AGENDA
EL SEGUNDO CITY COUNCIL
COUNCIL CHAMBERS - 350 Main Street

The City Council, with certain statutory exceptions, can only take action upon properly posted and listed agenda items. Any writings or documents given to a majority of the City Council regarding any matter on this agenda that the City received after issuing the agenda packet are available for public inspection in the City Clerk’s office during normal business hours. Such Documents may also be posted on the City’s website at www.elsegundo.org and additional copies will be available at the City Council meeting.

Unless otherwise noted in the Agenda, the Public can only comment on City-related business that is within the jurisdiction of the City Council and/or items listed on the Agenda during the Public Communications portions of the Meeting. Additionally, the Public can comment on any Public Hearing item on the Agenda during the Public Hearing portion of such item. The time limit for comments is five (5) minutes per person.

Before speaking to the City Council, please come to the podium and state: Your name and residence and the organization you represent, if desired. Please respect the time limits.

Members of the Public may place items on the Agenda by submitting a Written Request to the City Clerk or City Manager's Office at least six days prior to the City Council Meeting (by 2:00 p.m. the prior Tuesday). The request must include a brief general description of the business to be transacted or discussed at the meeting. Playing of video tapes or use of visual aids may be permitted during meetings if they are submitted to the City Clerk two (2) working days prior to the meeting and they do not exceed five (5) minutes in length.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact City Clerk, 524-2305. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

REGULAR MEETING OF THE EL SEGUNDO CITY COUNCIL
TUESDAY, February 5, 2013 – 5:00 PM

5:00 P.M. SESSION

CALL TO ORDER

ROLL CALL

PUBLIC COMMUNICATION – (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 do so shall be a misdemeanor and punishable by a fine of $250.
SPECIAL ORDER OF BUSINESS:

1. Consideration and possible action to appoint the City Manager as the real property negotiator with regard to the potential relocation of the City's Residential Sound Insulation Program from 333 to 529 Main Street. The City currently has a lease with Davis & DeRosa Physical Therapy with regard to the 333 Main Street property and is negotiating the price and terms of being bought out of that lease and leasing and being relocated to 529 Main Street which is owned by Patrick Kelsey and Shauna Fisher.

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; as follows:

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Gov't Code §54956.9(d)(1) -2- matter

1. City of El Segundo vs. City of Los Angeles, et al. LASC Case No. BS094279
2. Gonzales Construction vs. City of El Segundo, et al, LASC Case No YC065812

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code §54956.9(d)(2) and (3): -0- matter.

Initiation of litigation pursuant to Government Code §54956.9(d)(4): -1- matter,

DISCUSSION OF PERSONNEL MATTERS (Gov't Code §54957): -0- matter

APPOINTMENT OF PUBLIC EMPLOYEE (Gov't. Code § 54957) –0- matter

CONFERENCE WITH CITY'S LABOR NEGOTIATOR (Gov't Code §54957.6): -0- matters
CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Gov't Code §54956.8): -2-matters

1. **Properties**: 333 Main Street (APN No. 4136-016-029) and 529 Main Street (APN No. 4136-006-015)
   **Agency Negotiator**: City Manager
   **Negotiating Parties**: Davis & DeRosa Physical Therapy (for 333 Main Street) and Patrick Kelsey and Shauna Fisher (for 529 Main Street)
   **Under Negotiation**: Price and terms of City's lease of 333 Main Street being purchased by owner of property and City's Residential Sound Insulation Program leasing and being relocated to 529 Main Street.

2. **Property**: The Lakes Golf Course (APN Nos. 4138-014-910 and 4138-014-913.
   **Agency Negotiator**: City Manager
   **Negotiating Parties**: Centercal Properties, LLC and TopGolf, LLC
   **Under Negotiation**: Lease Price and Terms of City leasing The Lakes Golf Course to Centercal Properties and TopGolf.
AGENDA
EL SEGUNDO CITY COUNCIL
COUNCIL CHAMBERS - 350 Main Street

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REGULAR MEETING OF THE EL SEGUNDO CITY COUNCIL
TUESDAY, February 5, 2013 - 7:00 P.M.

7:00 P.M. SESSION

CALL TO ORDER

INVOCATION – Assistant Pastor, Mike Sternad, Calvary Chapel

PLEDGE OF ALLEGIANCE – Council Member Atkinson
PRESENTATIONS

a)  Presentation – Kevin Pulsipher, Army Reservist and El Segundo Resident, Commemorative flag certificate to the Fire and Police Departments.

ROLL CALL

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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)

C. UNFINISHED BUSINESS

D. REPORTS OF COMMITTEES, COMMISSIONS AND BOARDS

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 2591002 to 2591167 on Register No. 8 in the total amount of $845,084.79 and Wire Transfers from 1/4/2013 through 1/17/2013 in the total amount of $2,821,428.72.
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.

3. Consideration and possible action to waive the bidding process per El Segundo Municipal Code §1-7-10, as there is only one company that can meet the product specifications, and authorize the purchase and installation of a replacement MagneGrip vehicle exhaust extraction system from Air Cleaning Technology (ACT) to be installed at Fire Station 1.  
(Fiscal Impact: $45,384.85)

Recommendation – 1) Authorize the purchase and installation of a replacement MagneGrip vehicle exhaust extraction system from Air Cleaning Technology (ACT); 2) Alternatively, discuss and take other action related to this item.

4. Consideration and possible action to appropriate additional funding for Sanitary Sewer System Rehabilitation project. Project No. PW 11-09.  
(Fiscal Impact: $500,000.00)

Recommendation – 1) Authorize the City Manager to approve fund appropriation in the amount of $500,000.00 from the Sewer Enterprise Fund for this project; 2) Alternatively, discuss and take other action related to this item.

5. Consideration and possible action to adopt a resolution, retroactively authorizing emergency repair of the City Hall air conditioning system.  
(Fiscal Impact: $2,509.00)

Recommendation – 1) Adopt the draft Resolution authorizing the City Manager to execute an amendment with Johnson Controls, in a form approved by the City Attorney, for work performed in September, 2012 for the emergency repair of the City Hall air conditioning system; 2) Alternatively, discuss and take other action related to this item.

6. Consideration and possible action regarding approval of two amendments for Aerotek, Inc for temporary staffing services in the Public Works Department.  
(Fiscal Impact: $53,108.00)

Recommendation – 1) Authorize the City Manager to execute two contract amendments, in forms approved by the City Attorney, with Aerotek, Inc. for temporary staffing services in the Public Works Department; 2) Alternatively, discuss and take other action related to this item.
7. Consideration and possible action regarding adopting Ordinance No. 1476 to amend El Segundo Municipal Code Chapter 4-10 and Section 15-1-6 concerning regulation of massage establishments and massage technicians within the City of El Segundo. Applicant: City of El Segundo.  
(Fiscal Impact: None)  
Recommendation – 1) Waive second reading and adopt Ordinance No. 1476); 2) Alternatively, discuss and take other action related to this item.

8. Consideration and possible action regarding authorizing the recording of the Notice of Completion and authorizing the City Manager to accept completion of work for 34 homes related to the City’s Residential Sound Insulation Program’s Group 42 (Project No. RSI 12-01).  
(Fiscal Impact: Final Contract Amount $1,336,244.67)  
Recommendation – 1) Authorize the City Clerk to file the City’s Planning and Building Safety Director’s Notice of Completion in the County Recorder’s Office; 2) Authorize the City Manager, or designee, to close out Project No. RSI 12-01; 3) Alternatively, discuss and take other action related to this item.

9. Consideration and possible action regarding 1) delegating authority to the City Manager or his designee to approve banner requests to be hung over Sepulveda Blvd. under the City’s Caltrans Banner Permit and 2) establishing a fee for processing these permit requests.  
(Fiscal Impact: Potential Revenue)  
Recommendation – 1) Delegate authority to the City Manager to approve banner requests over Sepulveda Blvd. under the City’s Caltrans Banner Permit Program; 2) Direct staff to establish a processing fee for Sepulveda Blvd. banner applications; 3)Alternatively, discuss and take other action related to this item.

10. Consideration and possible action to appropriate additional contingency funding from the Sewer Enterprise Fund for anticipated change orders regarding the Sanitary Sewer System Rehabilitation project. Project No. PW 11-09.  
(Fiscal Impact: 100,000.00)  
Recommendation – 1) Authorize an additional $100,000.00 in contingency funds from the Sewer Enterprise Fund to cover anticipated change orders in the Sanitary Sewer Rehabilitation Project and authorize the City Manager to execute an amendment in a form approved by the City Attorney, for additional work should it become necessary; 2) Alternatively, discuss and take other action related to this item.

F. NEW BUSINESS

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 –

    Mayor Pro Tem Fuentes –

    Mayor Jacobson –

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MEMORIALS –

CLOSED SESSION

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REPORT OF ACTION TAKEN IN CLOSED SESSION (if required)
ADJOURNMENT

POSTED:

DATE: 1/30/13

TIME: 2:00 p.m

NAME: [Signature]
Presentation
Kevin Pulsipher, Army Reservist and El Segundo Resident,
Commemorative flag certificate to the Fire and Police Departments
CITY OF EL SEGUNDO
WARRANTS TOTALS BY FUND

<table>
<thead>
<tr>
<th>Code</th>
<th>Fund Description</th>
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<td>001</td>
<td>GENERAL FUND</td>
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<tr>
<td>104</td>
<td>TRAFFIC SAFETY FUND</td>
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<tr>
<td>106</td>
<td>STATE GAS TAX FUND</td>
<td>-</td>
</tr>
<tr>
<td>108</td>
<td>ASSOCIATED RECREATION ACTIVITIES FUND</td>
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<td>109</td>
<td>ASSET FORFEITURE FUND</td>
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<td>111</td>
<td>COMM. DEVEL. BLOCK GRANT</td>
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<td>PROP &quot;C&quot; TRANSPORTATION</td>
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<td>115</td>
<td>AIR QUALITY INVESTMENT PROGRAM</td>
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<td>HYPERION MITIGATION FUND</td>
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<td>TDA ARTICLE 3 - SB 251 BIKEWAY FUND</td>
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<td>119</td>
<td>MTA GRANT</td>
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<td>121</td>
<td>FEMAS</td>
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<td>120</td>
<td>C.O.P.S. FUND</td>
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<td>122</td>
<td>L.A.W.A. FUND</td>
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<td>EXPENDABLE TRUST FUND - OTHER</td>
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<td>708</td>
<td>OUTSIDE SERVICES TRUST</td>
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<td></td>
<td>TOTAL WARRANTS</td>
<td>845,084.79</td>
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STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
Information on actual expenditures is available in the Director of Administrative Services office in the City of El Segundo.

