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, AUGUST 6 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:

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) (3) -2- matter

1. City of El Segundo vs. City of Los Angeles, et.al. LASC Case No. BS094279
2. City of Los Angeles vs. Pacific Bell Telephone Company, et al., LASC Case No. BC414272

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(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): -1- matters

1. Lease of City Owned Property (Price and Terms)
   Real Property: City owned Golf Course (“The Lakes”) located at Sepulveda Boulevard (Assessor Parcel Number: 4138-014-913).
   City’s Negotiator: Greg Carpenter, City Manager
   Potential Lessee/Negotiating Party: Centercal Properties, Inc.
AGENDA
EL SEGUNDO CITY COUNCIL
COUNCIL CHAMBERS - 350 Main Street

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REGULAR MEETING OF THE EL SEGUNDO CITY COUNCIL
TUESDAY, AUGUST 6, 2013 - 7:00 P.M.

7:00 P.M. SESSION

CALL TO ORDER

INVOCATION – Lee Carlile, Pastor, Methodist Church

PLEDGE OF ALLEGIANCE – Mayor Pro Tem Jacobson
PRESENTATIONS

(a) Commendation to El Segundo Police Officer Cory McEnroe and Canine Partner Ty

ROLL CALL

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CITY COUNCIL COMMENTS – (Related to Public Communications)

A. PROCEDURAL MOTIONS

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

Recommendation – Approval.

B. SPECIAL ORDERS OF BUSINESS (PUBLIC HEARING)

1. Consideration and possible action to conduct a Public Hearing regarding operating and capital outlay requests of $100,000 from the existing Citizens Option for Public Safety (COPS) Supplemental Law Enforcement Services Fund (SLESF) account by the Chief of Police. The grant requires that expenditures be utilized to supplement “front line law enforcement.” Front line law enforcement includes funding special enforcement details, and purchasing equipment.

(Fiscal Impact: $100,000.00 from COPS grant fund)

Recommendation – 1) Open Public Hearing to consider funding requests from the Chief of Police; 2) Adopt Resolution approving the use of COPS grant funds to purchase equipment related to supplementation of "front line law enforcement." 3) Alternatively, discuss and take other action related to this item.
2. Consideration and possible action to conduct a Public Hearing, consider testimony, and adopt a Resolution finding that the City conforms with the annual Congestion Management Program (CMP) and adopting the annual CMP Local Development Report, in accordance with California Government Code § 65089.  
(Fiscal Impact: None)  
Recommendation – 1) Open Public Hearing; 2) Discussion; 3) Adopt Resolution; 4) Alternatively, discuss and take other action related to this item.

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.

3. Warrant Numbers 2593533 - 2593753 on Register No. 20 in the total amount of $791,984.85 and Wire Transfers from 7/03/2013 through 7/18/2013 in the total amount of $2,719,378.87.  
Recommendation – Approve Warrant Demand Registers 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.

5. Consideration and possible action to adopt a Resolution approving Plans and Specifications for the On Call HVAC Maintenance Service. Project No.: PW 13-17.  
(Fiscal Impact: $60,000.00)  
Recommendation – 1) Adopt attached resolution approving Plans and Specifications for the On Call HVAC Maintenance and Repair Services; 2) Alternatively, discuss and take other possible action related to this item.
6. Consideration and possible action to authorize the City Manager to amend the contract with Professional Building Maintenance for temporary custodial services for up to one year and with expanded duties. Project No.: PW 13-13.
   (Fiscal Impact: $159,130.00)
Recommendation – 1) Authorize the City Manager to amend the contract with Professional Building Maintenance, in a form approved by the City Attorney, for temporary custodial services for up to one year and with expanded duties; 2) Alternatively, discuss and take other possible action related to this item.

7. Consideration and possible action to adopt a Resolution approving Specifications for the Elevated Water Tank Restoration Project. Project No.: PW 13-07.
   (Fiscal Impact: $650,000.00)
Recommendation – 1) Adopt a Resolution approving specifications for the Elevated Water Tank Restoration Project; 2) Alternatively, discuss and take other possible action related to this item.

8. Consideration and possible action to authorize the City Manager to enter into a License Agreement with the Los Angeles County to use and occupy the El Segundo Beach Bathroom and Lifeguard Station Facility.
   (Fiscal Impact: $1.00 rental fee)
Recommendation – 1) Authorize the City Manager to enter into a License Agreement with Los Angeles County, in a form approved by the City Attorney, to use and occupy the El Segundo Beach Restroom and Lifeguard Facility; 2) Alternatively, discuss and take other possible action related to this item.

9. Consideration and possible action to adopt Resolution authorizing the City Manager to Execute a Joint Powers Agreement with the Western Riverside Council of Governments (“Authority”) to participate in the California Hero Program; Authorizing the Authority to take action for including property within the City’s jurisdiction in the hero program; and authorizing the City Manager, or designee, to execute such documents needed to implement this resolution.
   (Fiscal Impact: None)
Recommendation – 1) Adopt proposed Resolution; 2) Alternatively, discuss and take other possible action related to this item.
10. Consideration and possible action to authorize the City Manager to sign an agreement with the City of Long Beach and the Los Angeles Area Fire Chiefs’ Association (LAAFCA) regarding the acceptance of a SMART Classroom system including hardware, software, and equipment to be installed at El Segundo Fire Station 2. The SMART Classroom is to be funded by a $75,000 award in grant funding from the United States Department of Homeland Security, through the Office of Grants and Training, under fiscal year 2012 Urban Areas Security Initiative (UASI).
(Fiscal Impact: None)
Recommendation – 1) Authorize the City Manager to sign an agreement with the City of Long Beach and the Los Angeles Area Fire Chiefs’ Association (LAAFCA) to establish a collaborative relationship with respect to the LAAFCA’s Regional Fire Departments SMART Classroom Project; 2) Alternatively, discuss and take other possible action related to this item.

11. Consideration and possible action to accept donation of materials and labor from Alex Kirby to enhance the grass area at Camp Eucalyptus for his Boy Scout Eagle Project.
(Fiscal Impact: $200.00 for City improvements)
Recommendation – 1) Approve to accept donation of materials and labor from Alex Kirby; 2) Adopt a Resolution that includes approval of the project’s plan; 3) Authorize the City Manager to execute a contract with Alex Kirby’s parent or guardian in a form approved by the City Attorney; 4) Alternatively, discuss and take other possible action related to this item.

12. Consideration and possible action regarding 1) Approval of a title change from Management Analyst – Payroll to Management Analyst for the current classification.
(Fiscal Impact: None)
Recommendation – 1) Approve the proposed title change; 2. Alternatively, discuss and take other action related to this item.

