inc., which will be brought back to the City Council for consideration/approval. MOTION PASSED BY THE FOLLOWING VOICE VOTE. AYES: MAYOR JACOBSON, COUNCILMAN WEST, COUNCILMAN SWITZ, AND COUNCILMAN ROBBINS. NOES: NONE. ABSENT: MAYOR PROTEM WISE. 4/0/1

3. Renaming of golf course.

MOVED by Councilman Switz SECONDED by Councilman Robbins to approve renaming the golf course "THE LAKES AT EL SEGUNDO". MOTION PASSED BY THE FOLLOWING VOICE VOTE. AYES: MAYOR JACOBSON, COUNCILMAN WEST, COUNCILMAN SWITZ, AND COUNCILMAN ROBBINS. NOES: NONE. ABSENT: MAYOR PROTEM WISE. 4/0/1

D. REPORTS OF COMMITTEES, BOARDS AND COMMISSIONS

1. Consideration of agreement between El Segundo Senior Citizens Housing Corporation and Housing Management Associates for the management of the Park Vista Senior Citizen Housing Complex. (Annual cost: $95,000)

Don Harrison, Assistant City Manager, gave a brief Staff report.

Public Input

1. Park Vista Resident; asked if the current managers could be retain by the new management company.
2. Park Vista Resident; stated the residents are very well protected and prepared for emergencies due to the current management.

Don Harrison stated the level of staffing will be increased with the new management company and the same or higher level of service will be maintained.

Alan Mosk, Housing Management Associates; stated the staff will be working 40 hours a week, they are communicating with the current custodian and are willing to hire him. They plan to work with the residents to satisfy all their needs and a manager will be on site to respond to any emergency that may arise.

Councilman Robbins asked if the company will control the costs at a higher level of service.

Mr. Mosk stated that they have provided references to the Senior Housing Board on their management.

Don Swik, Senior Housing Board; stated the new management company will give a high level of care to the residents. They were selected because they specialize in management of senior housing.

Councilman Switz stated that the on site managers were only one factor that the Board used in awarding the contract. Many factors were used to make the decision to hire the best organization to manage the building.

Councilman West compliments the Senior Housing Board on their excellent job done in selecting a new management company.

Councilman Robbins asked if the contract was put out for RFPs.

Don Harrison stated RFPs were sent to seven companies known to manage Senior Housing projects in this area including the current management company. And a request for the Senior Housing Board to self manage the project.

City Attorney Lee Dolley stated he has reviewed the contract and feels it is appropriate.

3. Calvin Martin, stated that the current managers are on site and currently on call 24 hours a day, and the new management company will only be there 8 hours a day.

Mr. Mosk stated the new manager will be onsite and responsible 24 hours a day, 7 days a week. The management company will be responsible for continued care.

Calvin Martin stated there is a difference between managers who work 8-5 and managers who are dedicated and available at any time.

Janet Jamison, Senior Housing Board; stated the Board has been undertaking this process since last July and they are happy to hear from the Park Vista residents. She also stated they were interested in a management company that had a strong background in managing Senior Housing, and could comply with all new laws and have available resources.

4. Ralph Astin, Park Vista resident; requested a Park Vista resident sit with the Senior Housing Board.

Council closed public input.
MOVED by Councilman Switz SECONDED by Councilman West to approve the consideration of the agreement between El Segundo Senior Citizens Housing Corporation and Housing Management Associates for the management of the Park Vista Senior Citizen Housing Complex at an annual cost of $98,000.

Councilman Robbins asked if their could be value added by having the Council look into this matter.

Mayor Jacobson requested a report in 30 and 60 days on how things are going with the new management company.

Mayor Jacobson called the question:

MOTION PASSED BY THE FOLLOWING VOICE VOTE. AYES: MAYOR JACOBSON, COUNCILMAN WEST, COUNCILMAN SWITZ, AND COUNCILMAN ROBBINS. NOES: NONE. ABSENT: MAYOR PROTEM WISE. 4/9/1 Council requested evaluations be made in 30 and 60 days and presented to Council.

2. Oral presentation by Mr. Richard Fearn, Chairman of the Capital Improvement Program Advisory Committee (CIPAC).

Councilman Switz asked if the committee could weigh the various factors.

Mr. Fearn stated that the committee has already given the health and safety a double weight.

Mr. Fearn gave an oral presentation and requested direction from Council. He announced a Public Workshop tentatively scheduled for March 7, 1994 at 7:00 P.M. at the Library, and regular meeting most Thursday evenings at 7:00 P.M. in the Fire Department Conference Room.

3. Request City Council to initiate the recruitment process for a 5-member "El Segundo Existing Business Committee", a subcommittee of the Economic Development Advisory Council.

MOVED by Councilman West SECONDED by Councilman Robbins to direct staff to initiate the recruitment process for the "El Segundo Existing Business Committee", a subcommittee of the Economic Development Advisory Council. MOTION PASSED BY THE FOLLOWING VOICE VOTE. AYES: MAYOR JACOBSON, COUNCILMAN WEST, COUNCILMAN SWITZ, AND COUNCILMAN ROBBINS. NOES: NONE. ABSENT: MAYOR PROTEM WISE. 4/9/1

4. Request City Council to schedule interviews for applicants to the (1) El Segundo Community Cable Advisory Committee and (2) the Marketing and Sales Committee.

Council consensus to not allow an applicant to withdraw his name and then asked for it to be placed back on the list after the close of the applications.

Council Scheduled February 9, 1994 at 5:00 P.M. for interviews for applicants to the a) El Segundo Community Cable Advisory Committee and b) the Marketing and Sales Committee.

Council also scheduled February 23, 1994 for a budget review meeting.

E. CONSENT AGENDA

All items listed are to be adopted by one motion without discussion and passed unanimously. If a call for discussion of an item is made, the item(s) will be considered individually under the next heading of business.
1. ITEM PULLED FOR DISCUSSION BY COUNCILMAN ROBBINS

2. ITEM PULLED FOR DISCUSSION BY COUNCILMAN ROBBINS

3. ITEM PULLED FOR DISCUSSION BY CITY MANAGER JIM MORRISON

4. ITEM PULLED FOR DISCUSSION BY COUNCILMAN WEST

5. ITEM PULLED FOR DISCUSSION BY COUNCILMAN ROBBINS

6. Approve the purchase of a new marked police unit with funds from the Unappropriated Reserve of the General Fund not to exceed $15,000 to replace a unit which had been involved in a traffic collision and declared a total loss.

7. ITEM PULLED FOR DISCUSSION BY COUNCILMAN WEST

8. Installation of water system booster pump Unit No. 1, Project No. PW 93-2.

9. Approval of a contract with United States Escrow to administer escrow services in correlation with the CDBG Minor Home Repair Program for the City's elderly homeowners. Estimated cost per loan is $500.

MOVED by Councilman Switz SECONDED by Councilman West to approve consent agenda items numbers 6, 8, and 9. MOTION PASSED BY THE FOLLOWING VOICE VOTE. AYES: MAYOR JACOBSON, COUNCILMAN WEST, COUNCILMAN SWITZ, AND COUNCILMAN ROBBINS. NOES: NONE. ABSENT: MAYOR PROTEM WISE. 4/0/1

CALL ITEM FROM CONSENT AGENDA

1. Warrant Numbers 209509-209774 on Demand Register Summary Number 15 in total amount of $1,045,328.79.

MOVED by Councilman Switz SECONDED by Councilman West to approve the Warrant Numbers 209509-209774 on Demand Register Summary Number 15 in total amount of $1,045,328.79. MOTION PASSED BY THE FOLLOWING VOICE VOTE. AYES; MAYOR JACOBSON, COUNCILMAN WEST, AND COUNCILMAN SWITZ. NOES; NONE. ABSENT; MAYOR PROTEM WISE. NOT-PARTICIPATING; COUNCILMAN ROBBINS 3/0/1


Councilman Robbins stated he was voting no on the meeting minutes of January 18, 1994 because of inaccuracies.

MOVED by Councilman Switz SECONDED by Councilman West to approve the minutes of City Council meeting of January 18, 1994. MOTION PASSED BY THE FOLLOWING VOICE VOTE. AYES; MAYOR JACOBSON, COUNCILMAN WEST, AND COUNCILMAN SWITZ. NOES; COUNCILMAN ROBBINS. ABSENT; MAYOR PROTEM WISE. 3/1/1


City Manager Jim Morrison pulled this item from the agenda because of an issue with LAX Board regarding easements.
PASSED BY THE FOLLOWING VOICE VOTE. AYES: MAYOR JACOBSON, COUNCILMAN WEST, COUNCILMAN SWITZ, AND COUNCILMAN ROBBINS. NOES: NONE. ABSENT: MAYOR PROTEM WISE. 4/0/1

G. NEW BUSINESS - CITY ATTORNEY - NONE

H. NEW BUSINESS - CITY CLERK - NONE

I. NEW BUSINESS - CITY TREASURER - NONE

J. NEW BUSINESS AND REPORTS - CITY COUNCILMEMBERS

Councilman West -

MOVED by Councilman Robbins SECONDED by Councilman West to discuss an urgent item that arose after the posting of the agenda. MOTION PASSED BY THE FOLLOWING VOICE VOTE. AYES: MAYOR JACOBSON, COUNCILMAN WEST, COUNCILMAN SWITZ, AND COUNCILMAN ROBBINS. NOES: NONE. ABSENT: MAYOR PROTEM WISE. 4/0/1

City Attorney Lee Dolley read the following:

RESOLUTION NO. 3853

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL SEGUNDO EXPRESSING SUPPORT FOR THE SOUTH BAY AREA SIGNAL PROJECT.

MOVED by Councilman West SECONDED Councilman Robbins to approve Resolution No. 3853 expressing support for the South Bay Area Signal Project. MOTION PASSED BY THE FOLLOWING VOICE VOTE. AYES: MAYOR JACOBSON, COUNCILMAN WEST, COUNCILMAN SWITZ, AND COUNCILMAN ROBBINS. NOES: NONE. ABSENT: MAYOR PROTEM WISE. 4/0/1

Councilman Robbins -

Councilman Robbins wished to revisit the approval of the contract for the Park Vista Management. There was no concurrence on Council for this discussion.

Councilman Switz -

Congratulated the Police Department on the new digital display speedometer activated by radar displayed on Main Street. He commented that it seems to slow traffic down.

Mayor ProTem Wise - NONE

Mayor Jacobson - NONE

PUBLIC COMMUNICATIONS - (Related to City Business Only - 5 minute limit)

One (1) individual addressed Council

1. Thomas Dicklen, 648 W. Walnut; spoke regarding the Sound Installation program and encouraged the City to address the issue. He also spoke regarding the Little League parade.

MEMORIALS - NONE

CLOSED SESSION - NONE

ADJOURNMENT at 9:35 P.M. to February 9, 1994 at 5:00 P.M.

Cindy Mortensen, City Clerk

Councilman West urged everyone to support this effort.

MOVED by Councilman West SECONDED by Councilman Switz to approve the request by El Segundo Little League to hold a parade on El Segundo street on Saturday, February 26, 1984, in celebration of Little League Opening Day. MOTION PASSED BY THE FOLLOWING VOICE VOTE. AYES: MAYOR JACOBSON, COUNCILMAN WEST, COUNCILMAN SWITZ, AND COUNCILMAN ROBBINS. NOES: NONE. ABSENT: MAYOR PROTEM WISE. 4/0/1

5. Approve the proposed restructuring of fees charged by the Police Department as they relate to various services they provide. Estimated fiscal impact <$9,500>.

Councilman Robbins commended the Police Department for reducing costs to citizens, and is pleased that the City will no longer be charging for burglar alarm systems.

MOVED by Councilman Robbins SECONDED by Councilman Switz to approve restructuring of fees charged by the Police Department. MOTION PASSED BY THE FOLLOWING VOICE VOTE. AYES: MAYOR JACOBSON, COUNCILMAN WEST, COUNCILMAN SWITZ, AND COUNCILMAN ROBBINS. NOES: NONE. ABSENT: MAYOR PROTEM WISE. 4/0/1

7. Resolution for installation of STOP signs for eastbound and westbound Mariposa Avenue at Whiting Street.

Councilman West stated he does not like the addition of more stop signs.

MOVED by Councilman West SECONDED by Councilman Switz to adopt Resolution Number 3652 approving the installation of STOP signs for eastbound and westbound Mariposa Avenue at Whiting Street. MOTION PASSED BY THE FOLLOWING VOICE VOTE. AYES: COUNCILMAN WEST, COUNCILMAN SWITZ, AND COUNCILMAN ROBBINS. NOES: MAYOR JACOBSON. ABSENT: MAYOR PROTEM WISE. 3/1/1

F. NEW BUSINESS - CITY MANAGER

1. Request authorization for Fire Department staff to contact the business community for their participation in developing a Fire Department Urban Search and Rescue Program. Estimated funding required $82,100.