I certify as to the accuracy of the Demands and the availability of fund for payment thereof.
For Approval: Regular checks held for City council authorization to release.

CODES:

R = Computer generated checks for all non-emergency/urgent payments for materials, supplies and services in support of City Operations

A = Payroll and Employee Benefit checks

B = Handwritten Early Release disbursements and/or adjustments approved by the City Manager.

VOID CHECKS DUE TO ALIGNMENT:

VOID CHECKS DUE TO INCORRECT CHECK DATE:

NOTES:

FINANCE DIRECTOR: ___________________________   CITY MANAGER: ___________________________

DATE: 1/22/13   DATE: 1-24-13
# CITY OF EL SEGUNDO
## PAYMENTS BY WIRE TRANSFER
### 1/04/13 THROUGH 1/17/13

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<th>Date</th>
<th>Payee</th>
<th>Amount</th>
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<td>1/4/2013</td>
<td>State of CA EFT</td>
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<td>1/4/2013</td>
<td>Nationwide NRS EFT</td>
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<td>EFT 401a payment</td>
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<td>Federal Taxes</td>
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<td>1/15/2013</td>
<td>Pitney Bowes</td>
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<td>City Hall Postage</td>
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<td>1/16/2013</td>
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<td>1/17/2013</td>
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<td>State Taxes</td>
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<td>Employment Development</td>
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<td>1/17/2013</td>
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<td>Federal Taxes</td>
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<td>1/4-1/17/13</td>
<td>Workers Comp Activity</td>
<td>27,619.09</td>
<td>SCRMA checks issued</td>
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</table>

**DATE OF RATIFICATION: 02/05/13**

**TOTAL PAYMENTS BY WIRE:** 2,821,428.72

Certified as to the accuracy of the wire transfers by:

- **Deputy City Treasurer**: [Signature]
  
  Date: 1/17/13

- **Director of Finance**: [Signature]
  
  Date: 1/22/13

- **City Manager**: [Signature]
  
  Date: 1/24/13

Information on actual expenditures is available in the City Treasurer’s Office of the City of El Segundo.
CALL TO ORDER – Mayor Jacobson at 4:00 p.m.

ROLL CALL

PLEDGE OF ALLIGIANCE – Council Member Fisher

Mayor Jacobson - Present
Mayor Pro Tem Fuentes - Present
Council Member Fisher - Present
Council Member Atkinson - Present
Council Member Fellhauer - Present

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SPECIAL MATTERS: -1- matter

1. Consideration and possible action to interview candidates for the position of the City Treasurer and make an appointment to serve the remainder of the current term.

Council interviewed the following candidates:

Don Brann
Crista Binder
Michael van Biezen
Matthew Robinson
Kevin Haggerty
Milan Cvejic
Samantha Lee

Council discussion.

MOTION by Mayor Pro Tem Fuentes, SECONDED by Council Member Atkinson to appoint Crista Binder City Treasurer to serve the remainder of the current term (until April of 2016). MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

Council Recessed at 6:24 PM

Council Reconvened at 6:28 PM – all Council Members present.
Mayor Jacobson announced Crista Binder accepted the appointment to City Treasurer.

ADJOURNMENT at 6:32 PM

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Tracy Weaver, City Clerk
REGULAR MEETING OF THE EL SEGUNDO CITY COUNCIL  
TUESDAY, January 15, 2013 – 5:00 PM  

5:00 P.M. SESSION  

CALL TO ORDER – Mayor Jacobson at 5:00 PM  

ROLL CALL  

Mayor Jacobson - Present  
Mayor Pro Tem Fuentes - Present  
Council Member Fisher - Present  
Council Member Atkinson - Present  
Council Member Fellhauer - Present  

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Mayor Jacobson announced that Council would be meeting in closed session pursuant of the items listed on the agenda.  

SPECIAL ORDER OF BUSINESS:  

CLOSED SESSION:  
The City Council moved 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; as follows:  

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Gov’t Code §54956.9(a)-4- matter  

City of El Segundo vs. City of Los Angeles, et al., LASC Case No. BS094279  
City of Los Angeles vs. Pacific Bell Telephone Company, et al., LASC Case No. BC414272  
Willmore vs. City of El Segundo, et al., LASC Case No. BC485025  
Garton vs. City of El Segundo, et al., LASC Case No. YC066586  

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION  

Significant exposure to litigation pursuant to Government Code §54956.9(b): -0- matter.
Initiation of litigation pursuant to Government Code §54956.9(c): -1- matter.

DISCUSSION OF PERSONNEL MATTERS (Gov’t Code §54957): -0- matter

APPOINTMENT OF PUBLIC EMPLOYEE (Gov’t. Code § 54957) –0- matter

CONFERENCE WITH CITY’S LABOR NEGOTIATOR (Gov’t Code §54957.6): -0- matters

CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Gov’t Code §54956.8): -0- matters

Adjournment at 6:50 PM
REGULAR MEETING OF THE EL SEGUNDO CITY COUNCIL
TUESDAY, January 15, 2013 - 7:00 P.M.

7:00 P.M. SESSION

CALL TO ORDER – Mayor Jacobson at 7:00 PM

INVOCATION – Tracy Weaver, City Clerk

PLEDGE OF ALLEGIANCE – Mayor Pro Tem Fuentes

PRESENTATIONS

a) Presentation by Julie Warner to the winners of the 2012 Chamber of Commerce Holiday Parade. Julie also thanked this year’s sponsors, the Chamber of Commerce and the parade’s new emcees.

b) Presentation by Megan Hansford, President of Grow to Give, Stephanie Nehme, President of the Key Club and Abby Landers, President of Grades of Green, concerning recycling and composting in the City of El Segundo.

ROLL CALL

Mayor Jacobson - Present
Mayor Pro Tem Fuentes - Present
Council Member Fisher - Present
Council Member Atkinson - Present
Council Member Fellhauer - Present

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 do 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.

Andrew Gerard, President of Tree Musketeers, spoke on behalf of trees! Mark your calendars; March 9, 2013 is Arbor Day.

Sam Pena, Consolidated Disposal Services, gave his monthly update. Reminded the public about the upcoming Shred Day to be held Saturday, January 19, 2013 at City Hall. Mr. Pena made an announcement that CDS would donate composite bins to the Grades of Green project.

Linda Cohen, representing the El Segundo Concert Band, announced an upcoming Comedy Night to be held on Saturday, February 2, 2013 at the El Segundo Performing Arts Center. The fundraiser will feature Fritz Coleman as the headliner; tickets can be purchased by an ESHS band member or online at www.esconcertband.org.
REPORTS – CITY CLERK - ITEM BROUGHT FORWARD ON THE AGENDA

13. Presented Certificate of Appointment and administered the Oath of Office to Crista Binder, the newly appointed City Treasurer.
   (Fiscal Impact: None)

Tracy Weaver, City Clerk, gave the Oath of Office to newly appointed City Treasurer, Crista Binder and presented Ms. Binder with a Certificate of Appointment.

A. PROCEDURAL MOTIONS

Consideration of a motion to read all ordinances and resolutions on the Agenda by title only. MOTION by Mayor Pro Tem Fuentes, SECONDED by Council Member Fellhauer to read all ordinances and resolutions on the agenda by title only. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

B. SPECIAL ORDERS OF BUSINESS (PUBLIC HEARING)

1. Consideration and potential action regarding an Ordinance amending El Segundo Municipal Code Chapter 4-10 and Section 15-1-6 concerning regulation of massage establishments and massages technicians within the City of El Segundo. Applicant: City of El Segundo.
   (Fiscal Impact: None)

Sam Lee, Planning and Building Safety Director, gave a report

Mark Hensley, City Attorney, read by title only.

ORDINANCE NO. 1476

AN ORDINANCE AMENDING EL SEGUNDO MUNICIPAL CODE CHAPTER 4-10 AND SECTION 15-1-6 CONCERNING REGULATION OF MASSAGES WITHIN THE CITY OF EL SEGUNDO.

Mayor Carl Jacobson opened and closed public hearing.

Mark Hensley, City Attorney, re-read by title only.

ORDINANCE NO. 1476

AN ORDINANCE AMENDING EL SEGUNDO MUNICIPAL CODE CHAPTER 4-10 AND SECTION 15-1-6 CONCERNING REGULATION OF MASSAGES WITHIN THE CITY OF EL SEGUNDO.

Council Member Fellhauer introduced Ordinance No. 1476.
Second reading and adoption scheduled for February 5, 2013.

C. UNFINISHED BUSINESS

D. REPORTS OF COMMITTEES, COMMISSIONS AND BOARDS

Mayor Jacobson announced Crista Binder’s resignation from the Capital Improvement Program and Advisory Committee (CIPAC).

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.

2. Approved Warrant Numbers 2590628 to 2590639 on Register No. 6 in the total amount of $683,582.90 and Wire Transfers from 12/07/12 through 12/20/12 in the total amount of $2,992,899.23 and approved Warrant Numbers 2590840 to 2591001 on Register No. 7 in the total amount of $1,228,440.17 and Wire Transfers from 12/20/12 through 1/03/13 in the total amount of $766,604.02. Authorize Staff to Release. Ratified Payroll and Employee Benefit checks; checks released early due to contracts or agreement; emergency disbursements and/or adjustments; and wire transfers.