13. Consideration and possible action regarding approval of a contract amendment for Aerotek, Inc. for additional temporary staffing services in the RSI Program for an administrative specialist and in the Public Works Streets Division for street maintenance work.
(Fiscal Impact: $30,000.00)
Recommendation – 1) Authorize the City Manager to execute a contract amendment, in a form approved by the City Attorney, with Aerotek, Inc. for additional temporary staffing services; or 2) Alternatively, discuss and take other action related to this item.
F. NEW BUSINESS

14. Consideration and possible action regarding the presentation of fiscal year 2012-13 third quarter Financial Review and presentation of the fiscal year 2013-14 Preliminary Operating Budget.
(Fiscal Impact: None)

Recommendation – 1) Receive and file FY 2012-13 Third Quarter Financial staff report; 2) Receive and file FY 2013-14 Preliminary Operating Budget. 3) Publish announcements of the key budget dates: a) Public Hearing September 3, 2013, 7:00 p.m. b) Continued Public Hearing and Adoption September 17, 2013, 7:00 p.m.; 4) Alternatively, discuss and take other action related to this item.

15. Consideration and possible action to adopt policy changes to the City's Residential Sound Insulation (RSI) Program.
(Fiscal Impact: None)

Recommendation – 1) Adopt policy changes detailed in this staff report; and/or 4) Alternatively, discuss and take other action related to this item.

G. REPORTS – CITY MANAGER

H. REPORTS – CITY ATTORNEY

I. REPORTS – CITY CLERK

J. REPORTS – CITY TREASURER

K. REPORTS – CITY COUNCIL MEMBERS

Council Member Fellhauer -

Council Member Atkinson –

Council Member Fuentes –

Mayor Pro Tem Jacobson –
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.

MEMORIALS –

CLOSED SESSION

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

REPORT OF ACTION TAKEN IN CLOSED SESSION (if required)

ADJOURNMENT

POSTED:

DATE: 7-31-13
TIME: 2:30 pm
NAME: Cathryn Dornan
Commendation

City of El Segundo, California

WHEREAS, Officer Cory McEnroe has been an El Segundo Police Officer since October of 2005. After working several years in patrol, he was assigned to the canine program in June of 2009, and was paired up with his new partner: Ty. Canine Ty is a Belgium Malinois and was born in the Netherlands. Following a rigorous five week basic handler course in Riverside, CA, Cory and Ty were officially certified as a patrol canine team. In March of 2011, Cory and Ty attended another intensive five week course in Riverside specific to narcotic detection and certified in the detection of methamphetamine, heroin, marijuana, cocaine, ecstasy and their derivatives;

WHEREAS, During Ty's career, he conducted approximately 160 narcotic searches, 58 searched for violent felony suspects, nine evidence/article searches and performed 15 canine demonstrations for the community and schools in El Segundo. Ty was directly responsible for the apprehension of five violent felony suspects and the seizure of approximately $800,000 in U.S currency used to illicit a drug trade. Throughout Ty's career, he located over a hundred pounds of the various drugs he was trained to detect. One of Ty's notable cases included the “find” of a large marijuana grow where over a thousand marijuana plants were seized;

WHEREAS, In addition to the narcotic and suspect searches Ty did for El Segundo Police Department, he also assisted numerous other South Bay agencies and federal narcotics task forces, including the FBI, Homeland Security, U.S. Customs, Los Angeles Airport Police and various multi-agency narcotic teams;

WHEREAS, In June of 2013, Ty unfortunately suffered a life threatening and career ending medical condition called Laryngeal Paralysis which deemed him unfit to continue work as a police service canine. After many years of catching bad guys and seizing drugs, Ty was officially retired from his police duties on June 23, 2013. Ty will spend the remainder of his life retired at home with Cory and his family;

NOW, THEREFORE, on this 6th day of August, 2013, the Mayor and Members of the City Council of the City of El Segundo, California, hereby commend and thank Officer Cory McEnroe and Ty for their dedicated and professional service to the El Segundo Police Department and the City of El Segundo.

Mayor Bill Fisher
Mayor Pro Tem Carl Jacobson
Council Member Suzanne Fuentes
Council Member Dave Atkinson
Council Member Marie Fellhauer
AGENDA DESCRIPTION:
Consideration and possible action to conduct a Public Hearing regarding operating and capital outlay requests of $100,000 from the existing Citizens Option for Public Safety (COPS) Supplemental Law Enforcement Services Fund (SLESF) account by the Chief of Police. The grant requires that expenditures be utilized to supplement “front line law enforcement.” Front line law enforcement includes funding special enforcement details, and purchasing equipment. (Fiscal Impact: $100,000 from COPS grant fund)

RECOMMENDED COUNCIL ACTION:
1. Open Public Hearing to consider funding requests from the Chief of Police;
2. Adopt Resolution approving the use of COPS grant funds to purchase equipment related to supplementation of "front line law enforcement."
3. Alternatively discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
Resolution

FISCAL IMPACT: Included in Adopted Budget

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ORIGINATED BY: Brian Evansi, Captain
REVIEWED BY: Mitch Tavera, Chief of Police
APPROVED BY: Greg Carpenter, City Manager

BACKGROUND AND DISCUSSION:
In 1996, the Legislature adopted Government Code §§ 30061 to 30064 to provide a block grant for law enforcement purposes. This legislation, known as the Citizens Option for Public Safety (COPS), requires a public hearing to consider the expenditure of funds.

Between December 2012 and April 2013, the City was awarded $100,000 in COPS grant funds. All funds received under this grant must be utilized to supplement law enforcement activities and cannot be used to supplant existing funding. In the past, the funds have been used for special enforcement details and to purchase equipment directly used in “front line law enforcement” including replacement handguns, less-than-lethal shotguns, tasers, and mobile data computers.
It is anticipated that these monies will be utilized during the upcoming fiscal year to purchase similar equipment and fund specialized enforcement plans. Proposed purchases of equipment or use of these funds must be approved by Council. Staff recommends the following items for approval by Council as possible utilizations to be made with the COPS grant funds.

1. Overtime funding for special enforcement details.
2. Fund updates/improvements to the Suburban Command Response and SWAT vehicles.
3. Purchase body worn or other audio/video digital recording equipment.
5. Purchase covert personal recording devices.
6. Fund card reader security access system for the police facility.
9. Purchase ballistic helmets for SWAT.
RESOLUTION NO. _____

A RESOLUTION PROVIDING FOR THE IMPLEMENTATION OF THE CITIZENS OPTION FOR PUBLIC SAFETY (COPS) PROGRAM.