Battalion Chief Eric Moore gave a brief history of the program.

MOVED by Councilman Switz SECONDED by Councilman West to authorize the Fire Department staff to contact the business community for their participation in developing a Fire Department Urban Search and Rescue Program with an estimated funding cost of $82,100. MOTION PASSED BY THE FOLLOWING VOICE VOTE. AYES: MAYOR JACOBSON, COUNCILMAN WEST, COUNCILMAN SWITZ, AND COUNCILMAN ROBBINS. NOES: NONE. ABSENT: MAYOR PROTEM WISE. 4/0/1

2. Reclassification of an Accounts Specialist II (Business License) position to the job classification of Accounts Specialist III. (Annual cost $1557.)

Jim Morrison gave a brief staff report.

MOVED by Councilman West SECONDED by Councilman Switz to approve the reclassification of an Account Specialist II (Business License) position to the job classification of Accounts Specialist III with an annual cost of $1557.00. MOTION
SETTLEMENT AGREEMENT AND MUTUAL GENERAL RELEASE

THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE (hereinafter referred to as "Agreement") is made and entered into on this 1st day of February, 1994, by and among the following parties: Municipal Resource Consultants, a partnership of corporations ("MRC") and THE CITY OF EL SEGUNDO, a Municipal Corporation, ("City"), with reference to the following facts:

RECITALS

A. City and MRC entered into a consultant services agreement regarding the utility users tax dated February 25, 1991. This agreement authorized MRC to conduct audits of the El Segundo utility user tax. Under the agreement, MRC is entitled to twenty five percent (25%) of all deficiencies recovered for eligible prior periods as a result of its efforts.

B. MRC had notified City of potential underpayment of gas user taxes at the Chevron refinery in El Segundo. As a result of this notification, City investigated the use of gas at the Chevron refinery and determined that a potential underpayment of gas user tax may have occurred. However, Chevron disputed any assertion of an underpayment of gas user taxes and in fact asserted that an overpayment of gas user taxes had been made and that a refund was due.
C. Discussions between Chevron and City isolated the following legal issues as points of contention concerning the gas users tax:

i. The statute of limitations -- Chevron contended that a strict three-year statute of limitations regarding recovery of unpaid taxes applied. The City took the position that Chevron's unwillingness to cooperate with MRC in an audit should extend the statute of limitations beyond three years.

ii. Feed Stock gas -- Chevron took the position that the ordinance applied only to utility use of gas and that "feed stock" use (i.e., use of natural gas to create hydrogen for use in manufacturing petroleum products) was not a utility use since it involved the gas becoming a component part of a manufactured product. The City contends that the ordinance applies to gas use generally and that it was not limited to use for utility purposes only.

iii. Cogeneration -- Chevron objected to paying a tax both on the gas-consumed and on the electricity generated. It contended that this was double taxation prohibited by California law. The City contends that the use of gas and the use of electricity, even when linked by the co-generation process, were sufficiently distinct as to avoid being classified as double taxation under the cases which define that term.
iv. **Equity Gas** -- It was Chevron's position that equity gas was not taxable because the ordinance anticipated a sales transaction and provided no method for valuing such gas. The City's position was that no distinction was made in the ordinance regarding the origin of gas used within the City. Since Chevron itself valued the gas for internal accounting purposes, there was an easily available and reasonable method for determining the amount of the tax.

v. **Valuation of Equity Gas** -- As indicated above, Chevron was concerned about the methodology used to value equity gas for purposes of calculating any utility users tax. The City agreed that Chevron's internal accounting methodology which values gas based upon prices prevalent at the California border was sufficiently related to the market value of the gas as to be reasonable and acceptable.

vi. **Penalties** -- Chevron argued that it should not be subject to any delinquency penalties due to the fact that the ordinance was vague and ambiguous with respect to various issues raised above and that the City had not asserted any assessment of the tax, which therefore could not yet be delinquent. The City asserted that the ordinance was clear and the tax clearly due on both equity and feed stock gas and that therefore penalties could be assessed.
Based upon its position as articulated above, Chevron contended that it overpaid its tax and was due a credit of $503,217, not including interest. Chevron filed a written claim under El Segundo Municipal Code § 3.24.130 for refund of this amount. City asserted that Chevron owed unpaid gas users tax of three-million four-hundred-thirty-one-thousand six-hundred dollars ($3,431,600).

D. City and Chevron agreed to settle their dispute over gas user tax liabilities by having Chevron pay the sum of eight hundred thousand dollars ($800,000) to City as satisfaction for any alleged gas user tax liabilities. City agreed to make changes to clarify the scope and intent of its ordinance and entered into an administrative tax agreement pursuant to El Segundo Municipal Code § 3.24.100(c) to avoid future disputes by having Chevron pay the sum of one hundred and fifty thousand dollars ($150,000) per year to satisfy its gas users tax liability. This sum was agreed upon because it represented the average tax which would have been assessed over the years since the gas users tax was adopted for gas used for utility (as opposed to feed stock) purposes at the refinery.

E. As a result of MRC's contract with El Segundo and of MRC's efforts to identify underpayment of the gas user tax by Chevron, MRC is entitled to twenty five percent (25%) of the amounts recovered by City from Chevron.
AGREEMENT

NOW, THEREFORE, in consideration of the terms, covenants, conditions and agreements set forth hereinbelow, MRC and City agree as follows:

1. Within fifteen (15) days of payment to City by Chevron of the sum of eight hundred thousand dollars ($800,000) in unpaid utility user taxes pursuant to City’s Settlement Agreement with Chevron, City agrees to pay the sum of two hundred thousand dollars ($200,000) to MRC as satisfaction in full of any and all amounts due MRC arising from recovery of alleged gas user tax liabilities (including penalties) from Chevron under El Segundo Municipal Code § 3.24.040 from the inception of said tax through May 30, 1993 resulting from MRC’s efforts. Said $200,000 payment to MRC shall not be subject to any future adjustment, refund, or other change; nor shall it be affected in any way by any provision of the Settlement Agreement and Mutual General Release or the Administrative Agreement Regarding Gas Tax Collection between City and Chevron, nor by the performance, failure of performance, or negligent performance by either party under such agreements.

2. MRC did not participate in the negotiations of the Settlement Agreement/Mutual General Release or the Administrative Agreement Regarding Gas Tax Collection between City and Chevron. MRC’s execution of this agreement therefore shall not be
construed as a recommendation of either said agreement between City and Chevron, nor does it represent an endorsement of any provisions, or legal contentions or theories, contained in either said agreement between City and Chevron.

3. MRC, for and on behalf of itself and its predecessors, successors and assigns, does fully and forever remise, release and discharge City, its employees, agents and representatives of and from any and all causes of action, damages, claims, demands, agreements, contracts, covenants, torts, actions, suits, causes of action, obligations, controversies, debts, costs, expenses, accounts, damages, losses and liabilities of whatever kind or nature, in law, equity, or otherwise, whether known or unknown, which against it they have, may have had, now have, or which any of their heirs, executors, administrators, predecessors, successors, assigns, agents or other representatives hereafter can, shall or may have for or by reason of any matter, cause or thing whatsoever to and including the date hereof, which may relate to or arise out of MRC's efforts to identify delinquent gas user tax from activities at Chevron refinery from the inception of the tax through May 30, 1993. However, this release is not intended to and shall not be construed as a release of the rights, obligations or duties of City under this Settlement Agreement and General Release.

4. City, for and on behalf of itself and its predecessors, successors and assigns, does fully and forever remise, release
and discharge MRC, its officers, former officers, employees, agents and representatives of and from any and all causes of action, damages, claims, demands, agreements, contracts, covenants, torts, actions, suits, causes of action, obligations, controversies, debts, costs, expenses, accounts, damages, losses and liabilities of whatever kind or nature, in law, equity, or otherwise, whether known or unknown, which against them or any of them it has, may have had, now has, or which any of its heirs, executors, administrators, predecessors, successors, assigns, agents or other representatives hereafter can, shall or may have for or by reason of any matter, cause or thing whatsoever to and including the date hereof, which may relate to or arise out of MRC's efforts to identify delinquent gas user tax from activities at the Chevron refinery from the inception of the tax through May 30, 1993. However, this release is not intended to and shall not be construed as a release of the rights, obligations or duties of MRC under this Settlement Agreement and General Release.

5. Each party hereto understands that the facts in respect of which this Agreement is made may be other than or different from the facts now believed by each party to be true; each party hereto accepts and assumes the risk that said facts, or any of them, may be different from the facts now believed by each party to be true; and each party hereto agrees that this Agreement and the release given in covenants made hereunder shall be and will remain in effect as fully, complete and legally binding, notwith-
standing the discovery or existence of any additional or different facts, or of any claims with respect thereto.

6. The parties hereto acknowledge that they have been advised by legal counsel and are familiar with the provisions of California Civil Code Section 1542, which are expressly understood by each party hereto to provide as follows:

* * * * *

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

* * * * *

The parties being aware of said code section hereby expressly waive any and all rights they may have thereunder, as well as under any other statute or common law principles of similar effect, except as to promises, covenants and warranties contained herein which shall survive. This Agreement shall act as release of all future claims for tax liability or refunds under the El Segundo gas users tax that may arise from the above-mentioned disputes, whether such claims are currently known, unknown,
foreseen or unforeseen. The parties understand and acknowledge the significance and consequences of the specific waiver of California Civil Code Section 1542 above, and hereby assume full responsibility for any injuries, damages, losses or liabilities they may hereafter incur from the above-mentioned dealings, disputes and litigation.

7. Each party hereto agrees to execute all documents which may be required to facilitate the provisions of this Agreement including deeds, conveyances or any other legally binding agreement which is consistent with the provisions contained herein and to make their best efforts to facilitate effecting the terms of this Agreement. Failure to do so shall be considered a material breach of this Agreement.

8. Each party hereto represents and warrants that he has full power to enter into this Agreement, and that the individual, if any, executing this Agreement on his, her or its behalf is fully empowered to bind it and fully authorized to enter into this Agreement. Each party represents and warrants that he has not assigned, encumbered or in any manner transferred all or any portions of the claims, causes of action, or other matters released by him herein. Each party hereto acknowledges and agrees that the warranties and representations made by each party in this paragraph are each an essential and material term of this Agreement, without which the consideration given herein would not have been given by any of them.
9. Each party hereto acknowledges and represents that, in effecting and executing this Agreement, it has received from legal counsel full legal advice as to its legal rights; that it or the individual executing this Agreement on its behalf, has read all of this Agreement and fully understands its content and legal effect.

10. Each party hereto acknowledges and agrees that this is a compromise settlement of the hereinabove mentioned action, which is not in any respect to be deemed, construed or treated as an admission or a concession of any liability whatsoever by any party hereto, including any person, firm, partnership or corporation for any purpose whatsoever.

11. Each party hereto acknowledges and agrees that no representation, statement or promise not expressly set forth herein has been made by or on behalf of any of the other parties hereto or by any of its agents, servants, employees, representatives or attorneys, and that no representations, statements or promises that are not expressly set forth herein have been made or relied on by any party hereto.

12. All of the covenants, releases and agreements herein contained in favor of the persons or entities released are made for the express benefit of each and all of the said persons or entities, each of whom has the right to enforce such provisions.
13. If any action in law or equity, including an action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees, which may be determined by the court in the same action or any separate action brought for that purpose in addition to any other relief to which the party may be entitled. Unless judgment goes by default, the attorney fee award shall not be computed in accordance with any court schedule, but shall be such as to fully reimburse all attorneys' fees actually incurred in good faith, regardless of the size of the judgment, it being the intention of all parties to fully compensate for all attorneys' fees paid or incurred in good faith.

14. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective partners, heirs, successors, representatives and assigns.

15. This Agreement is made and entered into in the State of California and shall be interpreted, applied and enforced under and pursuant to the laws of the State of California.

16. Each party has made such investigation of the facts pertaining to this Agreement and all matters pertaining hereto as he has determined necessary. This Agreement is intended to be final and binding between the parties hereto, regardless of any claims or misrepresentations, promises made without the intention
of performing them, mistakes of fact or law, or any other circumstances whatsoever, and under no circumstances shall any party be entitled to set aside this Agreement, either in whole or in part. In entering into this Agreement, each party assumes the risk of any misrepresentation, concealment or mistake, whether or not any party should subsequently discover or assert for any reason that any fact relied upon by such a party in entering into these releases was untrue, or that any fact was concealed from any party hereto, or that such party's understanding of the facts or of the law was incorrect or incomplete.