4. Adopted Resolution 4806 approving Plans and Specifications for Installation of Sub-meters on the City’s main electricity meter for City Hall, the Police Department and the Fire Station. Project No. PW 13-02. (Fiscal Impact: $0, $15,000.00 grant reimbursement)

5. Authorized the City Manager to approve change orders in the amount of $11,136.00 with Premier Developing Services, Inc for Construction of the Masonry Building for the Water Department’s telemetry system. Project No. PW 12-04. (Fiscal Impact $11,136.00)

6. Approved a change order for United Paving Co. in the amount of $855.76 for Maryland Street Improvements between Palm Ave and Mariposa Ave. PW 11-02. (Fiscal Impact $855.76)

7. Adopted Resolution No. 4804 approving Plans and Specifications for Construction of the Mariposa Avenue Storm Drain from Maryland Street to Center Street. Project No. PW 12-06. (Fiscal Impact $90,000.00)
8. Adopted Resolution No. 4805 approving Plans and Specifications for
Construction of the Pressure Reducing Station Waterline Improvement Project at
2161 E. El Segundo Blvd and authorized the City Manager, in a form approved
by the City Attorney, to enter into Reimbursement Agreement No. 4380 with the
property owner to cover 50% of the cost for these improvements. Project No. PW
13-01.
(Fiscal Impact $35,000.00)

9. Waived second reading and Adopted Ordinance No. 1475 to amend El Segundo
Municipal Code (“ESMC”) § 4-8-8 to allow fees relating to entertainment permits
to be adopted by City Council resolution. Applicant: City Initiated
(Fiscal Impact: $3,505)

10. Waived bid requirements per El Segundo Municipal Code (“ESMC”) § 1-7-10,
authorized the City Manager, or designee, to purchase an NEC “TileMatrix” video
wall system and associated hardware from Whitlock using equipment
replacement and COPS grant fund and equipment replacement funds and
authorized the City Manager to execute Agreement No. 4381, in a form approved
by the City Attorney.
(Fiscal Impact: $ 60,000)

11. Authorized the City Manager to execute Professional Services Agreement No.
4382 with Willdan Homeland Solutions to provide professional technical and
consulting support for the City’s Emergency Management program.
(Fiscal Impact: $60,000)

MOTION by Council Member Fellhauer, SECONDED by Council Member Fisher to
approve the Consent Agenda items 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11. MOTION PASSED
BY UNANIMOUS VOICE VOTE. 5/0

F. NEW BUSINESS

12. Consideration and possible action regarding acceptance of the 2013-2018
Pavement Management Program report, prepared by Bucknam Infrastructure
Group.
(Fiscal Impact: $0)

Stephanie Katsouleas, Public Works Director, gave a report.

Council consensus to accept the Pavement Management Program report as complete.

REPORTS – CITY MANAGER - None

REPORTS – CITY ATTORNEY - None

REPORTS – CITY CLERK - ITEM TAKEN EARLIER ON THE AGENDA
REPORTS – CITY TREASURER - None

REPORTS – CITY COUNCIL MEMBERS

Council Member Fellhauer – Attended Family Energy Day sponsored by NRG. Thanked NRG for their generosity throughout the city. Attended the Young Americans program on Sunday, January 13, 2013. Mentioned that she had abstained from voting on the LA County Clean Water, Clean Beaches Tax/Fee Measure at last month’s meeting and stated she had done more research and if the vote were taken again, she would vote in favor of the protest.

Council Member Atkinson – Wished everyone a Happy New Year.

Council Member Fisher – Wished everyone a Happy New Year.

Mayor Pro Tem Fuentes – Attended the South Bay Council of Governments breakfast. Reminded everyone about the Fire Department Blood Drive on January 31, 2013 – Battle of the Badges and wished everyone a Happy New Year.

Mayor Jacobson –

14. Consideration and possible action to nominate select and approve the travel of a former Council member to travel to Guaymas in February 2013. (Fiscal Impact: $1000.00)

MOTION by Mayor Pro Tem Fuentes, SECONDED by Council Member Atkinson to approve former Mayor Sandy Jacobs to travel to Guaymas in February 2013. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

Mayor Jacobson stated he attended a FAA event and wished everyone a Happy New Year.

PUBLIC COMMUNICATIONS – (Related to City Business Only – 5 minute limit per person, 30 minute limit total) Individuals who have receive 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 do 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. - None

MEMORIALS – None

CLOSED SESSION - None
ADJOURNMENT at 7:56 PM

__________________________
Tracy Weaver, City Clerk
AGENDA DESCRIPTION:

Consideration and possible action to waive the bidding process per El Segundo Municipal Code §1-7-10, as there is only one company that can meet the product specifications, and authorize the purchase and installation of a replacement MagneGrip vehicle exhaust extraction system from Air Cleaning Technology (ACT) to be installed at Fire Station 1.

(Fiscal Impact: $45,384.85)

RECOMMENDED COUNCIL ACTION:

1. Authorize the purchase and installation of a replacement MagneGrip vehicle exhaust extraction system from Air Cleaning Technology (ACT);
2. Alternatively, discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:

1. Proposal for MagneGrip Exhaust System from Air Cleaning Technology (ACT)
2. Air Cleaning Technology Standard Terms and Conditions

FISCAL IMPACT: $45,384.85 Included in Adopted Budget

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<td>Additional Appropriation:</td>
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<td>Account Number(s):</td>
<td>001-400-3201-6215 Repair and Maintenance</td>
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ORIGINATED BY: Kevin S. Smith, Fire Chief

REVIEWED BY: Kevin S. Smith, Fire Chief

APPROVED BY: Greg Carpenter, City Manager

BACKGROUND AND DISCUSSION:

The existing exhaust removal system at Fire Station 1 is over 20 years old and in need of significant repairs. Current estimates to make the system operational are in excess of $8,000. Staff believes that the repairs would not be a prudent use of City funds due to the age and condition of the overall exhaust system. Vehicle exhaust systems are essential to the safety of the work environment in a fire station. Fire engines and other heavy fire apparatus are typically powered with diesel engines. A by-product of diesel combustion is benzene which is a known carcinogen. Vehicle exhaust systems in fire stations serve to evacuate the exhaust outside the fire station to avoid exposure to the harmful products by fire personnel. Staff believes that replacement of the system to a modern and fully functioning system is in the best interest of the City for the safety and welfare of fire personnel and is also a responsible fiscal choice as the existing system continues to be subject to the regular need for costly repairs. Staff recommends the purchase of the MagneGrip system as it is currently being used at Fire Station 2. This specification in the product bidding process is to allow for compatibility with the adapters attached to fire apparatus allowing the apparatus to be exchanged between fire stations as needed. This specification will also enable us to rely on one single vendor for repairs and maintenance of both systems.
January 16, 2013

Chief Kevin Smith
El Segundo Fire Department
314 Main Street
El Segundo, CA 90245

Via Email: ksmith@elsegundo.org

Re: Vehicle Exhaust Replacement System for Station 1
Air Cleaning Technology Proposal #103788

Dear Chief Smith,

Thank you for your continued time and interest in our air cleaning products and services.

As we discussed, below is an updated proposal to replace the existing exhaust system in Station one with a new MagneGrip Vehicle Exhaust System.

Proposal:

- Three (3) FSTM 301 30’ Flex Hose Systems
- Two (2) FSTM 501 50’ Flex Hose Systems
- One (1) 500179-05 Wireless Control Panel 5-3
- One (1) CF-363-5 5 horsepower fan prewired 230-460/3/60
- Turn key installation
- Spiral ducting
- Electrical connection by a certified electrician
- Tailpipe modifications needed from the muffler out (if required)
- Removal of existing System
- Delivery of equipment and materials to El Segundo, CA
- Applicable sales tax
- Labor
- System start up and operator orientation
- Price: $45,384.85

Cost Breakdown:

Equipment: $28,460.00
Chief Kevin Smith  
*El Segundo Fire Department*  
January 16, 2013  
Page 2

9.75% Sales Tax: $2,774.85  
Installation: $14,150.00  
Total: $45,384.85

**Terms:**

- Net 30 days after completion of service  
- The attached ACT Terms and Conditions will apply  
- For your convenience, we accept most major credit cards

**Delivery:**

- 4-5 weeks after receipt of order

**Exclusions:**

- City, mechanical, electrical, and fire, permit fees (if required)  
- Structural engineering or modifications if required  
- Off hour labor

Chief Smith, Air Cleaning Technology is a *licensed contractor* with over 36 years of experience in engineering, selling, installing and maintaining air-cleaning and ventilation systems. With all of our experience, I am confident that our proposed upgrade of the vehicle exhaust system at Station 1 will work to end your vehicle emission concerns.

To expedite this project, please sign your approval below and return to our office.

Thank you again and I look forward to working with you on this project.

Sincerely,

Paul Krause

cc: Winston Harris - winston@weidnerfire.com

411 Rowland Avenue • Santa Ana, CA 92707-3445 • Phone: (714) 641-5005 • Fax: (714) 641-8503  
Contractor’s License # 761220
Chief Kevin Smith
_El Segundo Fire Department_
January 16, 2013
Page 3

**Acceptance of proposal** – the prices, specifications, and attached conditions are satisfactory and are hereby accepted. Air Cleaning Technology Inc. is authorized to do the work as specified. Payment will be made as outlined herein.

<table>
<thead>
<tr>
<th>Authorized Signature</th>
<th>Date of Acceptance</th>
<th>PO (if required)</th>
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Printed Name

Proposal expires on February 18\(^{th}\), 2013
AIR CLEANING TECHNOLOGY
STANDARD TERMS AND CONDITIONS

1. General: The terms and conditions stated herein are applicable to all orders accepted by Air Cleaning Technology hereafter referred to as ACT.

2. Prices: Prices are quoted in U.S. Dollars and are firm. Prices may be accepted only within 30 days from the date of quotation by Air Cleaning Technology. Quotations do not include taxes, unless otherwise noted. Orders accepted prior to any price increase will be invoiced as quoted; provided ACT is allowed to ship under normal delivery schedule. ACT may adjust prices on any order changed by the purchaser after acceptance of the order by ACT.

3. Cancellations: Orders canceled by the purchaser are subject to a cancellation charge which may include engineering services, work in progress, special purchased parts charges, and other similar charges, and will be based on the percentage of work completed at the time of cancellation.

4. Shipping Schedules: Air Cleaning Technology will not be liable for any loss or damage from delays in shipping that are beyond ACT’s reasonable control. Shipments delayed at purchaser’s request will be invoiced and dated on the day shipment is ready, and a 1.5% per month service charge will be added. ACT reserves the right to make partial shipments and to invoice pro-rata upon such shipments.