BE IT RESOLVED by the Council of the city of El Segundo as follows:

SECTION 1: The City Council finds as follows:

A. Senate Bill 823 (SB 823) (Poochigian – Local law enforcement funding) was charted into law on April 6, 2002 for supplemental local law enforcement funding pursuant to the bill;

B. SB 823 provides $100,000,000 statewide for the Citizens for Public Safety (COPS) Program;

C. The County of Los Angeles has established a Supplemental Law Enforcement Service Fund (SLESF) in accordance with Section 30061 of the Government Code to receive SB 823 funds which have been allocated for use in Los Angeles County;

D. The City of El Segundo participates in the COPS Program and receives its share of any funds available for the purpose of ensuring public safety; and

E. The City has established its own Supplemental Law Enforcement Service Fund (SLESF) in accordance with Section 30061 of the Government Code;

F. The City Council has conducted a public hearing to consider funding requests from the Chief of Police and shall determine the submitted requests as required by SB 823.

SECTION 2: The City Council directs that the City maintain its own Supplemental Law Enforcement Service Fund (SLESF) as required pursuant to Government Code §§ 30061 and 30063.

SECTION 3. The City Council requests that the City’s share of the funding be allocated to SLESF for purposes of front-line law enforcement.

SECTION 4: The City Clerk is directed to certify the adoption of this Resolution; record this Resolution in the book of the City’s original resolutions; and make a minute of the adoption of the Resolution in the City Council’s records and the minutes of this meeting.

SECTION 5: This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.
PASSED AND ADOPTED this ___ day of ____________, 2013.

Bill Fisher,
Mayor

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

I, Tracy Weaver, City Clerk of the City of El Segundo, California, hereby certify that the whole number of members of the City Council of the City is five; that the foregoing Resolution No. _________ was duly passed and adopted by said City Council, approved and signed by the Mayor of said City, and attested to by the City Clerk of said City, all at a regular meeting of said Council held on the 6th day of August, 2013, and the same was so passed and adopted by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

______________________________
Tracy Weaver,
City Clerk

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

By:
______________________________
Karl H. Berger
Assistant City Attorney
AGENDA DESCRIPTION:
Consideration and possible action to open a Public Hearing, consider testimony, and adopt a Resolution finding that the City conforms with the annual Congestion Management Program (CMP) and adopting the annual CMP Local Development Report, in accordance with California Government Code § 65089. (Fiscal Impact: None).

RECOMMENDED COUNCIL ACTION:
1. Open Public Hearing;
2. Discussion;
3. Adopt Resolution; and/or
4. Alternatively, discuss and take other possible related action to this item.

ATTACHED SUPPORTING DOCUMENTS:
1. Draft Resolution
2. 2013 Local Development Report
3. MTA Executive Management Committee Motion Regarding the CMP

FISCAL IMPACT: None

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

BACKGROUND AND DISCUSSION:

I. Background

The Congestion Management Program (CMP) became effective with voter approval of Proposition 111 in June 1990. The CMP is a tool to facilitate coordination between transportation and land use decisions. It requires agencies to weigh the impacts of traffic generated by developments and requires the mitigation of additional congestion. In accordance with State law the Los Angeles County Metropolitan Transportation Authority (MTA) Board has adopted the CMP for Los Angeles County. Cities within the County are required to comply with the adopted CMP or risk the loss of Gas tax revenues received pursuant to Proposition 111. The City received $412,836.56 of tax revenue last year.
The Los Angeles County MTA requires that by September 1st of each year, local agencies submit a self-certification Resolution and a Local Development Report pursuant to a noticed public hearing as required by State law.

The self-certification Resolution consists of the following:

1. A finding that the City is in conformance with the CMP.

2. Certification that the City will continue to implement the Transportation Demand Management Ordinance. (ESMC Chapter 15-16).

3. Certification that the City will continue to implement a Land Use Analysis Program. (City Council Resolution No. 3805).


In previous years, the CMP required the City to calculate the total debits and credits accruing from building and demolition permits and transportation improvement strategies and to maintain a positive credit balance. The City’s credit balance as of May 31, 2003 was 6,642. On February 18, 2004, MTA suspended the requirement that cities maintain a positive credit balance and suspended the requirement to calculate credits and debits resulting from construction activity and transportation improvements strategies to explore the feasibility of implementing a “Congestion Mitigation Fee” to meet local requirements of the CMP Deficiency Plan. The City’s current credit balance remains frozen until the MTA adopts the fee.

On October 28, 2010 the Metro Board adopted the 2010 CMP for Los Angeles County. The 2010 CMP summarizes the results of 18 years of CMP highway and transit monitoring and 15 years of monitoring local growth. CMP implementation guidelines for local jurisdictions are also contained in the 2010 CMP.

Metro staff and their consultants have completed the sub-regional nexus study on the “Congestion Mitigation Fee” for the MTA Board in May 2013. In June 2013, the MTA Board approved a motion (see Exhibit 3), directing the CEO to work with the Sacramento legislative delegation to conduct a hearing as to whether the CMP is still an appropriate and useful program. The MTA Board directed the CEO to report back any State findings and legislative changes to CMP statute, in consultation with the business and environmental communities, local jurisdictions and the Southern California Association of Governments (SCAG), with a recommendation on meeting CMP requirements no later than the February 2014 MTA Board meeting.

The Congestion Mitigation Fee would be a one time fee applied to all types of new development. If adopted by the LACMTA, locally adopted Congestion Mitigation Fee Programs that meet the CMP compliance requirements would replace the currently suspended Debit-Credit Methodology of the CMP Deficiency Plan. Cities that complied would retain their annual Section 2105 gas tax revenue and would ensure their eligibility for the Metro Call-For-Projects eligibility. El Segundo has a locally adopted traffic mitigation fee that is a one time fee applied to new development. Planning and Public Works staff have been coordinating with LACMTA staff to ensure the eligibility and CMP compliance of its existing traffic mitigation fees. The
proposed program would: 1) require approval by MTA and local jurisdictions; 2) provide cities credit for existing fee programs; and 3) delegate local control to each jurisdiction to collect fees and control the revenue to implement projects while maintaining annual reporting to MTA.

The LACMTA Board of Directors anticipates completion of the annual CMP conformance review and a final recommendation of approval for the “Congestion Mitigation Fee” at its February 2014 Board meeting. Local implementation would follow with the adoption of the “Congestion Mitigation Fee” by the LACMTA Board.

In odd-numbered years the City is required to submit traffic count data for one selected arterial intersection (Sepulveda Boulevard/El Segundo Boulevard). In even-numbered years the City is not required to submit traffic counts. This year the City is required to submit the traffic count data and to report the number of new dwelling units permitted and the floor area of new non-residential buildings and demolitions. The attached Local Development Report summarizes the development activity for the June 1, 2012 to May 31, 2013 reporting year.

The development activity for this reporting year added 121,140 total square feet of non-residential building area to the City. The two major commercial developments for this year’s reporting period were a new single-story 45,152 square-foot facility operated by the United States Department of Agriculture (USDA), and a 25,308 square-foot office addition for Boeing.