17. This Agreement constitutes the entire agreement of the parties with respect to the matters set forth herein, and no other agreement, statement or promise made by any party, or made to any employee, officer or agent of any party shall be valid or binding.

18. Should interpretation of this Agreement, or any portion thereof, be necessary, it is deemed that this Agreement was prepared by each of the parties hereto jointly and equally and shall not be interpreted against any party on the ground that the party drafted the agreement or caused it to be prepared.

19. If any term of this Agreement is held to be void or unenforceable, the remainder of the contract terms shall remain in full force and effect and shall not be affected.
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

"MRC"

MUNICIPAL RESOURCE CONSULTANTS, a California partnership

PARTNER: JOHN T. AUSTIN, INC.

By: John Austin

"CITY"

CITY OF EL SEGUNDO

By: Carl Jacobsen

MAYOR

ATTEST:

By: Cindy Mortensen

CITY CLERK

APPROVED AS TO FORM:

By: Leland C. Dolley

CITY ATTORNEY
SETTLEMENT AGREEMENT AND
MUTUAL GENERAL RELEASE

THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE (hereinafter referred to as "Agreement") is made and entered into on this 1st day of February, 1994, by and among the following parties: Chevron USA, Inc., a Pennsylvania Corporation ("Chevron") and THE CITY OF EL SEGUNDO, a Municipal Corporation, ("City"), with reference to the following facts:

RECITALS

A. City contends that Chevron has underpaid the gas user tax imposed by section 3.24.040 of the El Segundo Municipal Code and that unpaid tax is due to the City. Chevron contends that it has overpaid that tax and is due a refund. Chevron, at the request of City has disclosed information concerning gas consumption at the Chevron Refinery. The Parties have agreed upon the underlying facts concerning volumes of gas used, applications for which gas has been used and sources of gas used. However the Parties disagree on the interpretation and application of El Segundo Municipal Code § 3.24.040 to the procurement and use of gas at the Chevron El Segundo Refinery (the "dispute").

B. Discussions between Chevron and City have isolated the following legal issues as points of contention concerning the gas users tax:
i. **The statute of limitations** -- Chevron contends that a strict three-year statute of limitations regarding recovery of unpaid taxes applies. The City takes the position that Chevron’s unwillingness to cooperate with Municipal Resource Consultants in an audit should extend the statute of limitations beyond three years.

ii. **Feed Stock gas** -- Chevron takes the position that the ordinance applies only to utility use of gas and that the feed stock use is not a utility use since it involves the gas becoming a component part of a manufactured product. The City contends that the ordinance applies to gas use generally and that it is not limited to use for utility purposes only.

iii. **Cogeneration** -- Chevron objects to paying a tax both on the gas-consumed and on the electricity generated. It contends that this is double taxation prohibited by California law. The City contends that the use of gas and the use of electricity, even when linked by the co-generation process, are sufficiently distinct as to avoid being classified as double taxation under the cases which define that term.

iv. **Equity Gas** -- It is Chevron’s position that equity gas is not taxable because the ordinance anticipates a sales transaction and provides no method for valuing such gas. The City’s position is that no distinction is made in the ordinance regarding the origin of gas used within the City. Since Chevron
itself values the gas for internal accounting purposes, there is an easily available and reasonable method for determining the amount of the tax.

v. Valuation of Equity Gas -- As indicated above, Chevron is concerned about the methodology used to value equity gas for purposes of calculating any utility users tax. The City has agreed that Chevron's internal accounting methodology which values gas based upon prices prevalent at the California border is sufficiently related to the market value of the gas as to be reasonable and acceptable.

vi. Penalties -- Chevron argues that it should not be subject to any delinquency penalties due to the fact that the ordinance is vague and ambiguous with respect to various issues raised above and that the City has not asserted any assessment of the tax, which therefore cannot yet be delinquent. The City asserts that the ordinance is clear and the tax was clearly due on both equity and feed stock gas and that therefore penalties may be assessed.

Based upon its position as articulated above, Chevron contends that it has overpaid its tax and is due a credit of $503,217. not including interest. Chevron has filed a written claim under El Segundo Municipal Code § 3.24.130 for refund of this amount. City asserts that Chevron owes unpaid gas users tax
of three-million four-hundred-thirty-one-thousand six-hundred dollars ($3,431,600).

C. Both parties are willing to settle finally and fully their differences and claims arising out of and relating to the dispute, and to provide for the mutual release of the parties as more fully set forth hereinbelow.

AGREEMENT

NOW, THEREFORE, in consideration of the terms, covenants, conditions and agreements set forth hereinbelow, Chevron and City agree as follows:

1. Chevron agrees to pay the sum of eight hundred thousand dollars ($800,000) to City as satisfaction in full of any and all alleged gas user tax liabilities (including penalties) under El Segundo Municipal Code § 3.24.040 from the inception of said tax through May 30, 1993.

2. City agrees to enact an ordinance in substantially the form of Exhibit A attached hereto and incorporated herein by this reference by which Chevron is granted a credit against future payment of the business license tax imposed under section 5.08.195 of the El Segundo Municipal Code equal to six hundred thousand dollars ($600,000). Said credit shall be available for a period of three years beginning in 1994, however Chevron may
apply no more than two hundred thousand dollars ($200,000) of credit in any given year. This agreement is conditional upon the passage and continued existence of this ordinance for a period of at least three years. If City fails to adopt said ordinance within sixty days of full execution of this Agreement, it shall be null and void and any amounts paid hereunder by Chevron to City shall be refunded. If City should revoke said ordinance or amend it to reduce the credit during the three year period beginning in January, 1994, this Agreement shall be null and void and Chevron shall be entitled to a rebate of any amounts paid hereunder to which the credit granted by the ordinance was not or will not be applied. Said rebate shall be due and payable at the time the ordinance is rescinded or amended.

3. City and Chevron agree to enter into an administrative tax agreement pursuant to the authority of El Segundo Municipal Code section 3.24.100(c) in substantially the form of Exhibit B which is attached hereto and incorporated herein by this reference. Said agreement shall provide for an annual charge of one hundred and fifty-thousand dollars per year (subject to consumer price index adjustment annually) in satisfaction of Chevron's gas users tax liability.

4. City will, in the near future, amend the gas user tax to clarify that no tax is to be imposed on gas not purchased from third party vendors and gas used for non-utility purposes.
5. Based upon a review of Southern California Edison electric bills for the El Segundo Refinery for the 1990, 1991, and 1993 calendar years, City finds no evidence that Chevron has failed to pay or underpaid its telephone or electric users tax through June 1, 1993, and accepts those taxes as fully paid for those periods.

6. City agrees that all information disclosed to City by Chevron during negotiation of this Agreement concerning its gas consumption and electricity generation will be kept strictly confidential.

7. This Agreement is conditional upon satisfactory resolution of all claims by Municipal Resource Consultants against City resulting from Chevron's alleged or actual liability for gas users tax to June 1, 1993.

8. With regard to tax liability under the El Segundo gas users tax through June 1, 1993, Chevron, for and on behalf of itself and its predecessors, successors and assigns, does fully and forever remise, release and discharge City, its employees, agents and representatives of and from any and all causes of action, damages, claims, demands, agreements, contracts, covenants, torts, actions, suits, causes of action, obligations, controversies, debts, costs, expenses, accounts, damages, losses and liabilities of whatever kind or nature, in law, equity, or otherwise, whether known or unknown, which against it they have,
may have had, now have, or which any of their heirs, executors, administrators, predecessors, successors, assigns, agents or other representatives hereafter can, shall or may have for or by reason of any matter, cause or thing whatsoever to and including the date hereof, which may relate to or arise out of the action and the transaction which is the subject of the above-referenced dispute. However, this release is not intended to and shall not be construed as a release of the rights, obligations or duties of City under this Settlement Agreement and General Release.

9. With regard to tax liability under the El Segundo gas users tax through June 1, 1993, City, for and on behalf of itself and its predecessors, successors and assigns, does fully and forever remise, release and discharge Chevron, its officers, former officers, employees, agents and representatives of and from any and all causes of action, damages, claims, demands, agreements, contracts, covenants, torts, actions, suits, causes of action, obligations, controversies, debts, costs, expenses, accounts, damages, losses and liabilities of whatever kind or nature, in law, equity, or otherwise, whether known or unknown, which against them or any of them it has, may have had, now has, or which any of its heirs, executors, administrators, predecessors, successors, assigns, agents or other representatives hereafter can, shall or may have for or by reason of any matter, cause or thing whatsoever to and including the date hereof, which may relate to or arise out of the action and the transaction which is the subject of the above-referenced dispute. However,
this release is not intended to and shall not be construed as a release of the rights, obligations or duties of Chevron under this Settlement Agreement and General Release.

10. Each party hereto understands that the facts in respect of which this Agreement is made may be other than or different from the facts now believed by each party to be true; each party hereto accepts and assumes the risk that said facts, or any of them, may be different from the facts now believed by each party to be true; and each party hereto agrees that this Agreement and the release given in covenants made hereunder shall be and will remain in effect as fully, complete and legally binding, notwithstanding the discovery or existence of any additional or different facts, or of any claims with respect thereto.

11. The parties hereto acknowledge that they have been advised by legal counsel and are familiar with the provisions of California Civil Code Section 1542, which are expressly understood by each party hereto to provide as follows:

* * * * *

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must
have materially affected his settlement with
the debtor."

* * * * *

This Agreement shall act as release of all future claims for
tax liability or refunds under the El Segundo gas users tax that
may arise from the above-mentioned disputes, whether such claims
are currently known, unknown, foreseen or unforeseen. The
parties understand and acknowledge the significance and
consequences of the specific waiver of California Civil Code
Section 1542 above, and hereby assume full responsibility for any
injuries, damages, losses or liabilities they may hereafter incur
from the above-mentioned dealings, disputes and litigation.

12. Each party hereto agrees to execute all documents which
may be required to facilitate the provisions of this Agreement
including deeds, conveyances or any other legally binding agree-
ment which is consistent with the provisions contained herein and
to make their best efforts to facilitate effecting the terms of
this Agreement. Failure to do so shall be considered a material
breach of this Agreement.

13. Each party hereto represents and warrants that he has
full power to enter into this Agreement, and that the individual,
if any, executing this Agreement on his, her or its behalf is
fully empowered to bind it and fully authorized to enter into
this Agreement. Each party represents and warrants that he has not assigned, encumbered or in any manner transferred all or any portions of the claims, causes of action, or other matters released by him herein. Each party hereto acknowledges and agrees that the warranties and representations made by each party in this paragraph are each an essential and material term of this Agreement, without which the consideration given herein would not have been given by any of them.

14. Each party hereto acknowledges and represents that, in effecting and executing this Agreement, it has received from legal counsel full legal advice as to its legal rights; that it or the individual executing this Agreement on its behalf, has read all of this Agreement and fully understands its content and legal effect.

15. Each party hereto acknowledges and agrees that this is a compromise settlement of the hereinafore mentioned action, which is not in any respect to be deemed, construed or treated as an admission or a concession of any liability whatsoever by any party hereto, including any person, firm, partnership or corporation for any purpose whatsoever.

16. Each party hereto acknowledges and agrees that no representation, statement or promise not expressly set forth herein has been made by or on behalf of any of the other parties hereto or by any of its agents, servants, employees, representa-
tives or attorneys, and that no representations, statements or promises that are not expressly set forth herein have been made or relied on by any party hereto.

17. All of the covenants, releases and agreements herein contained in favor of the persons or entities released are made for the express benefit of each and all of the said persons or entities, each of whom has the right to enforce such provisions.

18. If any action in law or equity, including an action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees, which may be determined by the court in the same action or any separate action brought for that purpose in addition to any other relief to which the party may be entitled. Unless judgment goes by default, the attorney fee award shall not be computed in accordance with any court schedule, but shall be such as to fully reimburse all attorneys' fees actually incurred in good faith, regardless of the size of the judgment, it being the intention of all parties to fully compensate for all attorneys' fees paid or incurred in good faith.

19. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective partners, heirs, successors, representatives and assigns.
20. This Agreement is made and entered into in the State of California and shall be interpreted, applied and enforced under and pursuant to the laws of the State of California.

21. Each party has made such investigation of the facts pertaining to this Agreement and all matters pertaining hereto as he has determined necessary. This Agreement is intended to be final and binding between the parties hereto, regardless of any claims or misrepresentations, promises made without the intention of performing them, mistakes of fact or law, or any other circumstances whatsoever, and under no circumstances shall any party be entitled to set aside this Agreement, either in whole or in part. In entering into this Agreement, each party assumes the risk of any misrepresentation, concealment or mistake, whether or not any party should subsequently discover or assert for any reason that any fact relied upon by such a party in entering into these releases was untrue, or that any fact was concealed from any party hereto, or that such party's understanding of the facts or of the law was incorrect or incomplete.