5. Electrical Equipment and Installation: Electrical equipment includes only those electrical components referred to in the quotation. Changes to the electrical equipment to comply with any laws or regulations are the purchaser's responsibility unless Air Cleaning Technology specifically agrees to meet such laws or regulations. Start-up service is available from ACT at per diem rates plus lodging and travel expenses, but installation or start-up is not included unless specifically quoted.

6. Acceptance and testing of equipment: Unless otherwise provided in Air Cleaning Technology's quotation, purchaser will upon delivery inspect and test the equipment and notify ACT within 15 days of shipment of any nonconformity discovered including any failure of the equipment to meet quoted performance standards, if any. Failure to give such notice constitutes an irrevocable acceptance of the equipment, and purchaser will be bound to pay for the equipment. Upon notification of nonconformity as above provided, ACT, at its option, will either repair the equipment and correct the system’s performance or will accept the prepaid return of the equipment and refund all payments, made to ACT, excluding freight and installation. No materials will be accepted for return without prior written consent and instruction form ACT. SUCH REPAIR, CORRECTIONS OR RETURN CONSTITUTES PURCHASER'S EXCLUSIVE REMEDY PRIOR TO ACCEPTANCE FOR ANY SUCH NONCONFORMITY.

7. Damage from fire or explosion: To minimize the risk of fire or explosion, proper installation, operation and maintenance of Air Cleaning Technology equipment is critical. Since installation, operation and maintenance are beyond the control of ACT, ACT disclaims any liability or responsibility for damage from fires or explosions regardless of origin. ACT recommends that all air pollution control and dust collection equipment and installation conform to all applicable codes, laws and regulations including the additions of appropriate fire protection systems or explosion venting when and where required. Installation of ACT equipment should be by a licensed contractor that is experienced in potential fire and explosion hazards as well as related codes, laws, and regulations.

8. Risk of loss: Quotations are F.O.B place of shipment unless otherwise noted. The risk of loss of the equipment shipped will pass to purchaser upon Air Cleaning Technology's delivery of the equipment to a carrier. All claims for damage during shipment must be filed by the purchaser with the carrier.

9. Warranty: Air Cleaning Technology warrants all equipment manufactured and sold by Air Cleaning Technology against defective parts and workmanship for one year from date of shipment to purchaser. Where a performance guarantee is specified in Air Cleaning Technology's quotation under the heading of "Performance Guarantee" Air Cleaning Technology warrants that for a period of 90 days from the date of installation the equipment sold by Air Cleaning Technology will perform as specified in such performance guarantee. These warranties are subject to any limitations in Air Cleaning Technology’s quotation. Any unauthorized repairs or modifications or abnormal use or misuse of equipment will void all warranties. In no case will Air Cleaning Technology's responsibility or warranty extend to equipment not sold by Air Cleaning Technology. There are no warranties covering corrosion of materials selected. Purchaser has approved the materials to be used in the construction of the equipment supplied by Air Cleaning Technology if after the equipment is installed, metals, or materials are not suitable for the application. Replacements will only be made at purchaser's cost.

THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER WRITTEN, ORAL OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT.

As purchaser's exclusive remedy for any defects in the equipment Air Cleaning Technology will exchange or repair any defective parts during the warranty period, provided such parts are returned, prepaid, to Air Cleaning Technology. The obligation of Air Cleaning Technology is limited to furnishing replacement parts of F.O.B. factory of origin or making repairs at Air Cleaning Technology of any parts which are determined, upon inspection by ACT, to be defective. In no event will Air Cleaning Technology be responsible for labor or transportation charges for the removal, reshipment or installation of the parts. Where a performance guarantee is specified in ACT's quotation, under the heading of "Performance Guarantee", as the purchaser's exclusive remedy for breach of the performance guarantee, ACT, at its option, will either correct the performance of the equipment or accept the prepaid return of the equipment. In the aforementioned case ACT will refund all payments received by ACT from the Purchaser, excluding freight and installation, provided that the purchaser notifies ACT in writing of the equipment's failure to meet the performance guarantee within 15 days after such failure is known to purchaser.
10. Limitation of Liability: IN NO EVENT WILL ACT, ITS SUB-CONTRACTORS, REPRESENTATIVES, OR SUBSIDIARIES BE HELD RESPONSIBLE OR LIABLE ON ANY CLAIM WHETHER IN WARRANTY, CONTRACT, TORT, OR STRICT LIABILITY, FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES RESULTING FROM THE PURCHASE OR USE OF EQUIPMENT. INCLUDING BUT NOT LIMITED TO INCIDENTAL OR CONSEQUENTIAL DAMAGES FOR LABOR, LOST PROFITS, LOST SALES, AND INJURY TO PERSON OR PROPERTY, OR ANY OTHER INCIDENTAL LOSS OR DAMAGES. PURCHASER AGREES THAT IN NO EVENT WILL ACT'S LIABILITY ON ANY CLAIM EXCEED THE PURCHASE PRICE ACTUALLY RECEIVED BY ACT FROM PURCHASER FOR THE EQUIPMENT IN QUESTIONS.

11. Security Interest: Purchaser grants Air Cleaning Technology a security interest in the equipment to secure payment of the balance due hereunder. Purchaser authorizes ACT to file this agreement as a financing statement or to sign on behalf of purchaser and file any other financing statements with respect to the equipment in any place ACT deems necessary.

12. Attorneys' Fees: Purchaser will be liable to ACT for all reasonable expenses and attorney's fees incurred by ACT in enforcing its rights and remedies under any agreement between purchaser and ACT.

13. Ordinances: Any and all required licenses, certificates and operating permits will be the sole responsibility of the purchaser.

14. Miscellaneous: THESE TERMS AND CONDITIONS AND THOSE IN ACT'S QUOTATION CONSTITUTE THE ENTIRE AGREEMENT BETWEEN ACT AND THE PURCHASER. Such terms and conditions are applicable to all orders accepted by ACT unless otherwise specifically agreed to by ACT in writing. Purchaser will be deemed to have assented to all such terms and conditions if any part of the equipment is accepted. Any additional or different terms and conditions contained in purchaser's order or response hereto will be deemed objected to by ACT and of no effect. This proposal and its acceptance will be governed in all respects by the laws of the state of California. In the event of a Breach, both parties agree that any suit will be brought in the courts of the State of California.
AGENDA DESCRIPTION:
Consideration and possible action to appropriate additional funding for Sanitary Sewer System Rehabilitation project. Project No. PW 11-09 (Fiscal Impact $500,000.00)

RECOMMENDED COUNCIL ACTION:
1. Authorize the City Manager to approve fund appropriation in the amount of $500,000 from the Sewer Enterprise Fund for this project.
2. Alternatively, discuss and take other possible action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
None.

FISCAL IMPACT: $500,000  Budget Adjustment Required
Amount Budgeted: $616,370.00
Additional Appropriation: Yes  $500,000
Account Number(s): 502-400-8204-8647 (Sewer Enterprise Fund)

ORIGINATED BY: Floriza Rivera, Principal Engineer
REVIEWED BY: Stephanie Katsouleas, Public Works Director
APPROVED BY: Greg Carpenter, City Manager

BACKGROUND AND DISCUSSION:
On June 19, 2012, the City Council awarded a $1,116,370 contract to MNR Construction for the construction of the Sanitary Sewer System Rehabilitation project for various locations within the Smoky Hollow Specific Plan area and a sewer main upgrade along Maple Avenue between Lairport Street and Nash Street. The staff report identified $500,000 in project funding already earmarked in the 2009/10 CIPAC for sewer main repairs, and asked for an additional appropriation of $616,370 to cover the total cost of the project for Maple Ave. However, the 2009/10 CIPAC funding had lapsed and must be formally re-appropriated for expenditures related to this project. Staff is therefore requesting that City Council re-authorize the transfer of $500,000 from the Sewer Enterprise to the Capital Fund for the sewer main rehabilitation work currently underway.
AGENDA DESCRIPTION:
Consideration and possible action to adopt a resolution, retroactively authorizing emergency repair of the City Hall air conditioning system.
(Fiscal Impact: $2509.00)

RECOMMENDED COUNCIL ACTION:
1. Adopt the draft Resolution authorizing the City Manager to execute an amendment with Johnson Controls, in a form approved by the City Attorney, for work performed in September, 2012 for the emergency repair of the City Hall air conditioning system.
2. Alternatively, discuss and take other possible action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
Draft Resolution

FISCAL IMPACT: Included in Adopted Budget

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<td>Account Number(s):</td>
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ORIGINATED BY: Stephanie Katsouleas, Public Works Director

REVIEWED BY: Stephanie Katsouleas, Public Works Director

APPROVED BY: Greg Carpenter, City Manager

BACKGROUND AND DISCUSSION:
The air conditioning (HVAC) system responsible for cooling the lower level of City Hall had repeated failures during the 2012 summer. As a result, the Facilities Maintenance staff purchased and installed a new HVAC unit. Unfortunately the newly installed system failed to work properly on a regular basis. After a series of troubleshooting by the Facilities Maintenance staff, it was determined that the repair needed to make the unit function properly was outside our staff’s area of expertise. Consequently, Johnson Controls, which had an active HVAC maintenance contract at the time, was called in on an emergency basis to assess whether the HVAC failure stemmed from the unit itself or was due to staff installation. Johnson Controls ultimately diagnosed the source of the problem as a defective expansion valve within the unit itself. Staff authorized Johnson Controls to make the necessary repair for a total cost of $2509.00. Staff also concluded that it was more cost effective to keep the unit (now repaired) rather than return it as defective because of 1) the cost incurred already to bring Johnson Controls out, 2) the staff time involved in disassembling and then reinstalling a new unit, 3) the waiting period to re-order a new unit, and 4) the warm temperatures at the time which created an uncomfortable working environment for staff in the basement level where there no open windows.
Through this staff report, staff resolving the paperwork trail for the emergency repair to ensure the proper contract language is in place. Staff recommends that City Council approve the attached Resolution and retroactive amendment for the emergency repair of the City Hall HVAC unit in September, 2012. The request is made at this late date due to staffing and Johnson Controls delay in providing an invoice to El Segundo for the emergency work completed.
RESOLUTION NO. ________

A RESOLUTION ADOPTED PURSUANT TO PUBLIC
CONTRACTS CODE § 20168 FINDING THAT AN
EMERGENCY EXISTED WITHIN THE CITY AND
AUTHORIZING CONTRACTING WITHOUT THE NEED FOR
BIDDING PURSUANT TO § 22050.