New development this year in the Smoky Hollow Specific Plan added a total of 32,735 square feet of office use area and 26,823 square feet of industrial use area. The residential projects for this year included four net new multi-family residential dwelling units.
RESOLUTION NO. ______

A RESOLUTION FINDING THE CITY TO BE IN COMPLIANCE WITH THE CONGESTION MANAGEMENT PROGRAM (CMP) AND ADOPTING THE LOCAL DEVELOPMENT REPORT IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE § 65089.

The City Council of the city of El Segundo does resolve as follows:

SECTION 1: The City Council finds that:

A. The Los Angeles County Metropolitan Transportation Authority ("LACMTA"), acting as the Congestion Management Agency for Los Angeles County, adopted the 2004 Congestion Management Program ("CMP") on July 22, 2004;

B. As adopted, the CMP statute requires that LACMTA annually determine that Los Angeles County and cities within the County conform with all CMP requirements;

C. The CMP requires municipalities within Los Angeles County to submit Local Development Reports to the LACMTA by September 1 of each year;

D. The City Council held a noticed public hearing on August 6, 2013 during which it considered the evidence presented by staff and the public regarding how the City has implemented measures designed to mitigate the impacts of traffic congestion resulting from new development;

E. Based upon the August 6, 2013 public hearing, the City Council determined that:

1. The City has taken actions in conformance with all applicable requirements of the 2010 CMP adopted by the LACMTA Board on October 28, 2010;

2. By June 15 of odd-numbered years the City conducts annual traffic counts and calculated levels of service for selected arterial intersections, consistent with the requirements identified in the CMP Highway and Roadway System Chapter;

3. The City adopted and continues to implement a transportation demand management ordinance consistent with the minimum requirements identified in the CMP Transportation Demand Management Chapter;

4. The City adopted and continues to implement a land use analysis program consistent with the minimum requirements identified in the CMP Land Use Analysis Program Chapter; and

5. The City adopted a Local Development Report, which is attached as Exhibit “A,” and incorporated by reference, consistent with the
requirements identified in the 2010 CMP. This report balances traffic congestion impacts due to growth within the City with transportation improvements, and demonstrates that the City meets its responsibilities under the County-wide Deficiency Plan consistent with the LACMTA Board adopted 2003 Short Range Transportation Plan.

SECTION 2: In accordance with its findings, the City Council determines that the City of El Segundo is in compliance with all requirements of the CMP adopted by the LACMTA Board on October 28, 2010.

SECTION 3: This Resolution will remain effective until superseded by a subsequent resolution.

SECTION 4: This Resolution will take effect immediately upon adoption.

PASSED AND ADOPTED this 6th day of August, 2013.

Bill Fisher, Mayor
City of El Segundo

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

By: Karl H. Berger, Assistant City Attorney
ATTEST:

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 said City is five; that the foregoing Resolution No. _________ was duly passed and adopted by said City Council, approved and signed by the Mayor of said City, and attested to by the City Clerk of said City, all at a regular meeting of said Council held on the 6th day of August 2013, and the same was so passed and adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Tracy Weaver, City Clerk
# CITY OF EL SEGUNDO

## 2013 CMP Local Development Report

**Reporting Period:** JUNE 1, 2012 - MAY 31, 2013

**Contact:** KIMBERLY CHRISTENSEN  
**Phone Number:** (310) 524-2340

## CONGESTION MANAGEMENT PROGRAM  
FOR LOS ANGELES COUNTY

## 2013 DEFICIENCY PLAN SUMMARY

* IMPORTANT: All "#value!" cells on this page are automatically calculated.  
Please do not enter data in these cells.

### DEVELOPMENT TOTALS

<table>
<thead>
<tr>
<th>RESIDENTIAL DEVELOPMENT ACTIVITY</th>
<th>Dwelling Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family Residential</td>
<td>(1.00)</td>
</tr>
<tr>
<td>Multi-Family Residential</td>
<td>5.00</td>
</tr>
<tr>
<td>Group Quarters</td>
<td>0.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>COMMERCIAL DEVELOPMENT ACTIVITY</th>
<th>1,000 Net Sq.Ft.$^2$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial (less than 300,000 sq.ft.)</td>
<td>2.80</td>
</tr>
<tr>
<td>Commercial (300,000 sq.ft. or more)</td>
<td>0.00</td>
</tr>
<tr>
<td>Freestanding Eating &amp; Drinking</td>
<td>0.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>NON-RETAIL DEVELOPMENT ACTIVITY</th>
<th>1,000 Net Sq.Ft.$^2$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lodging</td>
<td>0.00</td>
</tr>
<tr>
<td>Industrial</td>
<td>28.12</td>
</tr>
<tr>
<td>Office (less than 50,000 sq.ft.)</td>
<td>90.84</td>
</tr>
<tr>
<td>Office (50,000-299,999 sq.ft.)</td>
<td>0.00</td>
</tr>
<tr>
<td>Office (300,000 sq.ft. or more)</td>
<td>0.00</td>
</tr>
<tr>
<td>Medical</td>
<td>0.00</td>
</tr>
<tr>
<td>Government</td>
<td>(0.52)</td>
</tr>
<tr>
<td>Institutional/Educational</td>
<td>0.00</td>
</tr>
<tr>
<td>University (# of students)</td>
<td>0.00</td>
</tr>
</tbody>
</table>

### OTHER DEVELOPMENT ACTIVITY

<table>
<thead>
<tr>
<th>ENTER IF APPLICABLE</th>
<th>Daily Trips</th>
</tr>
</thead>
<tbody>
<tr>
<td>ENTER IF APPLICABLE</td>
<td>0.00</td>
</tr>
</tbody>
</table>

### EXEMPTED DEVELOPMENT TOTALS

| Exempted Dwelling Units | 0 |
| Exempted Non-residential sq. ft. (in 1,000s) | 0 |

---

2. Net square feet is the difference between new development and adjustments entered on pages 2 and 3.
# CITY OF EL SEGUNDO

2013 CMP Local Development Report
Reporting Period: JUNE 1, 2012 - MAY 31, 2013

Enter data for all cells labeled "Enter." If there are no data for that category, enter "0."