22. This Agreement constitutes the entire agreement of the parties with respect to the matters set forth herein, and no other agreement, statement or promise made by any party, or made to any employee, officer or agent of any party shall be valid or binding.
23. Should interpretation of this Agreement, or any portion thereof, be necessary, it is deemed that this Agreement was prepared by each of the parties hereto jointly and equally and shall not be interpreted against any party on the ground that the party drafted the agreement or caused it to be prepared.

24. If any term of this Agreement is held to be void or unenforceable, the remainder of the contract terms shall remain in full force and effect and shall not be affected.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

"CHEVRON"

Chevron USA, Inc., a Pennsylvania Corporation

By: [Signature]

"CITY"

CITY OF EL SEGUNDO

By: [Signature]

[Name: CARL JACOBSON]
[Title: MAYOR]
ATTEST:

BY: [Signature]  
CINDY MORTESEN  
CITY CLERK

APPROVED AS TO FORM:

BY: [Signature]  
LELAND C. DOLLEY  
CITY ATTORNEY
ORDINANCE NO. ___

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL SEGUNDO, CALIFORNIA
AMENDING SECTION 5.08.195 OF THE EL SEGUNDO MUNICIPAL CODE TO GRANT A CREDIT AGAINST THE BUSINESS LICENSE TAX FOR CERTAIN BUSINESSES IN AN AMOUNT EQUAL TO A PERCENTAGE OF PAID DELINQUENT OR DISPUTED UTILITY USER TAXES

WHEREAS, as an inducement to businesses subject to existing Section 5.08.195 of the El Segundo Municipal Code which owe delinquent utility users taxes to the city or dispute amounts owed to the city to pay those taxes or settle those disputes and give the City the benefit of cash in hand it is in the best interest of the City to grant a credit in the amount of a percentage of delinquent or disputed utility users taxes which are now paid.

SECTION 1. Section 5.08.195 of the El Segundo Municipal Code shall be amended to add a new subsection (g) to read as follows:

"(g) Any person subject to this section paying a delinquent utility user tax or a tax concerning which, in the opinion of the City Manager, a Good Faith dispute exists may enter into a settlement agreement to be ratified by the City Council which entitles the taxpayer to a credit equal to 75% of the paid delinquent or disputed utility user tax (excluding penalties and interest). Said credit must be applied within three tax years from the date of payment. The maximum credit to be applied against the business license tax in any year shall not exceed one-third (1/3) of the total credit available hereunder.

SECTION 2. Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance or any part thereof. The El Segundo City Council hereby declares that it would have passed each and every section, subsection, subdivision, paragraph, sentence, clause, or phrase, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, phrases be declared invalid or unconstitutional.

SECTION 3. This ordinance shall become effective immediately upon adoption.

SECTION 4. The City Clerk shall certify to the passage and adoption of this ordinance; shall cause the same to be entered in the book of original ordinances of said city; shall make a note of the passage and adoption thereof in the records of the meeting at which the same is passed and adopted; and shall within 15 days after the passage or adoption thereof cause the same to be published or posted in accordance with the law.
PASSED, APPROVED, AND ADOPTED this ______ day of 

__________________________ 1993.

__________________________
MAYOR

ATTEST:

__________________________
CITY CLERK

STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES  ss.  
CITY OF EL SEGUNDO

I, ____________________, City Clerk of the City of El Segundo, do hereby certify that the foregoing Ordinance No. ______ was regularly introduced and placed upon its first reading at a regular meeting of the City Council on the ______ day of 
__________________________ 1993. That thereafter, said ordinance was duly adopted and passed at a regular meeting of the City Council on the ______ day of ____________________, 1993, by the following vote, to wit:

AYES: COUNCILMEMBERS:  
NOES: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:

__________________________
CITY CLERK

APPROVED AS TO FORM:

__________________________
CITY ATTORNEY
ADMINISTRATIVE AGREEMENT
REGARDING GAS TAX COLLECTION

THIS AGREEMENT is entered into between Pennsylvania corporation ("Chevron"); and The City of El Segundo, a municipal corporation ("City"); on the 1st day of February, 1994.

RECITALS

A. City imposes a gas users tax pursuant to section 3.24.040 of the El Segundo Municipal Code. Said tax involves payment of a percentage of the charges for gas used in the City of El Segundo. Chevron owns and operates a refinery for petroleum products within the City boundaries. Chevron obtains natural gas from a variety of different sources, including natural gas produced from its own wells. Chevron uses the natural gas for a variety of purposes, including generation of electricity, use of natural gas as feedstock to a steam methane reformer which produces hydrogen which in turn becomes a component part of manufactured products produced by the refinery, and as fuel for the refinery utility system.

B. Section 3.24.040 of the El Segundo Municipal Code was drafted for application to the typical situation where gas is purchased from the Southern California Gas Company and used for ordinary utility purposes (i.e., heating and cooking fuel) in the City. The complex acquisition and use of gas at the El Segundo
Refinery creates a number of unresolved issues concerning the application of the gas users tax. These unresolved issues regarding the implementation and application of gas users tax have given rise to disputes between Chevron and City over the amount of tax due from Chevron to City. While the parties have successfully agreed upon a monetary settlement of taxes imposed in past years, both Chevron and City still disagree over the interpretation of El Segundo Municipal Code section 3.24.040.

C. El Segundo Municipal Code section 3.24.100(c) provides that the City tax administrator may enter into administrative agreements to "... vary the strict requirements of this chapter so that collection of any tax imposed here may be made in conformance with the billing procedures of a particular service supplier so long as said agreements result in collection of the tax in conformance with the general purpose and scope of this chapter."

D. Given the difficulty of enforcing the gas users tax within the context of Chevron's customary acquisition and consumption of gas, which is unique within the City, it is appropriate for the City to invoke its power to enter into an Administrative Agreement in order to avoid further disputes concerning the application of gas users tax on Chevron's refinery operations.

NOW, THEREFORE, parties hereto do agree as follows:
1. **Authority for Agreement** - This Agreement is entered into under the authority vested in the tax administrator under El Segundo Municipal Code § 3.24.100(c). The appropriateness of the application of this chapter is based upon the facts recited above. It is the determination of the tax administrator that the custom employed by Chevron in acquiring and consuming gas does not conform to the normal pattern of gas use for which El Segundo Municipal Code § 3.24.040 was drafted and that therefore, it is necessary and in the best interest of the City to enter into an Agreement to simplify and formalize payment of gas users tax by Chevron.

2. **Term** - This agreement shall become effective retroactively to June 1, 1993. The amounts due for the 1993 fiscal year shall be prorated to that date and shall be payable by March 1, 1994. City shall, upon execution of this Agreement, immediately notify Southern California Gas Company to cease collecting the gas users tax from Chevron. Any amounts paid by Chevron to Southern California Gas Company in satisfaction of gas users tax charges assessed against Chevron for gas use after June 1, 1993 shall be credited against the amount due hereunder. The parties have elsewhere agreed to resolution of all disputes concerning taxes due prior to June 1, 1993. This agreement shall continue so long as El Segundo Municipal Code § 3.24.040 shall continue in its present approximate form. If § 3.24.040 is amended to reduce or increase the tax imposed thereunder the amount payable under this agreement shall be reduced or increased on a pro rata basis to correspond to the reduction or increase in
the tax. If Chevron's gas use, in two consecutive years shows a twenty-five (25) percent increase (for each year) over its average annual gas use from September 1989 to May 1993, then the city may elect to terminate this Agreement and either impose the tax calculated on actual gas use or negotiate a new administrative agreement with Chevron. If Chevron's gas use in two consecutive years shows a twenty-five (25) percent decrease (for each year) from its average annual gas use from 1989 to 1993, then Chevron may elect to terminate this Agreement and either pay the tax calculated on actual gas use or negotiate a new administrative agreement with Chevron. The term "gas use" for purposes of this section shall mean all gas purchased from third parties and used in the refinery fuel system for utility purposes but shall not include gas used for cogeneration or feedstock.

3. Assignment - Chevron shall not assign this agreement or any part thereof to any other party without the express consent of the City of El Segundo.

4. Payment of Tax - Chevron's tax shall be based upon the average amount of tax paid on gas purchases and transportation charges from Southern California Gas Company as averaged over the period from September 1989 to May 1993. The parties agree that this sum ("the base tax") is $150,000 per calendar year. The base tax shall be subject to annual adjustment as provided for hereafter.

5. Payment In Lieu of Gas Users Tax - The payment provided for hereunder by Chevron to City shall be in lieu of any and all
sums which would, in the absence of this agreement, otherwise be due from Chevron to the City under El Segundo Municipal Code § 3.24.040 for Chevron’s consumption of gas of all types and for all purposes in the City of El Segundo.

6. Annual Adjustment - On January 1st of each year the amount payable to the City under this agreement shall increase by an amount equal to the percentage increase in the Department of Labor Consumer Price Index for the Los Angeles/Long Beach Standard Metropolitan Statistical Area from January of the previous year.

7. Time for Payment - Payment for the 1993 calendar year as prorated from June 1, 1993, shall be due on or before March 1, 1994. Thereafter, payment shall be due from Chevron to the City on March 1st of each year.

8. Delinquent Payment - Failure by Chevron to make payment of the amount due hereunder to City by March 10th of each year shall result in said amount becoming delinquent at midnight on March 10th. Upon delinquency there shall become due and owing a late payment equal to ten percent (10%) of the non-delinquent payment due hereunder for every month, or portion thereof, for which the amount remains delinquent.

9. Governing Law - This agreement shall be governed under the Laws of the State of California.

10. Attorneys Fees - In any action in law or equity concerning the rights, duties, obligations or interpretation of this agreement, the prevailing party shall be entitled to attorneys fees.
11. Severability - If any portion of this agreement shall be found to be invalid or unenforceable, the remaining provisions of this agreement shall continue to be in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

CHEVRON, INC.
A Pennsylvania Corporation

By: ____________________________

CITY OF EL SEGUNDO, A Municipal Corporation

By: ____________________________

APPROVED AS TO FORM:

BY: ____________________________

LELAND C. DOLLEY, CITY ATTORNEY
ORDINANCE NO. 1164


WHEREAS, the City of El Segundo presently finds itself without sufficient revenues to adequately and completely fund the fundamental municipal services necessary for continued maintenance of public health, safety, and welfare; and

WHEREAS, projections indicate that this situation will worsen in the future;

WHEREAS, the City, after consulting with the local business community, has determined that it would be acceptable to the business community to increase certain of the municipal taxes;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL SEGUNDO DOES HEREBY ORDAIN AS FOLLOWS:

SECTION I. Sections 3.24.030, 3.24.035, 3.24.040 and 3.24.050 of Title 3 of the El Segundo Municipal Code are hereby amended as follows:

"3.24.030 ELECTRICITY USERS TAX.

(a) There is hereby imposed a tax upon every person in the city using electrical energy in the city. The tax imposed by this section shall be at the rate of three percent (3%) of the charges made for such energy and shall be paid by the person paying for such energy. "Charges," as used in this section, shall include charges made for: (1) metered energy, and (2) minimum charges for service, including customer charges, service charges, demand charges, standby charges, and annual and monthly charges, fuel cost adjustments, etc.

(b) As used in this section, the term "using electrical energy" shall not be construed to mean the storage of such energy by a person in a battery owned or possessed by him for use in an automobile or other machinery or device apart from the premises upon which the energy was received, provided however, that the term shall include the receiving of such energy for the purpose of using it in the charging of batteries; nor shall the term include electricity used and consumed by an electric utility supplier in the conduct of its business as an electric public utility; nor shall the term include the mere receiving of such energy by an electric public utility or governmental agency at a point within the city of El Segundo for resale, or the use of such energy in the production or distribution of water by a public utility or a governmental agency.

(c) The tax imposed by this section shall be collected from the service user by the person
providing such energy. The amount of the tax collected in one (1) month shall be remitted to the tax administrator on or before the last day of the following month. Remittance of tax may be predicated on a formula based upon the payment pattern of the supplier's customer.

3.24.035 TAX ON COGENERATED ELECTRICITY.

(a) There is hereby imposed a tax on every person in the city using cogenerated electrical energy in the city. The tax imposed by this section shall be at the rate of three percent (3%) of the value of the cogenerated energy. The value shall be equal to the price an electrical corporation, serving the city, would pay to purchase electrical energy from a cogenerator. The cogenerator shall install and maintain an appropriate utility-type metering system which will enable compliance with this section.

(b) The tax shall be collected and paid by the cogenerator if the cogenerator consumes the energy. If the cogenerator sells the energy, the tax shall be paid by the person to whom the energy is sold and collected by the cogenerator.

(c) The amount of the tax collected in one (1) month shall be remitted to the tax administrator on or before the last day of the following month.