The City Council does resolve as follows:

SECTION 1: The City Council finds and declares as follows:

A. Pursuant to Public Contracts Code ("PCC") § 20168, the City Council may,
upon a four-fifths vote, declare that public interest and necessity demand
the immediate expenditure of public money to safeguard life, health, or
property because of an emergency.

B. In accordance with PCC §§ 20168 and 22050, the City Council may repair
or replace a public facility, take any directly related and immediate action
required by that emergency, and procure the necessary equipment,
services, and supplies for those purposes, without giving notice for bids to
let contracts.

C. The new air-conditioning unit located within City Hall was malfunctioning in
September 2012 due to a defective expansion valve. The HVAC unit was
installed by staff in the building in August 2012 but failed to cool the lower
level offices in City Hall. Because the weather was hot during August and
September, it created extreme and uncomfortable working conditions for
employees affected by the malfunctioning unit.

D. In compliance with applicable law, and to protect public, health, safety and
welfare, the City took immediate emergency action to repair the air-
conditioning unit in accordance with El Segundo Municipal Code
("ESMC")§ 1-7-12.

E. The malfunctioning air-conditioning unit created a sudden, unexpected
occurrence that poses a clear and imminent danger to City property, its
citizens, and employees. This threat required immediate action to prevent
or mitigate the loss or impairment of essential public services.

F. Under such emergency conditions, the City Council finds that the delay
resulting from public bidding would imperil essential public services.

SECTION 2: In light of the emergency described above, the City Council directs the
City Manager, or designee, to take all steps necessary to protect public health, safety
and welfare including, without limitation, awarding contracts in accordance with PCC §
22050.
SECTION 3: This Resolution will become retroactively effective immediately upon adoption and remain effective unless superseded by a subsequent resolution.

PASSED AND ADOPTED this ___ day of ____________, 2013.

_____________________________
Carl Jacobson, Mayor

APPROVED AS TO FORM:
Mark D. Hensley, City Attorney

By: _______________________
Karl H. Berger, Assistant City Attorney
CERTIFICATION

STATE OF CALIFORNIA  )
COUNTY OF LOS ANGELES  )  SS
CITY OF EL SEGUNDO  )

I, Tracy Weaver, 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 resolution, being RESOLUTION NO. _____ 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 _____ day of ______________, 2013, and the same was so passed and adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTION:

NOT PARTICIPATING:

WITNESS MY HAND THE OFFICIAL SEAL OF SAID CITY this _____ day of ______________, 2013.

Tracy Weaver, City Clerk
Of the City of El Segundo,
California
(SEAL)
AGENDA DESCRIPTION:
Consideration and possible action regarding approval of two contract amendments for Aerotek, Inc for temporary staffing services in the Public Works Department (Fiscal Impact: $53,108.00)

RECOMMENDED COUNCIL ACTION:
1. Authorize the City Manager to execute two contract amendments, in forms approved by the City Attorney, with Aerotek, Inc. for temporary staffing services in the Public Works Department
2. Alternatively, discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
None

FISCAL IMPACT: Included in Adopted Budget

Amount Budgeted: $103,108.00
Additional Appropriation: N/A
Account Number(s): Public Works Divisions: Salaries and Benefits

ORIGINATED BY: Stephanie Katsouleas, Public Works Director
REVIEWED BY: Stephanie Katsouleas, Public Works Director
APPROVED BY: Greg Carpenter, City Manager

BACKGROUND AND DISCUSSION:
On March, 1, 2012, El Segundo entered into an on-call service agreement with Aerotek, Inc. to provide temporary staffing services in the Public Works Department for an amount not to exceed $25,000 for FY 2011/12. However, due to unanticipated fluctuating staffing levels, additional temporary works were needed in the Streets Division. In September, Public Works exceeded the authorized contract amount by $3108.00. Staff is therefore requesting that City Council approve a retroactive amendment for additional $3,108.00 with Aerotek to cover cost associated with the staff support provided. Funds are available from the personnel costs not fully utilized in the Street Maintenance Division.

For FY 2012/13, staff entered into a new $50,000 on-call service agreement with Aerotek for temporary staffing services. Since that time, the Streets Division has had two people retire, and we anticipate that at least two other Public Works Department staff members will take temporary leaves in during the fiscal year for personal reasons. For this reason, staff recommends that City Council approve a contract amendment with Aerotek for an additional $50,000 to provide staff support in anticipation of these prolonged absences and until new recruitments can be completed. Funds are available from the current Public Works personnel budgets to cover the temporary staff salaries as needed, so there is no impact on the General Fund for this amendment.
AGENDA DESCRIPTION:
Consideration and potential action regarding adopting Ordinance No. 1476 to amend El Segundo Municipal Code Chapter 4-10 and Section 15-1-6 concerning regulation of massage establishments and massage technicians within the City of El Segundo. Applicant: City of El Segundo (Fiscal Impact: None)

RECOMMENDED ACTION:
1. Waive second reading and adopt Ordinance No 1476; and/or
2. Alternatively, discuss and take other possible action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
1. Ordinance No. 1476.

FISCAL IMPACT: None

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ORIGINATED BY: Kimberly Christensen, AICP, Planning Manager
REVIEWED BY: Sam Lee, Director of Planning and Building Safety
APPROVED BY: Greg Carpenter, City Manager

BACKGROUND & DISCUSSION:

I. Background and Discussion

On January 15, 2013, the City Council introduced an Ordinance to amend El Segundo Municipal Code Chapter 4-10 and Section 15-1-6 concerning regulation of massage establishments and massage technicians within the City of El Segundo. If adopted, Ordinance No. 1476 will become effective in 30 days.
ORDINANCE NO. 1476

AN ORDINANCE AMENDING EL SEGUNDO MUNICIPAL CODE
CHAPTER 4-10 AND SECTION 15-1-6 CONCERNING REGULATION
OF MASSAGES WITHIN THE CITY OF EL SEGUNDO.

The City Council of the City of El Segundo does ordain as follows:

SECTION 1: Findings. The City Council finds as follows:

A. The City currently regulates the practice of massage and the operation of
massage establishments for the benefit of the public health, safety and
welfare;

B. Business and Professions Code §§ 4600, et seq. (enacted by SB 731 in
2008 and amended by AB 619 in 2011) created a statewide system for
issuing massage worker permits, preempting local permitting systems and
requirements. The statewide permitting system is administered by the
California Massage Therapy Council;

C. The Business and Professions Code allows some local regulation of
massage establishments as part of the local business license process. To
enable the City to carry out the local regulation and review of massage
establishments found in Business and Professions Code §§ 4600, et seq.,
the City still must maintain massage establishment regulations in the El
Segundo Municipal Code ("ESMC");

D. On November 28, 2012, the City of El Segundo initiated an application for
Environmental Assessment No. EA-1007 and Zone Text Amendment No.
12-07 to amend the ESMC regulating massages within the City of El
Segundo;

E. The application was prepared and reviewed by the City’s Planning and
Building Safety Department for, in part, consistency with the General Plan
and conformity with the ESMC;

F. The City reviewed the project’s environmental impacts under the California
Environmental Quality Act (California Public Resources Code §§ 21000, et
seq., “CEQA”) and the regulations promulgated thereunder (14 California
Code of Regulations §§ 15000, et seq., the “CEQA Guidelines”), and the
City’s Environmental Guidelines (City Council Resolution No. 3805,
adopted March 16, 1993);

G. The Planning and Building Safety Department completed its review and
scheduled the public hearing regarding the application before the Planning
Commission for December 13, 2012;
H. On December 13, 2012, the Planning Commission held a public hearing to receive public testimony and other evidence regarding this Ordinance, including, without limitation, information provided to the Planning Commission by City staff and public testimony;

I. On December 13, 2012, the Planning Commission adopted Resolution No. 2725 recommending the City Council approve Environmental Assessment No. EA-1007 and Zone Text Amendment No. 12-07; and

J. This Ordinance and its findings are made based upon the entire administrative record including, without limitation, testimony and evidence presented to the City Council at its January 15, 2013, hearing including, without limitation, the staff report submitted by the Planning and Building Safety Department.

SECTION 2: Environmental Assessment. The proposed zone text amendment is exempt from further review under the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA") and CEQA regulations (14 California Code of Regulations §§ 15000, et seq.) because it establishes rules and procedures to permit operation of existing facilities; consists only of minor revisions and clarifications to existing regulations and specification of procedures related thereto; and consists of actions taken to assure the maintenance, protection and enhancement of the environment. This ordinance, therefore, does not have the potential to cause significant effects on the environment. Consequently, it is categorically exempt from further CEQA review under 14 Cal. Code Regs. §§ 15301, 15305, and 15308.

SECTION 3: General Plan Findings. As required under Government Code § 65860 the ESMC amendments proposed by the Ordinance are consistent with the El Segundo General Plan as follows:

A. The proposed zone text amendment conforms with Land Use Element Goal LU4 in that the amendment will help provide a stable tax base for the City by providing a clear regulatory framework for massage uses and permit their operation in a manner similar to other personal service uses.

B. The proposed zone text amendment is also consistent with Economic Development Element Goal ED1 in that the amendment will help create in El Segundo a strong, healthy economic community in which all diverse stakeholders may benefit. The proposed amendment will provide a clear regulatory framework for massage uses and permit their operation in a manner similar to other personal service uses.

SECTION 4: Zone Text Amendment Findings. In accordance with ESMC § 15-26-4, the proposed Zone Text Amendment is consistent with the goals, policies, and objectives of the General Plan as follows:
A. It is consistent with the purpose of the ESMC, which is to serve the public health, safety, and general welfare and to provide the economic and social advantages resulting from an orderly planned use of land resources.

B. It is necessary to comply with Business and Professions Code §§ 4600, et seq., to provide a clear regulatory framework for massage uses and permit their operation in a manner similar to other personal service uses consistent with state regulations.