## PART 1: NEW DEVELOPMENT ACTIVITY
### RESIDENTIAL DEVELOPMENT ACTIVITY

<table>
<thead>
<tr>
<th>Category</th>
<th>Dwelling Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family Residential</td>
<td>0.00</td>
</tr>
<tr>
<td>Multi-Family Residential</td>
<td>9.00</td>
</tr>
<tr>
<td>Group Quarters</td>
<td>0.00</td>
</tr>
</tbody>
</table>

### COMMERCIAL DEVELOPMENT ACTIVITY

<table>
<thead>
<tr>
<th>Category</th>
<th>1,000 Gross Square Feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial (less than 300,000 sq.ft.)</td>
<td>2.80</td>
</tr>
<tr>
<td>Commercial (300,000 sq.ft. or more)</td>
<td>0.00</td>
</tr>
<tr>
<td>Freestanding Eating &amp; Drinking</td>
<td>0.00</td>
</tr>
</tbody>
</table>

### NON-RETAIL DEVELOPMENT ACTIVITY

<table>
<thead>
<tr>
<th>Category</th>
<th>1,000 Gross Square Feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lodging</td>
<td>0.00</td>
</tr>
<tr>
<td>Industrial</td>
<td>28.12</td>
</tr>
<tr>
<td>Office (less than 50,000 sq.ft.)</td>
<td>90.84</td>
</tr>
<tr>
<td>Office (50,000-299,999 sq.ft.)</td>
<td>0.00</td>
</tr>
<tr>
<td>Office (300,000 sq.ft. or more)</td>
<td>0.00</td>
</tr>
<tr>
<td>Medical</td>
<td>0.00</td>
</tr>
<tr>
<td>Government</td>
<td>0.08</td>
</tr>
<tr>
<td>Institutional/Educational</td>
<td>0.00</td>
</tr>
<tr>
<td>University (# of students)</td>
<td>0.00</td>
</tr>
</tbody>
</table>

### OTHER DEVELOPMENT ACTIVITY

<table>
<thead>
<tr>
<th>Description</th>
<th>Daily Trips</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Attach additional sheets if necessary)</td>
<td>(Enter &quot;0&quot; if none)</td>
</tr>
<tr>
<td>ENTER IF APPLICABLE</td>
<td>0.00</td>
</tr>
<tr>
<td>ENTER IF APPLICABLE</td>
<td>0.00</td>
</tr>
<tr>
<td>Category</td>
<td>Dwelling Units</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>----------------</td>
</tr>
<tr>
<td>Single Family Residential</td>
<td>1.00</td>
</tr>
<tr>
<td>Multi-Family Residential</td>
<td>4.00</td>
</tr>
<tr>
<td>Group Quarters</td>
<td>0.00</td>
</tr>
</tbody>
</table>

**Commercial Development Activity**

<table>
<thead>
<tr>
<th>Category</th>
<th>1,000 Gross Square Feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial (less than 300,000 sq.ft.)</td>
<td>0.00</td>
</tr>
<tr>
<td>Commercial (300,000 sq.ft. or more)</td>
<td>0.00</td>
</tr>
<tr>
<td>Freestanding Eating &amp; Drinking</td>
<td>0.00</td>
</tr>
</tbody>
</table>

**Non-Retail Development Activity**

<table>
<thead>
<tr>
<th>Category</th>
<th>1,000 Gross Square Feet</th>
</tr>
</thead>
<tbody>
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<tr>
<td>Industrial</td>
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<tr>
<td>Office (less than 50,000 sq.ft.)</td>
<td>0.00</td>
</tr>
<tr>
<td>Office (50,000-299,999 sq.ft.)</td>
<td>0.00</td>
</tr>
<tr>
<td>Office (300,000 sq.ft. or more)</td>
<td>0.00</td>
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<tr>
<td>Medical</td>
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<tr>
<td>Government</td>
<td>0.70</td>
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<tr>
<td>Institutional/Educational</td>
<td>0.00</td>
</tr>
<tr>
<td>University (# of students)</td>
<td>0.00</td>
</tr>
</tbody>
</table>

**Other Development Activity**

<table>
<thead>
<tr>
<th>Description (Attach additional sheets if necessary)</th>
<th>Daily Trips (Enter &quot;0&quot; if none)</th>
</tr>
</thead>
<tbody>
<tr>
<td>ENTER IF APPLICABLE</td>
<td>0.00</td>
</tr>
<tr>
<td>ENTER IF APPLICABLE</td>
<td>0.00</td>
</tr>
</tbody>
</table>
### CITY OF EL SEGUNDO
2013 CMP Local Development Report  
**Reporting Period:** JUNE 1, 2012 - MAY 31, 2013

Enter data for all cells labeled "Enter." If there are no data for that category, enter "0."

### PART 3: EXEMPTED DEVELOPMENT ACTIVITY  
(NOT INCLUDED IN NEW DEVELOPMENT ACTIVITY TOTALS)

<table>
<thead>
<tr>
<th>Category</th>
<th>Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low/Very Low Income Housing</td>
<td>0</td>
</tr>
<tr>
<td>High Density Residential Near Rail Stations</td>
<td>0</td>
</tr>
<tr>
<td>Mixed Use Developments Near Rail Stations</td>
<td>0</td>
</tr>
<tr>
<td>Development Agreements Entered into Prior to July 10, 1989</td>
<td>0</td>
</tr>
<tr>
<td>Reconstruction of Buildings Damaged due to &quot;calamity&quot;</td>
<td>0</td>
</tr>
<tr>
<td>Reconstruction of Buildings Damaged in Jan. 1994 Earthquake</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total Dwelling Units</strong></td>
<td>0</td>
</tr>
<tr>
<td><strong>Total Non-residential sq. ft. (in 1,000s)</strong></td>
<td>0</td>
</tr>
</tbody>
</table>

### Exempted Development Definitions:

1. **Low/Very Low Income Housing:** As defined by the California Department of Housing and Community Development as follows:  
   - Low-Income: equal to or less than 80% of the County median income, with adjustments for family size.  
   - Very Low-Income: equal to or less than 50% of the County median income, with adjustments for family size.

2. **High Density Residential Near Rail Stations:** Development located within 1/4 mile of a fixed rail passenger station and that is equal to or greater than 120 percent of the maximum residential density allowed under the local general plan and zoning ordinance. A project providing a minimum of 75 dwelling units per acre is automatically considered high density.

3. **Mixed Uses Near Rail Stations:** Mixed-use development located within 1/4 mile of a fixed rail passenger station, if more than half of the land area, or floor area, of the mixed use development is used for high density residential housing.

4. **Development Agreements:** Projects that entered into a development agreement (as specified under Section 65864 of the California Government Code) with a local jurisdiction prior to July 10, 1989.

5. **Reconstruction or Replacement:** Any residential or non-residential structure which is damaged or destroyed, to the extent of > or = to 50% of its reasonable value, by fire, flood, earthquake or other similar calamity.

6. **Exempted Projects:** Any project of a federal, state or county agency that is exempt from local jurisdiction zoning regulations and where the local jurisdiction is precluded from exercising any approval/disapproval authority. These locally precluded projects do not have to be reported in the LDR.
MOTION BY
DIRECTOR RICHARD KATZ

MTA Executive Management Committee

June 20, 2013

Congestion Mitigation Program

The Congestion Management Program (CMP) was enacted in 1990 as a companion to the increase in the State gas tax, enacted by voters through their approval of Proposition 111 and Proposition 108.