3.24.040 GAS USERS TAX.

(a) There is hereby imposed a tax upon every person in the city other than a Gas Corporation, using in the city, gas which is delivered through mains or pipes. The tax imposed by this section shall be at the rate of three percent (3%) of the charges made for such gas and shall be paid by the person paying for such gas. "Charges," as used in this section, shall include: (1) gas which is delivered through mains or pipes; (2) minimum charges for services, including customer charges, service charges, and annual and monthly charges.

(b) There shall be excluded from the base on which the tax imposed in this section is computed: (1) charges made for gas which is to be resold and delivered through mains or pipes; (2) charges made for gas sold for use in production or distribution of water by a public utility or governmental agency; (3) charges made by a gas public utility for gas used and consumed in the conduct of the business of gas public utilities; (4) charges made for gas used in the propulsion of a motor vehicle, as that phrase is defined in the Vehicle Code of the State of California, utilizing natural gas; and (5) charges related to late payments and returned checks.
(c) The tax imposed by this section shall be collected from the service user by the person selling the gas. The person selling the gas shall, on or before the 20th of each calendar month, commencing on the 20th day of the calendar month after the effective date of this part, make a return to the tax administrator stating the amount of taxes billed during the preceding calendar month. At the time such returns are filed, the person selling the gas shall remit tax payments to the tax administrator in accordance with schedules established or approved by the tax administrator.

3.24.050 WATER USERS TAX.

(a) There is hereby imposed a tax upon every person in the city using water which is delivered through mains or pipes. The tax imposed by this section shall be at the rate of three percent (3%) of the charges made for such water and shall be paid by the person paying for such water.

(b) There shall be excluded from the base on which the tax imposed in this section is computed charges made for water which is to be resold and delivered through mains or pipes; and charges made by a municipal water department, public utility or a county or municipal water district for water used and consumed by such department, utility or district.

(c) The tax imposed by this section shall be collected from the service user by the person selling the water. The amount collected in one (1) month shall be remitted to the tax administrator on or before the last day of the following month."

SECTION II. Section 5.08.020 of the El Segundo Municipal Code is hereby amended as follows:

"5.08.020 BUSINESSES GENERALLY.

Every person engaged in a business not specifically mentioned or classified in this chapter shall pay a license fee in accordance with the following schedule:

(a) A basic fee of one hundred and three dollars ($103) per year, which shall cover the first five (5) employees and one hundred twenty seven dollars ($127) per year for each employee in excess of five employees; and

(b) In addition, each such person shall pay a fee of $0.25 per square foot of floor area occupied for a business purpose in excess of 5,000 square feet. A fee of $0.10 per square foot shall be imposed on vacant space available for rent or lease for business purposes, said fee to be payable by the person with the right to possession of the property; and
(c) In addition, each such person shall pay $11.00 per year for each additional business location within the city.

(d) Notwithstanding the foregoing, a credit shall be granted against the tax imposed by this section whenever a business subject to the tax imposed by this chapter generates sales and/or use tax in the year immediately preceding the year in which the tax is due. The credit shall be applied to the business registration tax due for the following year. The credit shall be equal to fifty percent (50%) of the portion of the sales and/or use tax generated which was awarded to the City of El Segundo during the twelve month period ending on the June 30th preceding the date the tax is due. However, the amount of said credit shall under no circumstances be calculated to be greater than the total amount of tax due.

For the purpose of this section, the term "employee" shall mean any person employed by the business; and shall include an independent contractor and persons employed by the independent contractor, unless the independent contractor and/or persons employed by the independent contractor has a valid City of El Segundo business license as prescribed in Chapters 5.04 and 5.08 of the El Segundo Municipal Code.

The total number of employees for each business for purposes of this section shall be determined by averaging the total number of employees employed by each business during each of the four calendar quarters preceding the date the tax is paid.

For the purpose of this section, "floor area" means the total floor space in terms of square footage occupied by owner, lessee or renter in a building except:

1. Elevator shafts;
2. Stairwell;
3. Courts or atrium, uncovered and open to the sky;
4. Rooms exclusively housing building operating equipment; and
5. Parking areas."

SECTION III. Section 5.08.195 of the El Segundo Municipal Code is hereby amended as follows:

"5.08.195 CHEMICAL, PETROLEUM, CEMENT OR CRYOGENIC PRODUCTS; SMELTERS OR REFINERIES.

Every person owning or operating a business engaged in the processing or manufacturing of chemical, petroleum, cement or cryogenic products; and every person owning or operating a business engaged in smelting or refining shall pay a business license fee in accordance with the following schedule:
(a) A basic fee of one hundred and three dollars ($103) per year which shall cover the first five (5) employees;

(b) $127 per year for each employee in excess of five (5) employees;

(c) $1,531 per year per square acre of space owned, leased or rented for the purpose of producing, manufacturing or processing chemical, petroleum, cement or cryogenic products; or for the purpose of smelting or refining;

(d) $36 per year for each vehicle in excess of six thousand pounds (gross vehicle weight) owned or operated in the conduct of the business;

(e) $11 per year for each additional business location within the city.

(f) Notwithstanding the foregoing, a credit shall be granted against the tax imposed by this section whenever a business subject to the tax imposed by this chapter generates sales and/or use tax in the year immediately preceding the year in which the tax is due. The credit shall be applied to the business registration tax due for the following year. The credit shall be equal to fifty percent (50%) of the portion of the sales and/or use tax generated which was awarded to the City of El Segundo during the twelve month period ending on the June 30th preceding the date the tax is due. However, the amount of said credit shall under no circumstances be calculated to be greater than the total amount of tax due."

**SECTION IV.** Section 5.08.665 of the El Segundo Municipal Code is amended as follows:

"5.08.665 WAREHOUSES.

Every person engaged in the business of operating a warehouse or storage facility shall pay a license fee of one hundred and three dollars per year plus fourteen cents per square foot of space used for such purpose for each business location within the city."

**SECTION V.** Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance or any part thereof. The El Segundo City Council hereby declares that it would have passed each and every section, subsection, subdivision, paragraph, sentence, clause, or phrase, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unconstitutional. Provided, however, that if the effect of any such decision is to effectively invalidate any tax imposed herein then the business license tax which was in effect prior to the passage of this ordinance shall be reinstated in its entirety effective as of the effective date of this ordinance.
SECTION VI. This ordinance shall become effective on December 31, 1991. All amounts affected by this ordinance which are due and payable to the City thereafter shall be calculated pursuant to the provisions of this ordinance.

SECTION VII. The City Clerk shall certify to the passage and adoption of this ordinance; shall cause the same to be entered in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the meeting at which the same is passed and adopted and shall within 15 days after the passage or adoption thereof, cause the same to be published in the El Segundo Herald, the weekly newspaper of general circulation, published and circulated within said City of El Segundo and which is hereby designated for that purpose or posted in conformance with the law.

PASSED, APPROVED AND ADOPTED this 4th day of JUNE, 1991.

MAYOR

ATTEST:

CITY CLERK

CALIFORNIA
COUNTY OF LOS ANGELES } ss.
CITY OF EL SEGUNDO

I, Ronald L. Hart, City Clerk of the City of El Segundo, do hereby certify that the foregoing Ordinance No. 1164 was regularly introduced and placed upon its first reading at a regular meeting of the City Council on the 18th day of MAY, 1991. That thereafter, said Ordinance was duly adopted and passed at a regular meeting of the City Council on 4th day of JUNE, 1991, by the following vote, to wit:

AYES: COUNCILMEMBERS: JACOBSON, DANNEN, WISE, CLUFFER, WEST
NOES: COUNCILMEMBERS: NONE
ABSENT: COUNCILMEMBERS: NONE

CITY CLERK

rvw/ORD130003 -6-
I, Ronald L. Hart, City Clerk of the City of El Segundo, California, DO HEREBY
CERTIFY that the whole number of members of the City Council of the said City is five;
that the foregoing ordinance, being Ordinance No. 1164 is a full, true correct original of
Ordinance No. 1164 of the said City of El Segundo, California, entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL SEGUNDO
AMENDING SECTIONS 3.24.030, 3.24.035, 3.24.040, 3.24.050, 5.08.020,
5.08.195 AND 5.08.665 OF THE EL SEGUNDO MUNICIPAL CODE
REGARDING MUNICIPAL REVENUE SOURCES

which was duly passed and adopted by the said City Council, approved and signed by the
Mayor of said City, and attested by the City Clerk of said City, all at a regular meeting of
the said Council held on the 4th day of June, 1991, and the same was so passed and
adopted by the following vote:

AYES: Councilmembers Dannen, Clutter, West, Wise and
Mayor Jacobsen

NOES: None

ABSTENTIONS: None

I do hereby further certify that pursuant to the provisions of Section 36933 of the
Government Code of the State of California, that the foregoing Ordinance No. 1164 was
duly and regularly published according to law and the order of the City Council of said
City of El Segundo Herald, a weekly newspaper of general circulation, printed, published
and circulated within said City and that the same was so published therein on the
following day, to wit:

Ronald L. Hart
City Clerk of the
City of El Segundo, California
(SEAL)
ORDINANCE NO. 1133

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL SEGUNDO, CALIFORNIA, AMENDING SECTIONS 3.24.010(a) and 3.24.040 OF CHAPTER 3.24 OF THE EL SEGUNDO MUNICIPAL CODE TO REMOVE THE EXEMPTION FROM THE UTILITY USERS TAX FOR AN ELECTRICAL CORPORATION USING GAS FOR THE GENERATION OF ELECTRICITY.

WHEREAS, a Utility Users Tax is contained in Chapter 3.24 of the El Segundo Municipal Code; and

WHEREAS, it is in the best interest of the City to amend said Utility Users Tax to eliminate selected exemptions;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL SEGUNDO DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 3.24.010(a) of Chapter 3.24 of the El Segundo Municipal Code is amended to read as follows:

3.24.010: Definitions. The following words and phrases whenever used in this ordinance shall be construed as defined in this section.

(a) "Person" shall mean any commercial or industrial utility user conducting business as described in Chapter 5.08, Business License Schedule, Sections: 5.08.020, 5.08.078, 5.08.080, 5.08.090, 5.08.140, 5.08.150, 5.08.170, 5.08.180, 5.08.190, 5.08.195, 5.08.220, 5.08.236, 5.08.240, 5.08.360, 5.08.370, 5.08.420, 5.08.440, 5.08.490, 5.08.510, 5.08.520, 5.08.570, 5.08.580, 5.08.585, 5.08.590, 5.08.600, 5.08.640, 5.08.665, and 5.08.670, of the El Segundo Municipal Code; and shall mean "electrical corporation," "gas corporation," and "water corporation."

SECTION 2. Section 3.24.040 of Chapter 3.24 of the El Segundo Municipal Code is amended to read as follows:

3.24.040 GAS USERS TAX. (a) There is hereby imposed a tax upon every person in the City other than a Gas Corporation, using in the City, gas which is delivered through mains or pipes. The tax imposed by this section shall be at the rate of two percent (2%) of the charges made for such gas and shall be paid by the person paying for such gas. "Charges," as used in this section, shall include: (1) gas which is delivered through mains or pipes; (2) minimum charges for services, including customer charges, service charges, and annual and monthly charges.

(b) There shall be excluded from the base on which the tax imposed in this section is computed: (1) charges made for gas sold for use in production or distribution of water by a public utility or governmental agency; (2) charges made for gas sold for use in the propulsion of a motor vehicle, as that phrase is defined in the Vehicle Code of the State of California, utilizing natural gas; and (3) charges related to late payments and returned checks.

(c) The tax imposed by this section shall be collected from the service user by the person selling the gas. The person selling the gas shall, on or before the 20th of each calendar month, commencing on the 20th day of the calendar month after the effective date of this part, make a return to the tax administrator stating the amount of taxes billed during the
preceding calendar month. At the time such returns are filed, the person selling the gas shall remit tax payments to the tax administrator in accordance with schedules established or approved by the tax administrator.

SECTION 3. This ordinance shall become effective immediately upon the final passage and adoption hereof.

SECTION 4. The City Clerk shall certify to the passage and adoption of this ordinance; shall cause the same to be entered in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the meeting at which the same is passed and adopted; and shall within fifteen days after the passage and adoption thereof, cause the same to be published once in the El Segundo Herald, a weekly newspaper of general circulation, published and circulated within said City of El Segundo and which is hereby designated for that purpose.

PASSED, APPROVED AND ADOPTED this 4th day of April, 1989.