SECTION 5: The definition of “Commercial” in ESMC Section 15-1-6 is amended in its entirety to read as follows:

"COMMERCIAL:

Financial Institutions: Banks and trust companies, credit agencies, credit unions, investment companies, lending and thrift institutions, securities/commodity contract brokers and dealers, security and commodity exchanges, vehicle finance (equity) leasing agencies. Financial institutions do not include check cashing or payday loan facilities.

Retail Sales: Alcohol sales (off site), building material stores, convenience stores, general retail stores, and warehouse retail showrooms.

General Retail Stores: General retail stores include sales, without limitation, of appliances, art gallery, artists' supplies, bakeries (retail only), bicycles, books and periodicals, cameras and photographic supplies, clothing and accessories, computer and computer equipment, electronics, department stores, drug and discount stores, collectible items sales, curio, gift and souvenir shops, dry goods, fabric and sewing supplies, florists and houseplant stores (indoor), furniture and home furnishings, grocery stores, hardware, hobby materials, household and kitchen goods, jewelry, luggage and leather goods, musical instruments, parts and accessories, newsstands, orthopedic supplies, pharmacies, religious goods, small wares, specialty shops, sporting goods and equipment, stationery, and toys and games.

Retail Services: Personal services and business and consumer support services.

Business And Consumer Support Services: Business and consumer support services include, without limitation, establishments primarily providing consumers and businesses with services, including maintenance, repair and service, testing, rental, as well as the following: business equipment repair services (except vehicle repair, see definition of Vehicle Sales And Services: Maintenance/Repair), computer related services (rental, repair), copying, quick printing, and blueprinting services, equipment rental businesses within buildings, film processing laboratories, heavy equipment repair services where repair occurs on the client site, household appliance and equipment repair services, janitorial and maid services, mail advertising services
(reproduction and shipping), photocopying and photofinishing, protective services (other than office related), window cleaning.

Personal Services: Personal services include, without limitation, barbershops and beauty salons, clothing rental, dry cleaning pick up stores with limited equipment, hair, nail, facial, and personal care, laundromats (self-service laundries), massage establishments, photo development, shoe repair shops, tailors, tanning salons.

Personal services and business and consumer support services may also include accessory retail sales of products related to the services provided.”

SECTION 6: ESMC Chapter 4-10 is amended in its entirety to read as follows:

"Chapter 10 MASSAGE ESTABLISHMENTS

4-10-1: PURPOSE:

A. This chapter establishes new permitting standards intended to comply with California law and establish health and safety guidelines for massage establishments.

B. This chapter is not intended to be exclusive and compliance will not excuse noncompliance with any state or local laws or regulations that are uniformly applied to other professional or personal services businesses including, without limitation, all zoning applications; business license regulations; building, fire, electrical, and plumbing codes; and health and safety code laws and regulations applicable to professional or personal services businesses.

C. This chapter establishes a local regulatory system that allows only state certified massage therapists and massage practitioners to operate within the City. This chapter is also intended to allow a transitional period for certain existing massage practitioners to continue practicing while they obtain state certification before December 31, 2014, and to coordinate the timing of the City’s business license renewals with the state massage certification process.

4-10-2: DEFINITIONS:

Unless the contrary is stated or clearly appears from the context, the following definitions govern the construction of the words and phrases used in this chapter. Words and phrases not defined by this chapter have the meaning set forth elsewhere in this Code, the Business and Professions Code, or Government Code.
“California Massage Therapy Council (CAMTC)” means the California Massage Therapy Council created pursuant to Business and Professions Code § 4600.5(a).

“Certified Massage Practitioner” means a person who is currently certified as a massage practitioner by the CAMTC, and who administers massage for compensation.

“Certified Massage Therapist” means a person who is currently certified as a massage therapist by the CAMTC, and who administers massage for compensation.

“City” means the City of El Segundo.

“Director” means the planning manager or such other director designated by the city manager.

“Massage” means any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating the external parts of the human body with the hands or with the aid of any mechanical or electrical apparatus, or other appliances or devices, with or without such supplementary aids as rubbing alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment or other similar preparations.

“Massage Establishment” means and includes any massage establishment, parlor, or any room, place or institution where massage is given or administered by a massage technician as the primary service of the business establishment.

“Massage Technician” means any person, who gives, performs or administers to another person a massage for any form of consideration.

“Person” means and includes person(s), firms, corporations, partnerships, associations or other forms of business organization or group.

“Specified anatomical areas” means and includes any of the following human anatomical areas: genitals, pubic regions, anuses or female breasts below a point immediately above the top of the areola.

“Specified sexual activities” means and includes all of the following:

A. Fondling or other erotic touching of specified anatomical areas;

B. Sex acts including, without limitation, intercourse, oral copulation, or sodomy;

C. Masturbation; or
D. Excretory functions as part of or in connection with any specified sexual activity listed in this definition.

4-10-3: ADMINISTRATION:

The Director is authorized to administer this chapter and to promulgate administrative policies and procedures required to implement the regulations set forth in this chapter.

4-10-4: CERTIFICATIONS REQUIRED:

A. Massage Establishment. It is unlawful for any person to own, operate or maintain a massage establishment unless all massage technicians employed by the massage establishment hold a current, valid certification from the CAMTC as a massage practitioner or massage therapist.

B. Massage Technician. It is unlawful for any person to engage in, or carry on the business or activities of a massage technician without a certification from the CAMTC as a massage practitioner or massage therapist.

C. Off-premises massage service. It is unlawful for any person to own, operate, or maintain an off-premise massage service in the city unless all massage technicians employed by the off-premises massage service hold a current, valid certification from the CAMTC as a certified massage practitioner or certified massage therapist.

4-10-5: MASSAGE ESTABLISHMENT OWNER BACKGROUND CHECK REQUIRED:

A. Any person, association, partnership, or corporation desiring to operate a massage establishment, that will own five percent (5%) or more of the massage establishment, and that is not a certified massage practitioner or certified massage therapist, must make an application to the Director for an investigation of the applicant's background and history. A nonrefundable fee, in an amount set by resolution, must accompany the submission of each application to defray the cost of investigation, inspection and enforcement of this chapter. An annual nonrefundable renewal fee will also be charged to defray associated costs of investigation, inspection and enforcement.

B. Each applicant for a background check must submit the following information:
1. The full true name and any other names used by the applicant.

2. The present address and telephone number of the applicant.

3. Driver's license number and social security number.

4. The proposed address of the massage establishment.

5. Each residence and business address of the applicant for the three years immediately preceding the date of the application, and the inclusive dates for such address.

6. Written proof that the applicant is at least 18 years of age.

7. Applicant's height, weight, and color of eyes and hair.

8. Two photographs of the applicant at least two inches by two inches taken within four months preceding the date of the application.

9. Applicant's business, occupation and employment history for the ten years immediately preceding the date of application.

10. The business license or permit history of the applicant, including whether such applicant has ever had any license or permit issued by any agency or board, city, county or state revoked or suspended, or has had any professional or vocational license or permit revoked or suspended and the reason(s) for the revocation.

11. All criminal convictions for any of the offenses set forth in this chapter, and a statement of the dates and places of such convictions.

12. If the applicant is a corporation, the name of the corporation must be set forth exactly as shown in the articles of incorporation or charter, together with the state and date of incorporation and names and residence addresses of each of its current officers and directors, and each stockholder holding more than five percent of the stock of the corporation. If the applicant is a partnership, the application must set forth the names and residence addresses of each of the partners, including the limited partners. If the applicant is a limited partnership, it must furnish a copy of its certificate of limited partnership filed with the county clerk. If one or more partners is a corporation, the provisions of this section pertaining to
corporate applicants will apply. The applicant corporation or partnership must designate one of its officers or general partners to act as its responsible managing officer. Such person must complete and sign all application forms required of any individual applicant under this chapter, but only one application fee will be charged.

13. The name and address of the owner and lessor of the real property upon or in which the massage establishment is to be operated, and a copy of the lease or rental agreement. If the applicant is not the legal owner of the property, a notarized acknowledgement from the owner of the property that a massage establishment will be located on his or her property is required for each massage establishment permit location.

14. The full true names and other names used, the present addresses and telephone numbers, driver’s license numbers, and social security numbers, and state certificates from the CAMTC or transitional licenses for all massage technicians who will be working as employees or independent contractors at each massage establishment permit location. The applicant must provide the Director with any changes in the massage technicians that work at the massage establishment during the permit period within 10 working days of each change.

15. The Director may require the applicant to furnish fingerprints when needed for the purpose of verifying identification.

16. Such other identification and information as may be required by the Director in order to verify the information to be included in the application.

C. The city is allowed a reasonable time, not to exceed 60 days, in which to investigate the information on the application. During the investigation of the background information, a city representative including, without limitation, a member of the Police Department, Fire Department, Building and Safety Department, Planning Department, or any authorized representative thereof, may inspect, with or without notice during regular business hours, the proposed place of business to determine whether it conforms to the requirements of this chapter. Upon completion of the inspection, the city representative must inform the Director in writing of the findings of the inspection.

D. Background clearance will be issued, within 60 days of receipt of the application, to any applicant who has furnished all of the information required by this section in the application for such license, provided:
1. The applicant has not made a material false statement in the application and that all massage technicians who will be working as employees or independent contractors at each massage establishment permit location possesses certification from the CAMTC as a massage practitioner or massage therapist;

2. The applicant, if an individual, or in the case of an applicant which is a corporation or partnership, any of its officers, directors, holders or five percent or more of the corporation's stock, has not, within five years immediately preceding the date of the filing of the application been convicted in a court of competent jurisdiction of any of the following offenses: Penal Code §§ 243.4; 261; 266a through 266j; 267; 314 to 316; 318; or 647(a, b, d); any offense requiring registration under Penal Code § 290 or Health and Safety Code § 11590; or any felony offense involving the possession, possession for sale, sale, transportation, furnishing, or giving away of a controlled substance specified in Health and Safety Code §§ 11054 to 11058, as amended; or any offense in another state which, if committed in California, would have been punishable as one or more of the heretofore mentioned offenses; or any offense involving the use of force or violence upon the person of another; or any offense involving theft, embezzlement or moral turpitude;

3. The applicant is at least 18 years of age; and

4. The applicant has not had a massage technician, massage establishment, escort service, nude entertainment, nude photo studio or similar type of license or permit suspended within one year or revoked within three years immediately preceding the date of the filing of the application, unless the applicant can show a material change in circumstances or that mitigating circumstances exist since the revocation or suspension.