The Los Angeles County Metropolitan Transportation Authority (MTA) is the designated Congestion Management Agency, as authorized by State statute to develop a Congestion Management Program for Los Angeles County, which is required to allow State gas tax funds to flow to local jurisdictions.

The Los Angeles County CMP is also used by the Southern California Association of Governments to meet federal Congestion Management System requirements for the region, necessary for federal transportation funding approval.

The CMP statute also requires local jurisdictions to monitor CMP arterial and transit networks, to implement TDM and land use ordinances, and mitigate the impact of land use decisions through a Deficiency Plan.

While the Los Angeles CMP includes various performance standards including highway levels of service, transit through-put, person miles traveled for the existing "debit-credit" Deficiency Plan and Annual Vehicle Hours of Delay for the Congestion Mitigation Fee Nexus Studies, the statutory Deficiency Plan mitigation requirements are triggered by not attaining highway level of service standards on the CMP system.

The MTA Board of Directors in 2003 directed staff to consider the feasibility of implementing a Congestion Mitigation Fee to meet local mitigation responsibilities of the Deficiency Plan to replace the current "debit-credit" approach.

CONTINUED
It's MTA's responsibility to verify compliance with the CMP each February.

MTA certified the county and all local jurisdictions as being in compliance with the CMP on February 28, 2013.

Much has changed since 1990 in the interrelationship between land use and transportation, with performance metrics, and, significantly, with regard to transportation funding, such as:

- The adoption of AB 32 greenhouse gas requirements and SB 375 regional Sustainable Community Strategies requirements.
- Opportunities for additional transportation resources through state Cap and Trade auction proceeds.
- Opportunities to incentivize transit oriented development.
- Consideration of new performance measures currently under study for MAP-21.
- The adoption of Proposition A, Proposition C, and Measure R which have created significant transportation investments in Los Angeles County.

All these changes raise the question as to how helpful, relevant, and consistent the 1990 CMP statute is with 21st Century programs like AB 32, SB 375, and America Fast Forward.

1. **I THEREFORE MOVE THAT** the MTA Board of Directors direct the CEO to work with our Sacramento delegation to investigate, hold hearings and ascertain whether, in light of the above, the CMP is still an appropriate, useful and consistent tool aligned with our state and regional objectives.

2. **I FURTHER MOVE** to direct the CEO to report to the Board regarding any State findings and legislative changes to CMP statute, and in consultation with the business and environmental communities, local jurisdictions and the Southern California Association of Governments, return to the Board with a recommendation on meeting CMP requirements no later than the February 2014 Board meeting, when the Board must determine local jurisdiction conformity with CMP statute.

###
CITY OF EL SEGUNDO
PAYMENTS BY WIRE TRANSFER
7/03/13 THROUGH 7/18/13

<table>
<thead>
<tr>
<th>Date</th>
<th>Payee</th>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/3/2013</td>
<td>State of CA EFT</td>
<td>3,885.00</td>
<td>EFT Child support payment</td>
</tr>
<tr>
<td>7/3/2013</td>
<td>Health Comp</td>
<td>1,040.66</td>
<td>Weekly claims</td>
</tr>
<tr>
<td>7/5/2013</td>
<td>Nationwide NRS EFT</td>
<td>1,842.82</td>
<td>EFT 401a payment</td>
</tr>
<tr>
<td>7/5/2013</td>
<td>Nationwide NRS EFT</td>
<td>38,819.40</td>
<td>EFT 457 payment</td>
</tr>
<tr>
<td>7/5/2013</td>
<td>Manufacturers &amp; Traders</td>
<td>617.31</td>
<td>IRA payment Vantagepoint</td>
</tr>
<tr>
<td>7/5/2013</td>
<td>Manufacturers &amp; Traders</td>
<td>5,855.50</td>
<td>401 payment Vantagepoint</td>
</tr>
<tr>
<td>7/5/2013</td>
<td>Manufacturers &amp; Traders</td>
<td>24,539.67</td>
<td>457 payment Vantagepoint</td>
</tr>
<tr>
<td>7/5/2013</td>
<td>US Bank - Trust Acct</td>
<td>6,492.56</td>
<td>PARS payment</td>
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<tr>
<td>7/5/2013</td>
<td>South Bay Credit Union</td>
<td>14,570.38</td>
<td>Payroll credit union deduction pmt</td>
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<tr>
<td>7/5/2013</td>
<td>Cal Pers</td>
<td>456,942.41</td>
<td>EFT Health Payment</td>
</tr>
<tr>
<td>7/9/2013</td>
<td>Health Comp</td>
<td>2,328.82</td>
<td>Weekly claims</td>
</tr>
<tr>
<td>7/9/2013</td>
<td>Cal Pers</td>
<td>98,560.60</td>
<td>EFT Retirement Misc</td>
</tr>
<tr>
<td>7/9/2013</td>
<td>Cal Pers</td>
<td>235,567.08</td>
<td>EFT Retirement Safety</td>
</tr>
<tr>
<td>7/9/2013</td>
<td>Cal Pers</td>
<td>1,919.88</td>
<td>EFT Retirement Misc Adj</td>
</tr>
<tr>
<td>7/9/2013</td>
<td>West Basin</td>
<td>1,431,974.50</td>
<td>H2O payment</td>
</tr>
<tr>
<td>7/10/2013</td>
<td>Lane Donovan Golf Ptr</td>
<td>21,908.23</td>
<td>Payroll Transfer</td>
</tr>
<tr>
<td>7/11/2013</td>
<td>Pitney Bowes</td>
<td>10,000.00</td>
<td>City Hall Postage</td>
</tr>
<tr>
<td>7/18/2013</td>
<td>Employment Development</td>
<td>50,365.50</td>
<td>State Taxes</td>
</tr>
<tr>
<td>7/3/2013</td>
<td>Employment Development</td>
<td>3,860.25</td>
<td>State Taxes</td>
</tr>
<tr>
<td>7/3/2013</td>
<td>IRS</td>
<td>238,011.67</td>
<td>Federal Taxes</td>
</tr>
<tr>
<td>7/3/2013</td>
<td>Health Comp</td>
<td>1,040.66</td>
<td>Weekly claims</td>
</tr>
<tr>
<td>7/3-7/18/13</td>
<td>Workers Comp Activity</td>
<td>69,235.97</td>
<td>SCRMA checks issued</td>
</tr>
</tbody>
</table>

DATE OF RATIFICATION: 08/06/13
TOTAL PAYMENTS BY WIRE: 2,719,378.87

Certified as to the accuracy of the wire transfers by:

City Treasurer

[Signature]

Date

Director of Finance

[Signature]

Date

City Manager

[Signature]

Date

Information on actual expenditures is available in the City Treasurer’s Office of the City of El Segundo.
SPECIAL MEETING OF THE EL SEGUNDO CITY COUNCIL
TUESDAY, JULY 16, 2013 – 4:00 PM

CALL TO ORDER – Mayor Fisher at 4:03 PM
PLEDGE OF ALLIANCE – Mayor Pro Tem Jacobson

ROLL CALL

Mayor Fisher - Present
Mayor Pro Tem Jacobson - Present
Council Member Fuentes - 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.