[Signature]

Mayor of the City of El Segundo
California

ATTEST: City Clerk (SEAL)
STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES  ) SS
CITY OF EL SEGUNDO  

I, Ronald L. Hart, City Clerk of the City of El Segundo, California, do hereby certify that the whole number of members of the City Council of the said City is five; that the foregoing ordinance, being Ordinance No. 1133 is a full, true, correct original of Ordinance No. 1133 of the said City of El Segundo, California, entitled:

AN ORDINANCE OF THE CITY OF EL SEGUNDO, CALIFORNIA, AMENDING SECTIONS 3.24.010(A) AND 3.24040 OF CHAPTER 3.24 OF THE EL SEGUNDO MUNICIPAL CODE, TO REMOVE THE EXEMPTION FROM THE UTILITY USERS TAX FOR AN ELECTRICAL CORPORATION USING GAS FOR THE GENERATION OF ELECTRICITY.

which was duly passed and adopted by the said City Council, approved and signed by the Mayor of said City, and attested by the City Clerk of said City, all at a regular meeting of the said Council held on the 4TH day of APRIL 1989 and the same was so passed and adopted by the following vote:

AYES: Councilmembers: Dannen, Clutter and Mayor Jacobson.

NOES: Councilmembers Anderson and West

ABSENT: None

I do hereby further certify that pursuant to the provisions of Section 36933 of the Government Code of the State of California, that the foregoing Ordinance No. 1133 was duly and regularly published according to law and the order of the City Council of said City of El Segundo Herald, a weekly newspaper of general circulation, printed, published and circulated within said City and that the same was so published therein on the following date, to wit:

[Signature]

City Clerk of the City of El Segundo, California

(SEAL)
ORDINANCE NO. ________

AN ORDINANCE OF THE CITY OF EL SEGUNDO,
CALIFORNIA, ESTABLISHING A UTILITY USERS TAX.

THE ELECTORATE OF THE CITY OF EL SEGUNDO DOES ORDAIN AS
FOLLOWS:

SECTION 1. The El Segundo Municipal Code is hereby amended
by adding a new Chapter 3.24 to read as follows:

"Title 3

Revenue and Finance

Chapter 3.24

Utility Users Tax

3.24.010: Definitions. The following words and phrases
whenever used in this ordinance shall be construed as defined in
this section.

(a) "Person" shall mean any commercial or industrial
utility user conducting business as described in Chapter 5.08,
Business License Schedule, Sections: 5.08.020, 5.08.070,
5.08.080, 5.08.090, 5.08.140, 5.08.150, 5.08.170, 5.08.180,
5.08.190, 5.08.195, 5.08.220, 5.08.236, 5.08.240, 5.08.360,
5.08.370, 5.08.420, 5.08.440, 5.08.490, 5.08.510, 5.08.520,
5.08.570, 5.08.580, 5.08.585, 5.08.590, 5.08.600, 5.08.640,
5.08.665, and 5.08.670, of the El Segundo Municipal Code.

(b) "City" shall mean the City of El Segundo.

(c) "Electrical corporation", "gas corporation", and "water
corporation" shall have the same meaning as defined in Sections
218, 222, and 241, respectively, of the Public Utilities Code of
the State of California as said sections existed on January 1,
1975, except "electrical corporation" shall be construed to
include any municipality, franchised agency, or cogenerator
engaged in the selling or supplying of electrical power to a
service user.

(d) "Tax Administrator" shall mean the Finance Director of
the City of El Segundo.

(e) "Service supplier" shall mean any entity which receives
taxes paid and remits same as imposed by this ordinance.

(f) "Service user" shall mean a person required to pay a
tax imposed by this ordinance.

(g) "Month" shall mean a calendar month.

(h) "Cogenerator" shall mean any corporation or person
employing cogeneration technology for producing power from other
than a conventional power source for the generation of
electricity for sale to others.

3.24.020: Exemptions. Nothing in this ordinance shall be
construed as imposing a tax upon any person when imposition of
such tax upon that person would be in violation of the Constitution
of the United States or that of the State of California or
upon the City or any of its departments, agencies, boards or
commissions or upon the El Segundo Unified School District,
Centinela Valley Union High School District and the Wiseburn
School District, or upon any other person when imposition of such
tax upon that person would be in violation of the Constitution of

(a) There is hereby imposed a tax upon every person in the City using electrical energy in the City. The tax imposed by this section shall be at the rate of two percent (2%) of the charges made for such energy and shall be paid by the person paying for such energy. "Charges", as used in this section, shall include charges made for: (1) metered energy, and (2) minimum charges for service, including customer charges, service charges, demand charges, standby charges and annual and monthly charges, fuel, cost adjustments, etc.

(b) As used in this section, the term "using electrical energy" shall not be construed to mean the storage of such energy by a person in a battery owned or possessed by him for use in an automobile or other machinery or device apart from the premises upon which the energy was received, provided however, that the term shall include the receiving of such energy for the purpose of using it in the charging of batteries; nor shall the term include electricity used and consumed by an electric utility supplier in the conduct of its business as an electric public utility; nor shall the term include the mere receiving of such energy by an electric public utility or governmental agency at a point within the City of El Segundo for resale; or the use of such energy in the production or distribution of water by a public utility or a governmental agency.

(c) The tax imposed by this section shall be collected from the service user by the person providing such energy. The amount of the tax collected in one (1) month shall be remitted to the Tax Administrator on or before the last day of the following month. Remittance of tax may be predicated on a formula based upon the payment pattern of the supplier's customer.


(a) There is hereby imposed a tax upon every person in the City other than a gas corporation or electrical corporation, using in the City, gas which is delivered through mains or pipes. The tax imposed by this section shall be at the rate of two percent (2%) of the charges made for such gas and shall be paid by the person paying for such gas. "Charges", as used in this section, shall include: (1) gas which is delivered through mains or pipes; (2) minimum charges for services, including customer charges, service charges, and annual and monthly charges.

(b) There shall be excluded from the base on which the tax imposed in this section is computed: (1) charges made for gas which is to be resold and delivered through mains or pipes; (2) charges made for gas sold for use in the generation of electrical energy or for the production or distribution of water by a public utility or governmental agency; (3) charges made by a gas public utility for gas used and consumed in the conduct of the business of gas public utilities; (4) charges made for gas used in the propulsion of a motor vehicle, as that phrase is defined in the Vehicle Code of the State of California, utilizing natural gas; and (5) charges related to late payments and returned checks.

(c) The tax imposed by this section shall be collected from the service user by the person selling the gas. The person selling the gas shall, on or before the 20th of each calendar month, commencing on the 20th day of the calendar month after the effective date of this part, make a return to the Tax Administrator stating the amount of taxes billed during the preceding calendar month. At the time such returns are filed,
the person selling the gas shall remit tax payments to the Tax Administrator in accordance with schedules established or approved by the Tax Administrator.


(a) There is hereby imposed a tax upon every person in the city using water which is delivered through mains or pipes. The tax imposed by this section shall be at the rate of two percent (2%) of the charges made for such water and shall be paid by the person paying for such water.

(b) There shall be excluded from the base on which the tax imposed in this section is computed charges made for water which is to be resold and delivered through mains or pipes; and charges made by a municipal water department, public utility or a county or municipal water district for water used and consumed by such department, utility or district.

(c) The tax imposed by this section shall be collected from the service user by the person selling the water. The amount collected in one (1) month shall be remitted to the Tax Administrator on or before the last day of the following month.

3.24.060: Reporting and Remitting. Each service supplier shall, on or before the last day of each month, make a return to the Tax Administrator on forms provided by him, stating the amount of taxes billed by the service supplier during the preceding month, except as provided in section 3.24.040 (c) of this chapter. At the time the return is filed, the full amount of the tax collected shall be remitted to the Tax Administrator. The Tax Administrator is authorized to require such further information as he deems necessary to determine if the tax imposed hereby is being levied and collected in accordance with this chapter.


(a) Taxes collected from a service user which are not remitted to the Tax Administrator on or before the due dates provided in this ordinance are delinquent. Should the due date occur on a weekend or legal holiday, the return may be postmarked the first regular working day following a Saturday/Sunday, or legal holiday.

(b) Penalties for delinquency in remittance of any tax collected or any deficiency determination pursuant to this chapter shall attach to, and be paid by, the person required to collect and remit at the rate of fifteen percent of the total tax collected or imposed by this chapter.

(c) The Tax Administrator is hereby empowered to impose additional penalties upon persons required to collect and remit taxes under the provisions of this chapter for fraud or negligence in reporting or remitting at the rate of fifteen percent of the amount of the tax collected or as recomputed by the Tax Administrator.

(d) Every penalty imposed under the provisions of this section shall become a part of the tax required to be remitted.

3.24.080: Actions to Collect. Any such tax received from a service user which has willfully been withheld from the Tax Administrator shall be deemed a debt owed to the City by the person required to collect and remit. Any person holding such money contrary to the provisions of this ordinance shall be liable to an action brought in the name of the City for the recovery of such amount.
3.24.090: Duty to Collect - Procedures. The duty to collect and remit the taxes imposed by this ordinance shall be performed as follows:

(a) Notwithstanding the provisions of section 3.24.040 (c), the tax shall be collected insofar as practicable at the same time as and along with the charges made in accordance with the regular billing practices of the service supplier. Where the amount paid by a service user to a service supplier is less than the full amount of the energy charge and tax which has accrued for the billing period, such amount and any subsequent payments by a service user shall be applied to the utility charge first until such charge has been fully satisfied. Any remaining balance shall be applied to taxes due. In those cases where a service user has notified the service supplier of his refusal to pay the tax imposed on said energy charges section 3.24.110 (c) will apply.

(b) The duty to collect tax from a service user shall commence with the beginning of the first full regular billing period applicable to the service user where all charges normally included in such regular billing are subject to the provisions of this ordinance. Where a person receives more than one billing, one or more being for different periods than another, the duty to collect shall arise separately for each billing.

3.24.100: Additional Power and Duties of Tax Administrator

(a) The Tax Administrator shall have the power and duty, and is hereby directed to enforce each and all of the provisions of this ordinance.

(b) The Tax Administrator shall have the power to adopt rules and regulations not inconsistent with provisions of this ordinance for the purpose of carrying out and enforcing the payment, collection and remittance of the taxes herein imposed. A copy of such rules and regulations shall be on file in the Tax Administrator’s office.

(c) The Tax Administrator may make administrative agreements to vary the strict requirements of this ordinance so that collection of any tax imposed hereon may be made in conformance with the billing procedures of particular service supplier so long as said agreements result in collection of the tax in conformance with the general purpose and scope of this ordinance. A copy of each such agreement shall be on file in the Tax Administrator’s office.

(d) The Tax Administrator shall determine the eligibility of any person who asserts a right to exemption from the tax imposed by this ordinance. The Tax Administrator shall provide the service supplier with the name of any person who the Tax Administrator determines is exempt from the tax imposed hereby, together with the address and account number to which service is supplied to any exempt person. The Tax Administrator shall notify the service supplier of the termination of any person’s right to exemption hereunder, or the change of any address to which service is supplied to any exempt person.


(a) The Tax Administrator may make an assessment for taxes not remitted by a person required to remit.

(b) Whenever the Tax Administrator determines that a service user has deliberately withheld the amount of the tax owed by him from the amounts remitted to a person required to collect the tax, or that a service user has refused to pay the amount of tax to such person, or whenever the Tax Administrator deems it in the best interest of the City, he may relieve such person of the obligation to collect taxes due under this ordinance from certain
named service users for specified billing periods.

(c) The service supplier shall provide the City with amounts refused and/or unpaid along with the names and addresses of the service users neglecting to pay the tax imposed under provisions of this ordinance. Whenever the service user has failed to pay the amount of tax for a period of two or more billing periods, the service supplier shall be relieved of the obligation to collect taxes due.

(d) The Tax Administrator shall notify the service user that he has assumed responsibility to collect the taxes due for the stated periods and demand payment of such taxes. The notice shall be served on the service user by handing it to him personally or by deposit of the notice in the United States mail, postage prepaid thereon, addressed to the service user at the address to which billing was made by the person required to collect the tax; or, should the service user have changed his address, to his last known address. If a service user fails to remit the tax to the Tax Administrator within fifteen (15) days from the date of the service of the notice upon him, which shall be the date of mailing if service is not accomplished in person, a penalty of twenty-five percent (25%) of the amount of the tax set forth in the notice shall be imposed, but not less than $5.00. The penalty shall become part of the tax herein required to be paid.

3.24.120: Records. It shall be the duty of every person required to collect and remit to the City any tax imposed by this ordinance to keep and preserve, for a period of three (3) years, all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of a remittance to the Tax Administrator, which records the Tax Administrator shall have the right to inspect at all reasonable times.

3.24.130: Refunds.

(a) Whenever the amount of any tax has been overpaid or paid more than once or has been erroneously or illegally collected or received by Tax Administrator under this ordinance, it may be refunded as provided in subsections (b) and (c) of this section, provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Tax Administrator within three years of the date of payment. The claim shall be on forms furnished by the Tax Administrator.