4-10-6: ADDITIONAL REQUIREMENTS:

Before operating a massage establishment in the city, massage establishment owners must comply with all applicable codes adopted by the city, including, without limitation, the building, electrical, and plumbing codes.

4-10-7: DISPLAY OF PERMIT:

Any owner of a massage establishment or off-premise massage service must display the CAMTC certificates for all massage technicians prominently in a
conspicuous place, capable of being viewed by customers or city representatives, at every location where massage is performed or conducted, and carry photo identification card while on the premises of the massage establishment and/or performing massage services. For off-premise massage services, massage workers must also carry a copy of their CAMTC certificate and photo identification card and display it to customers upon request. Any advertising for a massage technician must include the name under which he or she is certified and his or her certificate number.

4-10-8: MASSAGE TECHNICIAN CERTIFICATES REQUIRED:

It is unlawful for owners of massage establishments or off-site massage services to allow any person to perform massage that is not a certified massage therapist or certified massage practitioner.

4-10-9: PROHIBITED CONDUCT:

It is unlawful for owners of massage establishments or off-premise massage services, or massage technicians, to conduct or allow any of the following activities:

A. It is unlawful for any massage technician or any other employee working in a massage establishment or for an off-premise massage service, or customers, patrons, or guests of the establishment or service, to engage in any specified sexual activities upon the premises of the massage establishment or the off-premise massage location.

B. It is unlawful for any massage technician or other employee of a massage establishment to expose specified anatomical areas in the presence of any patron, customer, or guest.

C. In the course of administering the massage, it is unlawful for any massage technician or other massage establishment employee to make intentional physical contact with the specified anatomical areas of any customer, patron or guest.

4-10-10: FACILITIES AND OPERATIONS:

It is unlawful for any massage establishment to operate unless the massage establishment premises and operation comply with the following minimum requirements:

A. Signs. A readable sign must be posted at the main entrance identifying the establishment as a massage establishment, provided, however, that all such signs must otherwise comply with the sign requirements of this code.
B. Lighting. Minimum lighting must be provided in accordance with the California Building Code, as adopted by this code, and, in addition, at least one unobstructed artificial light of not less than nine hundred (900) lumens must be provided in each enclosed room or booth where massage services are being performed on a patron.

C. Ventilation. Minimum ventilation must be provided in accordance with the California Building Code, as adopted by this Code.

D. Disinfection of Instruments. Instruments used for massage must be disinfected before each use. Where instruments for massage are employed, adequate quantities of supplies for disinfection must be available during all hours of operation.

E. Water. Hot and cold running water must be provided at all times.

F. Linen Storage. Closed cabinets must be utilized for the storage of clean towels and linen. After use, towels and linen must be removed and stored in a separate container until laundered.

G. Sanitary Conditions. All walls, ceilings, floors, steam and vapor rooms, and all other physical facilities for the massage establishment must be kept in good repair and be maintained in a clean and sanitary condition.

H. Clean Linen. Clean and sanitary towels and linens must be provided for patrons receiving massage services. No common use of towels or linens is permitted.

I. Compliance with Laws. The premises to be used must at all times comply with all applicable state and local laws and regulations.

J. Any room in which a massage establishment provides massage services may not be used for residential sleeping purposes.

K. A register of all individuals employed as massage technicians, and copies of their current CAMTC certifications and the massage establishment owner's business license, must be maintained and available for inspection at all times during regular business hours.

L. Each person present in any area of the massage establishment outside the waiting area or other areas open to any member of the public must be a certified massage practitioner or certified massage therapist or the massage establishment owner.
M. The permits and certifications required by this chapter must be displayed in an open and conspicuous public place on the premises.

4-10-11: EXCEPTIONS:

This chapter does not apply to the following classes of individuals, and no CAMTC certification is required of such persons, while engaged in the performance of the duties of their respective professions:

A. Acupuncturists who are duly certified to practice their profession in the state of California.

B. Barbers, beauticians, and cosmetologists with respect to scalp, feet, hands, and face massages, who are duly permitted pursuant to Business and Professions Code §§ 7301, et seq., in accordance with the limitations of their permits.

C. Nurses who are registered as such under the laws of the state of California.

D. Physicians, surgeons, chiropractors, osteopaths, or physical therapists who are duly permitted to practice their respective professions in the state of California, or provide professional services in lawful compliance with Corporations Code § 13401(a).

4-10-12: PUBLIC NUISANCE ABATEMENT:

Any massage establishment operated, conducted or maintained contrary to the provisions of this chapter is unlawful and a public nuisance. The City Attorney is authorized, in addition to or in lieu of any other legal or criminal proceedings, to commence an action or proceeding for abatement, removal or enjoinder of such massage establishment in the manner provided by law. The City Attorney may seek a court order to grant such relief to abate or remove such massage establishments and restrain and enjoin any person from operating, conducting or maintaining such an establishment contrary to the provisions of this chapter.

4-10-13: REVOCATION:

A. Grounds for Revocation. The Director or City Attorney may revoke approvals issued under this chapter for one or more of the following grounds:

1. Fraud or Deceit. That the applicant practiced fraud or deceit in obtaining an approval under this chapter;

2. Violation of Chapter. That the massage establishment owner,
operator, massage technician, or its employee violated a
provision or provisions of this chapter;

3. Criminal Conviction. That the massage establishment owner,
operator, massage technician, or its employee has been
convicted in a court of competent jurisdiction of any offense
described in this chapter;

4. Improperly Maintained Facilities. That the facilities and
operations of the massage establishment are not kept in
compliance with this chapter, and that the owner or operator has
failed to promptly remedy any deficiency of which they have
been notified. For purposes of this subsection, “notice” means
notice given personally or by leaving notice at the massage
establishment premises, or by first class mail, postage prepaid,
to the address designated by the massage technician or
establishment in accordance with this chapter;

5. Employment of Uncertified Technicians. That the massage
establishment has employed, allowed or permitted an
uncertified person to perform massage in the massage
establishment;

6. Error. That the approval was issued in error;

7. Civil Penalties. Assessment of three or more civil penalties as
provided by this chapter during any six month period; or

8. Prohibited Conduct. A massage establishment owner, operator,
massage technician, or its employee or agent has been found to
have engaged in prohibited conduct in violation of this chapter
or Business and Professions Code Section 4600 et seq.

B. Notice of Revocation. Upon a determination on the grounds to revoke
an approval under this chapter, the Director or City Attorney must
cause a notice of revocation to be mailed by first class, postage
prepaid mail, to the address designated by the massage technician or
establishment pursuant to this chapter.

4-10-14: CIVIL LIABILITY AND PENALTIES:

A. Any person violating any provision of this chapter is liable in a civil
action brought by the City Attorney for an amount up to $500 per
violation. Such person is also liable for reasonable attorneys’ fees and
costs incurred by the City Attorney in any civil proceeding filed to
enforce this chapter.
B. Enforcing this chapter through civil action may be filed as an alternative to criminal enforcement. Civil enforcement does not require the violation to be knowing or willful. A civil action cannot be filed if the person is being criminally prosecuted.

C. Each violation of this chapter is a separate offense subject to the civil penalty.

D. The City Attorney may settle any civil enforcement before or after to the filing of a civil action by imposing a civil penalty in an amount not exceeding the potential civil liability, including attorneys’ fees, set forth in this section. If such civil penalty is paid in full, the City Attorney can agree not to file civil or criminal actions or, if action has already been filed, may dismiss such action. Imposition of all civil penalties is public record.

E. All civil fines must be deposited into the general fund.

4-10-15 APPEAL:

Any person denied an approval under this chapter or a massage establishment owner or operator whose approval has been revoked may appeal the denial or revocation in writing pursuant to the appeal procedures provided in by section 1-2A-15 et seq. of this code. Such appeal must be in writing and must be filed with the City Clerk not more than fifteen (15) days following the Director’s deposit into the mail of the notice of denial or revocation sent to the applicant or massage establishment owner or operator to the address listed by the applicant or massage establishment owner or operator pursuant to this chapter. Any successful appeal will result in approval or reinstatement of an approval and refund of any fines collected by the City.”

SECTION 7: Enforceability. Repeal of any provision of the ESMC does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance’s effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

SECTION 8: Validity of Previous Code Sections. If this entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal or amendment of the ESMC or other city ordinance by this Ordinance will be rendered void and cause such previous ESMC provision or other the city ordinance to remain in full force and effect for all purposes.

SECTION 9: Severability. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity
will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

**SECTION 10:** The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of El Segundo's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.
SECTION 11: This Ordinance will take effect on the 31st day following its final passage and adoption.

PASSED, APPROVED, AND ADOPTED this ____ day of February, 2013.

Carl Jacobson,
Mayor

APPROVED AS TO FORM:
MARK D. HENSLEY, City Attorney

By: __________________________________________
    Karl H. Berger,
    Assistant City Attorney

ATTEST:
TRACY SHERRILL WEAVER, City Clerk

By: __________________________________________

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

I, TRACY SHERRILL WEAVER, City Clerk of the City of El Segundo, California, do hereby certify that the foregoing Ordinance No. 1476 was introduced, and placed upon its first reading at a meeting of the City Council of the City of El Segundo, held on the 15th day of January, 2013. That thereafter on the 5th day of February, 2013, said Ordinance was duly passed, approved and adopted by the following vote:

AYES:            COUNCIL MEMBERS:
NOES:            COUNCIL MEMBERS:
ABSENT:          COUNCIL MEMBERS:
ABSTAIN:         COUNCIL MEMBERS:

Dated this 5th day of February, 2013

Tracy Sherrill Weaver, City Clerk
City of El Segundo, California
EL SEGUNDO CITY COUNCIL
AGENDA STATEMENT

MEETING DATE: February 5, 2013
AGENDA HEADING: Consent Agenda

AGENDA DESCRIPTION:
Consideration and possible action regarding authorizing the recording of the Notice of Completion and authorizing the City Manager to accept completion of work for 34 homes related to the City's Residential Sound Insulation Program's Group 42 (Project No. RSI 12-01). (Final Contract Amount: $1,336,244.67)

RECOMMENDED COUNCIL ACTION:
1. Authorize the City Clerk to file the City's Planning and Building Safety Director's Notice of Completion in the County Recorder's Office;
2. Authorize the City Manager, or designee, to close out Project No. RSI 12-01; and/or
3. Alternatively discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
1. Planning and Building Safety Director’s Notice of Completion
2. List of homes included in Groups 42

FISCAL IMPACT: Included in Adopted Budget

Amounts Budgeted: $1,449,785.70
Additional Appropriation: N/A
Account Number(s): 116-400-0000-8960

ORIGINATED BY: James S. O'Neill, Program Manager
REVIEWED BY: Sam Lee, Director of Planning and Building Safety
APPROVED BY: Greg Carpenter, City Manager

BACKGROUND AND DISCUSSION:

This project is part of the City’s Residential Sound Insulation (RSI) Program financed by federal grants from the Federal Aviation Administration (FAA) and the settlement agreement with Los Angeles World Airports (LAWA).