SPECIAL MATTERS: -1- MATTER

1. Interview candidates and potential appointments to the Planning Commission, Library Board of Trustees and Senior Citizen Housing Corporation Board. (Note: the interviews will commence at approximately 4:00 PM and take place in the West Conference Room in City Hall).

Council consensus to appoint John Nilsen to the Planning Commission for a four term expiring June 30, 2017, Kevin Smith and Jennifer Martin to the Library Board of Trustees for a four year term expiring June 30, 2017 and Terry Aikens and James Latta to the Senior Citizen Housing Corporation Board for a four year term expiring June 30, 2013.

ADJOURNMENT at 5:22 PM

Tracy Weaver, City Clerk
REGULAR MEETING OF THE EL SEGUNDO CITY COUNCIL
TUESDAY, July 16 2013 – 5:00 PM

5:00 P.M. SESSION

CALL TO ORDER – Mayor Fisher at 5:23 PM

ROLL CALL

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

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.

Mayor Fisher 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(d) (3) -2- matter

1. City of El Segundo vs. City of Los Angeles, et.al. LASC Case No. BS094279
2. City of Los Angeles vs. Pacific Bell Telephone Company, et al., LASC Case No. BC414272

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(c): -0- 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): -1- matters

  1. Lease of City Owned Property (Price and Terms)
     Real Property: City owned Golf Course ("The Lakes") located at Sepulveda Boulevard (Assessor Parcel Number: 4138-014-910 & 4138-014-913).
     City’s Negotiator: Greg Carpenter, City Manager
     Potential Lessee/Negotiating Party: Centercal Properties, Inc.

Recessed at 6:50 PM
REGULAR MEETING OF THE EL SEGUNDO CITY COUNCIL  
TUESDAY, July 16, 2013 - 7:00 P.M.

7:00 P.M. SESSION

CALL TO ORDER – Mayor Fisher at 7:01 PM

INVOCATION – Wes Harding, Associate Pastor, The Bridge

PLEDGE OF ALLEGIANCE – Boy Scout Troop 762

PRESENTATIONS –

a) John Parsons, Business Services and Economic Development Manager, from the South Bay Workforce Investment Board gave a presentation.

ROLL CALL

Mayor Fisher - Present
Mayor Pro Tem Jacobson - Present
Council Member Fuentes - 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.

Len Bonilla, ES Rotary, thanked the City of El Segundo for their continued support of Movie in the Park. Mr. Bonilla invited everyone to this year’s Movie in the Park on Saturday, August 3, 2013 from 4:00 PM to 10:30 PM at Chevron Park.

Mike Robbins, resident, spoke concerning opposition to Resolutions on the Consent Agenda, item #8 and #10. Encouraged the Council to vote no on these resolutions.

Linda Cohen, El Segundo Concert Band, gave a brief presentation of upcoming events in the El Segundo High School Quad.

Sam Pena, Consolidated Disposal, spoke concerning the 2nd Shred Event held last weekend.

Scott Gobble, SCE, urged the residents to use less power during Flex Alert times. New reporting for street light outages on the SCE web site, as well as an iPhone free app to report a street light out.
CITY COUNCIL COMMENTS – (Related to Public Communications)

A. PROCEDURAL MOTIONS

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

MOTION by Mayor Pro Tem Jacobson, SECONDED by Council Member Fuentes 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)

C. UNFINISHED BUSINESS

D. REPORTS OF COMMITTEES, COMMISSIONS AND BOARDS

1. Consideration and possible action to announce the appointments to the Planning Commission, Library Board of Trustees and Senior Citizen Housing Corporation Board.
   (Fiscal Impact: None)

Mayor Fisher announced the appointment of John Nisley to the Planning Commission for a four year term to expire June 30, 2017, Kevin Smith and Jennifer Martin to the Library Board of Trustees for a four year term to expire June 30, 2017 and Terry Aikens and Jim Latta to the Senior Citizen Housing Corporation Board for a four year term to expire June 30, 2013.

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 2593081 - 2593328 on Register No. 18 in the total amount of $653,440.77 and Wire Transfers from 6/7/2013 through 6/20/2013 in the total amount of $2,217,443.54 and approved Warrant Numbers 2593329 – 2593532 on Register No. 19 in the total amount of $1,121,589.50 and Wire Transfers from 6/20/2013 through 7/03/2013 in the total amount of $777,279.37. 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.

3. Approved the Special City Council Meeting Minutes of June 12, 2013, Special City Council Meeting Minutes of June 18, 2013, Regular City Council Meeting Minutes of June 18, 2013 and Special City Council Minutes of June 27, 2013.
4. Waived the bidding process per El Segundo Municipal Code §1-7-10 and authorized the purchase of two (2) Holmatro Rescue Equipment systems from Fire Service Specification & Supply. (Fiscal Impact: $57,824.50)

5. Authorized the City Manager to approve additional payment in the amount of $5,047.28 to Rojas Construction for the City’s FY 2011-2012 Annual Sidewalk, Curb and Gutter Repair/Replacement Project, authorized the transfer of $5,047.28 from General Fund Account 001-400-4202-6209 (Street Maintenance) to Account 106-400-8206-8604 (Gas Tax) and authorized the City Clerk to file a Notice of Completion in the County Recorder’s Office. Project No.: PW 12-03 (Fiscal Impact: $105,047.28)

6. Approved the El Segundo Senior Housing Corporation 2013 Annual Budget for the Park Vista Apartments located at 615 East Holly Street. (Fiscal Impact: None)

7. PULLED BY COUNCIL MEMBER ATKINSON

8. PULLED BY MAYOR PRO TEM JACOBSON

9. Approved the changes to the Class Specifications for Recreation Coordinator and Recreation Supervisor and approved the proposed Examination Plans for Recreation Coordinator and Recreation Supervisor. (Fiscal Impact: None)

10. PULLED BY COUNCIL MEMBER FUENTES

11. Authorized the City Manager to execute a five-year Public Works Maintenance Contract No. 4451 in a form approved by the City Attorney to Flo-Systems, Inc. for an annual amount of $90,000.00 for five years for Pump Stations Maintenance and On-Call Repair Services. Project No.; PW13-12. (Fiscal Impact: $90,000.00 annually for five years)