(b) Notwithstanding the provisions of subsection (a) of this section, a service supplier may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once, or erroneously or illegally collected or received when it is established that the service user from whom the tax has been collected did not owe the tax; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the service user or credited to charges subsequently payable by the service user to the person required to collect and remit. A service supplier that has collected any amount of tax in excess of the amount of tax imposed by this ordinance and actually due from a service user, may refund such amount to the service user and claim credit for such over-payment against the amount of tax which is due upon any other monthly returns, provided such credit is claimed in a return dated no later than three (3) years from the date of overpayment.

(c) No refund shall be paid under the provisions of this section unless the claimant establishes his right thereto by written records showing entitlement thereto.
(d) Notwithstanding other provisions of this section, whenever a service supplier, pursuant to an order of the California Public Utilities Commission or a court of competent jurisdiction, makes a refund to service users of charges for past utility services, the taxes paid pursuant to this ordinance on the amount of such refunded charges shall also be refunded to service users, and the service supplier shall be entitled to claim a credit for such refunded taxes against the amount of tax which is due upon the next monthly returns. In the event this ordinance is repealed, the amounts of any refundable taxes will be borne by the city.

(a) A service supplier may refund the taxes collected to the service user in accordance with this section or by the service supplier's customary practice.

3.24.140: Reduction of utility Users Tax Based on Sales Tax Receipts. Whenever in this Title a utility users tax is imposed on any person subject to the utility users tax, the amount of the utility users tax shall be reduced proportionately whenever the preceding fiscal year exceeds the limit determined by the formula in subsection (a) of this section.

(a) The sales tax limit which will trigger a reduction in the utility users tax shall be equal to eighty percent of the sales tax revenue received in the 1979-80 fiscal year multiplied by the appropriations limit established annually since 1980 - 81 under the provisions of Article XIIIB of the California constitution.

(b) In any year in which sales tax revenue exceeds the limit established in subsection (a) of this section, the utility users tax imposed the following July 1, shall be reduced by the percentage that revenue exceeds the limit.

3.24.150: Utility Users Account. The Tax Administrator shall establish a "Utility Users Tax Account" within the General Fund and shall place therein any and all taxes collected under this ordinance which are in excess of the amounts needed to balance the adopted General Fund budget during any one fiscal year.


(a) Each year in conjunction with the annual budget deliberations and prior to September 30, the City Council shall reconsider the provisions and rate of the utility users tax as well as any taxes that may have been placed in the utility users tax account as provided in 3.24.150 during the preceding and current fiscal years. Notwithstanding the provisions of section 3.24.140, the Council may reduce or suspend all or a part of the tax rate for the current fiscal year; or may provide no tax on one or more utilities for the current fiscal year.

(b) The City will give the service supplier at least one month's notification prior to any requested change in the utility users tax percentage."

SECTION 2: Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or
phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional.

SECTION 3: Operative Date. This ordinance shall become effective the day it is adopted by the electorate. The tax imposed under this ordinance shall apply to services furnished from the beginning of the first regular billing period commencing on or after the day this ordinance is adopted by the electorate or as soon thereafter as the respective utilities are physically and mechanically able to get "on line" for the imposition of charges (not less than 60 days).

SECTION 4. Sunset Clause. This ordinance shall become void, and be of no further force or effect, beginning with the fiscal year July 1, 1991.


RONALD L. HART, CMC, CITY CLERK CITY OF EL SEGUNDO

CARL JACOBSON, MAYOR CITY OF EL SEGUNDO
AGENDA DESCRIPTION:

Report on the Los Angeles County Clean Water, Clean Beaches Tax/Fee Measure that would provide revenues to the County Flood Control District to offset the costs associated storm water runoff. Consideration and possible action by Council regarding whether the City wants to protest the proposed tax/fee (Fiscal Impact: N/A)

RECOMMENDED COUNCIL ACTION:

1. Receive and file report
2. Direct staff regarding whether the City wants to protest the proposed tax/fee on City owned properties
3. Alternatively, discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:

1. County mailer and protest ballot
2. Proposed Fee Fact Sheet

FISCAL IMPACT: $

- Amount Budgeted: N/A
- Additional Appropriation: N/A
- Account Number(s):

PREPARED BY: Greg Carpenter, City Manager
REVIEWED BY: Suzanne Fuentes, Mayor Pro Tem
APPROVED BY:

BACKGROUND & DISCUSSION:

The Los Angeles County Flood Control District has initiated a process to create a new tax on property owners. The new tax would generate funds to be used for projects and programs intended to reduce or eliminate pollution of water ways and groundwater. The proposed tax would apply to both commercial/industrial properties and residential parcels. The actual fee would vary based on the size of the property and the type of development (commercial or residential) of the property. As an example, the County reports that a property owner with a typical single-family home would pay $54 per year for the new tax. More detailed information can be found by visiting www.lacountycleanwater.org.

Earlier this month, property owners, including the City of El Segundo, received a “mailer” from the Los Angeles County similar to the one attached to this report. The mailer provides information but it also includes a Protest Form that property owners can complete and mail back in order to object to the County conducting an election on the proposed tax. The Los Angeles County Board of Supervisors will consider the number of protests during their public hearing on this matter scheduled for:
Staff will provide additional information regarding the financial impact of the tax/fee on the City at the Council Meeting and additional information regarding the legal process by which the tax/fee may be imposed.

My point in agendizing this issue is not to support one position or another, but rather to raise awareness of the issue and point out that the mailer includes a protest form that can be used to participate in the County’s consideration of whether to hold an election.
Los Angeles County Clean Water, Clean Beaches Measure  
Official Notice to Property Owners of Public Hearing

The Clean Water, Clean Beaches Measure would address water-related challenges in Los Angeles County:

- Polluted water is flowing through Los Angeles area rivers and creeks and into lakes, the bay and coastal waters.
- The Los Angeles area needs more local sources of water to use for drinking water.

The Clean Water, Clean Beaches Measure would fund projects to reduce pollution in Los Angeles County waterways, including projects that divert and cleanse stormwater and urban runoff to preserve and increase supplies of groundwater that are usable as local sources of drinking water.

More Information:  
www.LACountyCleanWater.org  
1-800-218-0018
Proposed Fee
A clean water fee is proposed that would generate over $200 million annually in dedicated funding for reducing pollution from stormwater and urban runoff in Los Angeles County waterways.

The proposed fee would be paid by property owners within the Los Angeles County Flood Control District, which includes most of the County, excluding portions of the Antelope Valley. All properties generate runoff, and the more impervious surfaces that a parcel has (such as buildings and pavement), the more runoff it generates. The fee is determined by the average amount of runoff that properties generate, based on parcel size (but not property value) and land use classification, such as whether the property is residential, commercial, industrial or undeveloped, because this is an indication of the percentage of the parcel that has impermeable surfaces.

The fee for your property is shown on the front page of this brochure. An Engineer's Report explaining the fee calculations for all properties can be found at: www.LACountyCleanWater.org.

As required by law, 40 percent of the fee revenues collected will be allocated to the city in which the properties are located, or to the County of Los Angeles for the unincorporated areas, for water quality improvement programs as determined by each city or the County. Another 50 percent of the fee revenues collected will be allocated to the watershed authority group established for the watershed in which the properties are located for water quality improvement programs in the watershed. The remaining 10 percent of the fee revenues must be used by the Los Angeles County Flood Control District for water quality monitoring, research, technical assistance and administration.

The fee will be collected every year with the property taxes and will continue annually until terminated by the County of Los Angeles Board of Supervisors. By law, fees cannot be raised without another public hearing and election.

Program Accountability
These funds could not be diverted or used for any other purpose. All expenditures would be subject to independent annual audits, and all project information would be available for public review. In addition, an independent Oversight Board will ensure that the funds are only used for projects that meet established criteria.

Public Hearing
The California Constitution requires that the proposed fee go through a two-step approval process, which includes both a public hearing and an election. As the governing body of the Los Angeles County Flood Control District, the Board of Supervisors of the County of Los Angeles will hold a public hearing on:

January 15, 2013 at 9:30 a.m.
Board of Supervisors Hearing Room
Kenneth Hahn Hall of Administration
500 West Temple Street, Los Angeles, CA 90012

Auxiliary aids and services for people with disabilities are available with three business days notice by calling: 800-218-0018 or TDD, 626-282-7829.

At the public hearing, the Board of Supervisors will receive oral and written testimony about the proposed clean water fee. Any property owner may testify or file a written protest with the Executive Officer of the Board of Supervisors at any time before the end of the public hearing. A written protest must identify the parcel address and assessor's parcel number, and must be signed by the property owner or an authorized representative. You may use the protest form included below or write a letter.

Mail to:
Executive Officer
Board of Supervisors
P.O. Box 866006
Los Angeles, CA 90086

Or hand deliver to:
Executive Officer
Board of Supervisors
Kenneth Hahn Hall of Administration, Room 383
500 West Temple Street
Los Angeles, CA 90012

The Board of Supervisors may continue the hearing to a future date. If the Board of Supervisors has not received written protests against the proposed fee by a majority of property owners before the end of the public hearing, the Board of Supervisors may authorize an election to approve the fee.

For more information, please:
* Visit www.LACountyCleanWater.org
* Or call 800-218-0018 (8am-5pm, M-Th)
* Or email water.info@dwp.lacounty.gov

Para el Aviso o información en Español, por favor
* visite www.LACountyCleanWater.org
* o llame 1-626-468-6861

Protest Form
Property owners or an authorized representative may complete this form or write a letter, and mail to the Executive Officer of the Board of Supervisors, P.O. Box 866006, Los Angeles, CA 90086 or hand deliver at the Kenneth Hahn Hall of Administration, Room 383, 500 West Temple Street, Los Angeles, CA. To be counted as a protest, this form or your letter must include the Assessor's Parcel Number and parcel address, be signed by the property owner or an authorized representative and be delivered no later than the end of the public hearing. Only one protest per property will be accepted and counted. (The barcode contains a parcel identifier.)

Assessor's Parcel Number: 4132-015-901  Parcel Address: N/A N/A  N/A CA N/A

☐ I protest the proposed clean water fee.

Print name ___________________________  Sign name_________________________
The Problem

On a typical rainy day, billions of gallons of untreated stormwater flow directly into rivers, creeks, lakes, the bay, and coastal waters. These polluted waters can contain toxic and other substances that affect our health and the health of fish and marine life. These pollutants can include:

- Industrial solvents, paints and chemicals
- Toxic metals, such as lead, mercury, chromium and arsenic
- Infection-causing bacteria and viruses
- Pesticides and fertilizers
- Trash, including plastics, cigarette butts, candy wrappers and syringes

The polluted runoff that flows into the waterways can cause a variety of problems. For example, high bacteria levels in the waterways can indicate a health risk to swimmers and sometimes result in beach closures. Trash in the waterways and polluted runoff can also be toxic to aquatic life.

Solutions

Fee revenues collected in the Santa Monica Bay Watershed would be used by cities, the County of Los Angeles, and an established watershed authority group for projects in the Santa Monica Bay Watershed that would help protect public health and the environment by keeping toxic chemicals, harmful bacteria, and trash out of waterways such as the Santa Monica Bay, including projects to increase local groundwater supplies, which are an important source of drinking water.

The proposed fee would be used for projects that could generate thousands of local jobs in construction, engineering, landscaping, environmental work and other trades. By law, fees collected within the Santa Monica Bay Watershed will be used for projects and programs to improve water quality within that watershed. Fees collected in the other watersheds will be used for water quality projects and programs within those watersheds.

The measure does not earmark funds for specific projects and programs, but establishes criteria for the use of the funds and allows local jurisdictions to determine how best to use those funds to achieve water quality benefits.

Over time, the projects that the fee pays for will significantly reduce the degradation of waterways in Los Angeles County and improve the quality of the water in those waterways.

The projects and programs that could be funded with the fee include:

- Installation and maintenance of catch basin screens and treatment devices to reduce trash, chemicals and other harmful substances in stormwater and urban runoff;
- Street sweeping to keep trash out of storm drains;
- Diversion of stormwater and urban runoff before it pollutes lakes, rivers, and the ocean; this water is held, filtered and cleansed (both naturally and using manmade filters) in groundwater basins, and used to recharge underground drinking water sources;
- Programs to educate children and adults about keeping trash and other pollutants out of streets and storm drains and about reducing water runoff from their properties.