The RSI Program offers modifications to owners of qualifying residential property in the City of El Segundo that reduce interior sound levels of noise generated by air traffic from neighboring Los Angeles International Airport (LAX).

At its meeting on March 20, 2012 the City Council awarded a construction contract to Big West Construction Corporation for construction at 34 homes, commonly referred to as Group 42 of the RSI Program.

The work has now been completed and the final contract amount is $1,336,244.67.
City Council is reminded that eighty percent (80%) of costs associated with the Residential Sound Insulation Program are covered by federal grant funding from the Federal Aviation Administration (FAA). This remains a funding source until those funds identified in the Grant Implementation Plan to the City of Los Angeles are exhausted. Remaining expenses, except for elective “Owner Upgrades” selected by property owners, are paid for by funding received as part of the settlement agreement with LAWA.
NOTICE OF COMPLETION OF CONSTRUCTION PROJECT

Project Name: Residential Sound Insulation Program – Group 42

Project No.: RSI 12-01

Notice is hereby given pursuant to State of California Civil Code Section 3093 et seq that:

1. The undersigned is an officer of the owner of interest stated below in the property hereinafter described.
2. The project owner's name is: City of El Segundo
3. The full addresses of the project are: attached as Exhibit A and incorporated by reference
4. The nature of the interest of the owner is:
5. A work of improvement on the property hereinafter described was field reviewed by City representatives on: see attached Exhibit A
6. The work done was: Residential Sound Insulation Program Improvements
7. On February 5, 2013, City Council of the City of El Segundo accepted the work of this contract as being complete and directed the recording of this Notice of Completion in the Office of the County Recorder.
8. The name of the Contractor for such work of improvement was: Big West Construction Corporation
9. The property on which said work of improvement was completed is in the City of El Segundo, County of Los Angeles, State of California, and is described as follows: Private Residence(s) listed in Exhibit A
10. The street address of said properties are: set forth in Exhibit A

Dated: _______________          

Sam Lee
Planning and Building Safety Director

VERIFICATION

I, the undersigned, say: I am the Director of Planning and Building Safety of the City El Segundo, the declarant of the foregoing Notice of Completion; I have read said Notice of Completion and know the contents thereof; the same is true of my own knowledge.

I declare under penalty of perjury the foregoing is true and correct.

Executed on _______________ at El Segundo, California.

Sam Lee
Planning and Building Safety Director

Notice of Completion
## Exhibit A

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<th>RSI Number</th>
<th>Project Address</th>
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<tr>
<td>42.01</td>
<td>811 Virginia Street</td>
</tr>
<tr>
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EL SEGUNDO CITY COUNCIL
AGENDA STATEMENT

MEETING DATE: February 5, 2012
AGENDA HEADING: Consent Agenda

AGENDA DESCRIPTION:

Consideration and possible action regarding 1) delegating authority to the City Manager or his designee to approve banner requests for Sepulveda Blvd. under the City's Caltrans Banner Permit and 2) establishing a fee for processing these permit requests.

(Fiscal Impact: potential revenue)

RECOMMENDED COUNCIL ACTION:

1. Delegate authority to the City Manager to approve banner requests for Sepulveda Blvd. under the City's Caltrans Banner Permit Program.
2. Direct staff to establish a processing fee for Sepulveda Blvd. banner applications.
3. Alternatively, discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:

None

FISCAL IMPACT: Undetermined

Amount Budgeted: $0
Additional Appropriation: N/A
Account Number(s): 001-300-0000-3804 (Revenue: Public Works Services)

ORIGINATED BY: Stephanie Katsouleas, Public Works Director
REVIEWED BY: Stephanie Katsouleas, Public Works Director
APPROVED BY: Greg Carpenter, City Manager

BACKGROUND AND DISCUSSION:

Annually, the City of El Segundo applies for and receives an encroachment permit from Caltrans to hang banners and decorations across or along Sepulveda Blvd. for city-sponsored programs, announcements and events. Recently the City has received several requests from outside individuals and organizations to utilize the City’s blanket permit to promote or announce various events, including the 10-K Relay for Life event and the opening of the El Segundo Museum of Art on Main St.

Historically, any organization wishing to hang a banner across Sepulveda Blvd. was directed to apply for an encroachment permit directly from Caltrans. Caltrans limits banner permit eligibility to local agencies and non-profit events approved by the local agency. Banners displaying private advertisements are not allowed. Caltrans also issues biennial permits to local agencies for installation of non-decorative banners at specific locations for recurring events (e.g., Dine, Shop Play banners, Christmas Parade).

Staff investigated whether non-profit organizations could appropriately utilize the City’s Caltrans blanket permit to advertise their events; we determined that for events which are sponsored (or
co-sponsored) by the City, then the blanket permit covers the event and banner placement on Sepulveda (banner placement is limited to two weeks). To begin exercising this opportunity, staff recommends that the steps be taken with minimal impact to staff resources:

1. Applicant applies directly to the City for hanging a banner over Sepulveda Blvd. under the City’s annual Caltrans Encroachment permit; staff will confirm that both the applicant and event qualify under Caltrans and City guidelines.
2. Permit is approved by the City Manager or his designee
3. Applicant submits evidence of insurance and pay an appropriate processing fee to the City
4. Applicant make arrangements to have his/her banner hung using an outside vendor (scheduling dates would be pre-approve as part of the application process)

Please note that there is only one location in El Segundo to hang a banner across Sepulveda Blvd. approximately half way between Grand Ave. and Mariposa Ave. Staff anticipates that the number of requests to banners displayed across Sepulveda Blvd. will increase under this program. Therefore, delegating approval authority to the City Manager or his designee will save significant staff resources by eliminating the need to write a staff report for every request received. This authority would be consistent with the approval process already delegated to Public Works for other banners placed in other areas throughout the City. Other benefits include:

- For events co-sponsored by the City, use of the City’s Caltrans Encroachment permit will save non-profit organizations significant time and resources in advertising their events. It also allows the City to proactively manage the scheduling of banner placement, giving priority to City events.
- Broader use of banners on Sepulveda Blvd. will help highlight and promote the many great programs, community events and services our City has to offer due to the volume of traffic Sepulveda Blvd. receives (approximately 63,000 cars per day each direction)

Based on the discussions above, staff recommends that City Council:

1. Delegate banner permit approval authority for Sepulveda Blvd. to the City Manager or his designee.
2. Direct staff to establish a few to offset resources used to review applications and issue permits. Please note that current permit fee is $178.00 for local banner placement.
EL SEGUNDO CITY COUNCIL

AGENDA STATEMENT

MEETING DATE: February 5, 2013
AGENDA HEADING: Consent Agenda

AGENDA DESCRIPTION:

Consideration and possible action to appropriate additional contingency funding from the Sewer Enterprise Fund for anticipated change orders regarding the Sanitary Sewer System Rehabilitation project. Project No. PW 11-09 (Fiscal Impact $100,000.00)

RECOMMENDED COUNCIL ACTION:

1. Authorize an additional $100,000.00 in contingency funds from the Sewer Enterprise Fund to cover anticipated changes orders in the Sanitary Sewer Rehabilitation Project and authorize the City Manager to execute an amendment in a form approved by the City Attorney, for additional work should it become necessary.

2. Alternatively, discuss and take other possible action related to this item.

ATTACHED SUPPORTING DOCUMENTS:

None.

FISCAL IMPACT: $100,000 Budget Adjustment Required

Amount Budgeted: $1,116,370.00
Additional Appropriation: Yes $100,000.00
Account Number(s): 502-400-8204-8647 (Sewer Enterprise Fund)

ORIGINATED BY: Lifan Xu, Principal Engineer
REVIEWED BY: Stephanie Katsouleas, Public Works Director
APPROVED BY: Greg Carpenter, City Manager

BACKGROUND AND DISCUSSION:

On June 19, 2012, the City Council awarded a $1,116,370 contract to MNR Construction for the construction of the Sanitary Sewer System Rehabilitation project for various locations within the Smoky Hollow Specific Plan area and a sewer main upgrade along Maple Avenue between Laiport Street and Nash Street. The award also included $145,613 in contingency funding, of which approximately $70,000 has already been expended on change orders due to unknown concrete encasements, undocumented utilities that caused worker delays, improperly marked utilities and additional pipe replacement.

The project is progressing on schedule and majority of the works has been completed. However, staff and the contractor recently discovered that the previously installed fiber optic cable on Maple Ave, was not placed according to approved plans. The submitted plans indicate that the fiber conduit would be installed 7' north of the existing 8” sewer line. However, field conditions show that the actual fiber line was installed incorrectly and is located anywhere from 2’ to 5’ from the sewer line. This error may be due to the directional boring technique used. For this
reason, the existing fiber conduit may be in direct conflict of the proposed sewer trench line. Staff's concern is that additional shoring and compaction may become necessary should the soils start to cave in. Staff and project inspector are monitoring construction activities closely as the contractor begins working in the effected area. It is undetermined whether the additional funds to cover unforeseen conditions will be necessary, but in the interest of avoiding project delays, which could cost even more for remobilization, staff is recommending that City Council preemptively authorize the additional appropriation monies from the Sewer Enterprise Fund. Staff also recommends that City Council authorize the City Manager to approve potential change orders for up to $100,000 in additional to the $145,613 contingency already available.