Multibenefit projects can combine fee revenues with other funding sources to improve water quality and provide other benefits to the public, such as:

- Increase local drinking water supplies;
- Provide recreational areas such as parks and ball fields;
- Protect open space and natural areas;
- Irrigate neighborhood parks, ball fields and school grounds;
- Create, restore and improve wetlands and habitat; and
- Protect public health and safety.
The Los Angeles County Flood Control District is proposing to adopt a Clean Water, Clean Beaches Measure, which would establish an annual fee to pay for clean water programs. The proposed clean water fee would be imposed upon property owners within the Los Angeles County Flood Control District, which includes most of Los Angeles County (with the exception of portions of the Antelope Valley), for the purpose of improving water quality and reducing pollution from stormwater and urban runoff.

Stormwater and urban runoff flush bacteria, trash and other pollutants into gutters in streets and into storm drains and from there into lakes, rivers and the ocean and onto beaches. Waterways throughout Los Angeles County have been found to be polluted above acceptable levels under the federal Clean Water Act and other state and federal laws.

The proposed clean water fee would provide dedicated funding for local and regional projects and programs to help keep pollution out of stormwater and runoff, clean up pollution that flows into our waterways, and use stormwater and runoff to recharge groundwater supplies, which are an important source of drinking water. The fee could also be combined with other funding such as state and federal grants for multibenefit projects that improve water quality and provide other public benefits as well.

(Continued on next page)
CLEAN WATER, CLEAN BEACHES MEASURE
FEE FACT SHEET

The Water Quality Fee

- The fee is a function of the expected runoff from a property. The more impervious surfaces that type of property has (such as buildings and pavement), the more runoff it generates and the higher its fee will be.

Fee Methodology

\[
\text{Fee Amount} = (\text{Parcel Size}) \times (\text{Applied Impervious Percentage}) \times (\text{Fee Rate})
\]

- **Parcel Size** = Area of the parcel (square feet)
- **Applied Impervious Percentage** = Amount of the parcel expected to be covered by hard surfaces (percentage) based on its land use.
- **Fee Rate** = Total annual program budget divided by the total impervious square footage in the service area ($0.026185 per square foot). Note that this value is constant regardless of individual property characteristics.

How to Calculate your Expected Fee (Non-Single Family Residential Parcels)

\[
\text{Fee Amount} = (\text{Parcel Size}) \times (\% \text{ in attached table matching parcel's land use}) \times 0.026185
\]

Example 1: Typical 7-11/Fast Food Restaurant

- Size = 15,000 sq ft
- Applied Impervious Percentage = 95%
  
  [Commercial (Developed): Group E, Regional Shopping Center]

  ➢ Fee Calculation: (15,000 sq ft) x (95%) x ($0.026185/sq ft) = ~$375 per year

Example 2: Typical Costco/Home Depot

- Size = 435,600 sq ft (10 acres)
- Applied Impervious Percentage = 91%
  
  [Commercial (Developed): Group D, Wholesaling and Warehousing]

  ➢ Fee Calculation: (435,600 sq ft) x (91%) x ($0.026185/sq ft) = ~$10,400 per year
Example 3: Typical Apartment Complex

- Size = 43,560 sq ft (1 acre)
- Applied Impervious Percentage = 86%
  [Multi-Family Residential: Group D, Five or more Apartments or Units - 4 Stories or Less]

> Fee Calculation: (43,560 sq ft) x (86%) x ($0.026185/sq ft) = ~$1,000 per year

Fee Amounts for Common Parcel Types

- Single Family Residential Parcels (80% of single-family homes $54 or less a year)
  > Typical - $54 per year
  > Minimum - $8 per year
  > Maximum - $63 per year

- Condominiums
  > Typical - $20 or less per year

- Commercial parcels (75% would pay less than $420 per year)
  > Convenience Store / Fast Food Restaurant $300-400/year
  > 5 Acre city park $500-$600 per year
  > 10 Acre elementary school $8000 per year
  > 15 Acre box retail $15000 per year

Other Statistics for the Fee

- The vast majority of parcels (76.76%) are single-family residences: 1,685,403
- Commercial/Industrial account for 5.87%: 128,831
- Government parcels are less than .86%: 18,908
## Single Family Residential Parcels

<table>
<thead>
<tr>
<th>Lot Size Ranges</th>
<th>Applied Impervious Percentages</th>
<th>Maximum Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 1,000</td>
<td>42%</td>
<td>$8</td>
</tr>
<tr>
<td>1,000 to &lt; 1,500</td>
<td>42%</td>
<td>$13</td>
</tr>
<tr>
<td>1,500 to &lt; 2,000</td>
<td>42%</td>
<td>$19</td>
</tr>
<tr>
<td>2,000 to &lt; 2,500</td>
<td>42%</td>
<td>$24</td>
</tr>
<tr>
<td>2,500 to &lt; 3,000</td>
<td>42%</td>
<td>$30</td>
</tr>
<tr>
<td>3,000 to &lt; 3,500</td>
<td>42%</td>
<td>$35</td>
</tr>
<tr>
<td>3,500 to &lt; 4,000</td>
<td>42%</td>
<td>$41</td>
</tr>
<tr>
<td>4,000 to &lt; 4,500</td>
<td>42%</td>
<td>$46</td>
</tr>
<tr>
<td>4,500 to &lt; 5,000</td>
<td>42%</td>
<td>$52</td>
</tr>
<tr>
<td>5,000 to &lt; 5,500</td>
<td>40%</td>
<td>$54</td>
</tr>
<tr>
<td>5,500 to &lt; 6,000</td>
<td>37%</td>
<td>$54</td>
</tr>
<tr>
<td>6,000 to &lt; 6,500</td>
<td>34%</td>
<td>$54</td>
</tr>
<tr>
<td>6,500 to &lt; 7,000</td>
<td>31%</td>
<td>$54</td>
</tr>
<tr>
<td>7,000 to &lt; 7,500</td>
<td>29%</td>
<td>$54</td>
</tr>
<tr>
<td>7,500 to &lt; 8,000</td>
<td>27%</td>
<td>$54</td>
</tr>
<tr>
<td>8,000 to &lt; 8,500</td>
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<td>$54</td>
</tr>
<tr>
<td>8,500 to &lt; 9,000</td>
<td>24%</td>
<td>$54</td>
</tr>
<tr>
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<td>23%</td>
<td>$54</td>
</tr>
<tr>
<td>9,500 to &lt; 10,000</td>
<td>22%</td>
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<tr>
<td>10,000 to &lt; 10,500</td>
<td>21%</td>
<td>$56</td>
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<td>10,500 to &lt; 11,000</td>
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<td>$59</td>
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<td>$61</td>
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<td>$75</td>
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<td>$78</td>
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<td>14,500 to &lt; 15,000</td>
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<td>$81</td>
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<tr>
<td>Greater than 15,000</td>
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<td>$83</td>
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<tr>
<td>Percentage</td>
<td>Land Use Classification</td>
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</tr>
<tr>
<td>------------</td>
<td>----------------------------------------</td>
<td></td>
</tr>
<tr>
<td>90%</td>
<td>Government Properties — Group C:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Government Properties — Group F:</td>
<td></td>
</tr>
<tr>
<td>82%</td>
<td>Elementary Schools, Middle Schools, High Schools</td>
<td></td>
</tr>
<tr>
<td>74%</td>
<td>Colleges &amp; Universities — Group E:</td>
<td></td>
</tr>
<tr>
<td>42%</td>
<td>Government Properties — Group D:</td>
<td></td>
</tr>
<tr>
<td>10%</td>
<td>Beach Parks, Developed Local Parks &amp; Recreation — Group C:</td>
<td></td>
</tr>
<tr>
<td>2%</td>
<td>Electrical Power Facilities, Pneumatics — Group B:</td>
<td></td>
</tr>
<tr>
<td>1%</td>
<td>Government Properties — Group A:</td>
<td></td>
</tr>
<tr>
<td>66%</td>
<td>Water Transfer Facilities — Group B:</td>
<td></td>
</tr>
<tr>
<td>91%</td>
<td>Miscellaneous — Group A:</td>
<td></td>
</tr>
<tr>
<td>91%</td>
<td>Miscellaneous — Group E:</td>
<td></td>
</tr>
<tr>
<td>82%</td>
<td>Institutional — Group D:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Religious Facilities, Private High Schools</td>
<td></td>
</tr>
</tbody>
</table>

Non-Single Family Residential Impervious Percentages
<table>
<thead>
<tr>
<th>%</th>
<th>Land Use Classification</th>
</tr>
</thead>
<tbody>
<tr>
<td>74%</td>
<td>Institutional - Group C: Special Care Facilities, Major Medical Health Care Facilities</td>
</tr>
<tr>
<td>47%</td>
<td>Institutional - Group B: Private Colleges &amp; Universities</td>
</tr>
<tr>
<td>1%</td>
<td>Institutional - Group A: Cemeteries</td>
</tr>
<tr>
<td>90%</td>
<td>Commercial Recreation</td>
</tr>
<tr>
<td>42%</td>
<td>Horse Ranches - Group C: Recreational</td>
</tr>
<tr>
<td>1%</td>
<td>Golf Course - Group A: Recreational</td>
</tr>
<tr>
<td>3%</td>
<td>Mixed Commercial and Industrial, Private Rural Pumping Plant</td>
</tr>
<tr>
<td>94%</td>
<td>Integrated Farm/Farm - Group B: Poultry Operations</td>
</tr>
<tr>
<td>62%</td>
<td>Integrated Farm/Farm - Group C: Other Agriculture</td>
</tr>
<tr>
<td>42%</td>
<td>Irrigated and Unirrigated, Non-Irrigated Cropland and Improved Pasture Land, Ornamental and Vineyards</td>
</tr>
</tbody>
</table>

Non-Single Family Residential Impervious Percentages

Average Percentages
<table>
<thead>
<tr>
<th>Percentages</th>
<th>Land Use Classification</th>
</tr>
</thead>
<tbody>
<tr>
<td>91%</td>
<td>Commercial Recreation</td>
</tr>
<tr>
<td>90%</td>
<td>Commercial Recreation</td>
</tr>
<tr>
<td>90%</td>
<td>Commercial Recreation</td>
</tr>
<tr>
<td>89%</td>
<td>Commercial Recreation</td>
</tr>
<tr>
<td>82%</td>
<td>Commercial Recreation</td>
</tr>
<tr>
<td>66%</td>
<td>Commercial Recreation</td>
</tr>
<tr>
<td>2%</td>
<td>Commercial Recreation</td>
</tr>
<tr>
<td>66%</td>
<td>Commercial Recreation</td>
</tr>
<tr>
<td>55%</td>
<td>Commercial Recreation</td>
</tr>
<tr>
<td>51%</td>
<td>Commercial Recreation</td>
</tr>
<tr>
<td>49%</td>
<td>Commercial Recreation</td>
</tr>
</tbody>
</table>

Non-Single Family Residential Impervious Percentages
<table>
<thead>
<tr>
<th>Percentage</th>
<th>Land Use Classification</th>
</tr>
</thead>
<tbody>
<tr>
<td>89%</td>
<td>Commercial (developed) — Group B: Mixed Urban, Arts &amp; in Residence</td>
</tr>
<tr>
<td>15%</td>
<td>Commercial (developed) — Group A: Nursing Homes</td>
</tr>
<tr>
<td>91%</td>
<td>Residential — Manufactured Home Park</td>
</tr>
<tr>
<td>74%</td>
<td>Residential — Rooming/Boarding Houses</td>
</tr>
<tr>
<td>42%</td>
<td>Residential — Manufactured Homes</td>
</tr>
<tr>
<td>90%</td>
<td>Five or more Apartments or Units - 5 Stories or More — Group E: Multi-Family Residential</td>
</tr>
<tr>
<td>86%</td>
<td>Four or more Apartments or Units - 4 Stories or Less — Group D: Multi-Family Residential</td>
</tr>
<tr>
<td>75%</td>
<td>Four Units (Any Combination) — Group C: Multi-Family Residential</td>
</tr>
<tr>
<td>55%</td>
<td>Three Units (Any Combination) — Group B: Multi-Family Residential</td>
</tr>
<tr>
<td>55%</td>
<td>Double, Duplex, or Two Units — Group A: Multi-Family Residential</td>
</tr>
<tr>
<td>1%</td>
<td>Vacant</td>
</tr>
</tbody>
</table>

Non-Single Family Residential Impervious Percentages

Land Use Classification: Average Impervious Percentages
<table>
<thead>
<tr>
<th>Percentage Types</th>
<th>Example Properties</th>
</tr>
</thead>
<tbody>
<tr>
<td>0%</td>
<td>Solid Waste Disposal Facilities, Dump Sites, Water Transfer Facilities</td>
</tr>
<tr>
<td>15%</td>
<td>Government Properties — Group I: Wholesale and Warehousing, Attended Pay Public Parking Facilities</td>
</tr>
<tr>
<td>91.1%</td>
<td>Land Use Classification</td>
</tr>
</tbody>
</table>

Non-Single Family Residential Impervious Percentages