12. Authorized the City Clerk to file the City’s Planning and Building Safety Director’s Notice of Completion and authorized the City Manager, or designee, to accept completion of work for 30 homes related to the City's Residential Sound Insulation Program's Group 45 (Project No. RSI 12-04). (Fiscal Impact: $1,402,808.90, less liquidated damages)
12A. Adopted Resolution No. 4828 finding that an emergency existed and waived bidding requirements pursuant to Public Contracts Code §§ 20168 and 22050 and authorized the City Manager to execute a standard Public Works Contract No. 4452 with John E. Phillips Plumbing and Heating, Inc. in a form approved by the City Attorney to replace sewer conduit within the Park Vista Senior Housing Center.  
(Fiscal Impact: $11,750.00)

MOTION by Council Member Fellhauer, SECONDED by Council Member Atkinson to approve Consent Agenda items 2, 3, 4, 5, 6, 9, 11, 12 and 12A. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

PULLED ITEMS:

7. Consideration and possible action regarding a request from El Segundo Girl's Softball to waive the $25 per hour field rental fee associated with a field reservation that took place on Wednesday, June 26, 2013, featuring the Australian U19 National Softball Team at the Recreation Park Softball Field.  
(Fiscal Impact: $200.00)

MOTION by Council Member Fellhauer, SECONDED by Mayor Fisher to waive the $25 per hour field rental fee charged when the Australian U19 National Softball Team used the field on June 26, 2013. MOTION PASSED BY A VOICE VOTE. 4/1  

8. Consideration and possible action to adopt a Resolution establishing policies regarding use of City cable broadcast facilities for the production and broadcast of local election candidate statements, statements regarding local ballot measures and third-party sponsored debates/forums.  
(Fiscal Impact: None for FY 12/13; $1600.00 estimated per election year)

Dan O'Toole gave a brief presentation.

Council Discussion

MOTION by Mayor Pro Tem Jacobson, SECONDED by Council Member Atkinson to create a short term subcommittee with Mayor Pro Tem Jacobson, Council Member Fuentes and staff to review the proposed Resolution establishing policies regarding use of City cable broadcast facilities for the production and broadcast of local ballot measures and third-party sponsored debates/forums. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0
10. Consideration and possible action regarding adopting a resolution in support of a grant application submitted by the City of Santa Monica, as the lead agency, to the California Coastal Commission to research trends and impacts of sea level rise in Southern California.
   (Fiscal Impact: None)

   Stephanie Katsouleas, Public Works Director, gave a brief presentation.

   Council Discussion

   MOTION by Council Member Fuentes, SECONDED by Council Member Atkinson to adopt Resolution No 4829 in support of a grant application submitted by the City of Santa Monica, as the lead agency, to the California Coastal Commission to research trends and impacts of sea level rise in Southern California. MOTION PASSED BY UNANIMOUS VOICE VOTE: 5/0

   F. NEW BUSINESS

   13. Consideration and possible action regarding the purchase and installation of bicycle racks throughout the Downtown corridor.
   (Fiscal Impact: Not to exceed $9,723.00 from TDA Article 3 Fund)

   Meredith Petit, Recreation Supervisor, gave a brief presentation.

   Council Discussion

   MOTION by Council Member Fuentes, SECONDED by Council Member Atkinson to receive and file report regarding the purchase and installation of bicycle racks throughout the Downtown corridor.

   14. Consideration and possible action regarding the history of property tax for the City of El Segundo.
   (Fiscal Impact: None)

   Greg Carpenter, City Manager, gave a brief presentation.

   Council Discussion and consensus to move forward to begin discussion with Los Angeles County.

   Received and filed report regarding the history of property tax for the City of El Segundo.

   G. REPORTS – CITY MANAGER – Gave a Plunge update and thanked the staff that was involved in getting the Plunge up and running again.

   H. REPORTS – CITY ATTORNEY - None
I. REPORTS – CITY CLERK - None

J. REPORTS – CITY TREASURER - None

K. REPORTS – CITY COUNCIL MEMBERS

Council Member Fellhauer – Thanked Chevron and all staff involved in the Fourth of July Celebration for a successful event. Attended Independent Cities Association Summer Conference in San Diego. Stephanie Katsouleas, Public Works Director, was a speaker at the Conference. Fellhauer publicly recognized Stephanie for being on the panel concerning the state mandated Storm Water requirements.

Council Member Atkinson – Thanked all involved in the Fourth of July Celebration for a successful event. Invited everyone to the Concert in the Park event at Library Park on July 21, 2013.

Council Member Fuentes – Attended the State of the State address with Senator Ted Lieu, Relay for Life, the recent Chamber Mixer held at Chevron, thanked Stephanie Katsouleas for her work on the Maple Street project that was spoke about at the last COG meeting and congratulated her nephew on his graduation from Basic training for the Navy.

Mayor Pro Tem Jacobson – Attended the Fourth of July event, thanked Chevron for their donation for the event and attended the tour of the Sand District.

Mayor Fisher – Attended Relay for Life, spoke concerning the Strategic Planning session held on June 27, 2013. Encouraged all to watch the video that is archived on the El Segundo web site. Thanked the Recreation and Parks department, along with Chevron for a successful Fourth of July event. Attended Concert in the Park on July 7 and invited everyone to attend the next concert on July 21 at Library Park. Mayor Fisher also attended the State of the State address with Senator Ted Lieu.

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.

Mike Robbins, resident, spoke concerning Prop 13, property taxes and the cities financial problems.
MEMORIALS - None

CLOSED SESSION - None

ADJOURNMENT at 9:04 PM

Tracy Weaver, City Clerk
EL SEGUNDO CITY COUNCIL
AGENDA STATEMENT

AGENDA DESCRIPTION:
Consideration and possible action to adopt a Resolution approving Plans and Specifications for On Call HVAC Maintenance and Repair Services. Project No. PW 13-17 (Fiscal Impact: $60,000.00)

RECOMMENDED COUNCIL ACTION:
1. Adopt attached resolution approving Plans and Specifications for On Call HVAC Maintenance and Repair Services.

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

ATTACHED SUPPORTING DOCUMENTS:
Resolution

FISCAL IMPACT: Within Adopted Budget

Amount Budgeted: $60,000.00
Additional Appropriation: No
Account Number(s): 001-400-2601-6206 (Contractual Services)

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

BACKGROUND AND DISCUSSION:
The Public Works Building Maintenance Division is responsible for maintaining the HVAC equipment that maintains heating and cooling for all of the City’s public buildings, including City Hall, the Police Station, two Fire Stations, the Library, Maintenance Yard, Water Yard, and several parks facilities. This work is specialized and beyond City personnel expertise, so the City has historically contracted with a vendor to perform routine maintenance of our HVAC units and to conduct repairs when needed. The most recent contract with Johnson Controls expired last year, and thus new public works bidding is required.

To facilitate and reduce the amount of response time for necessary maintenance and repairs, staff recommends that the project be bid for a five-year term to retain a qualified contractor for both routine service and on-call, as needed, repairs. Staff therefore recommends that City Council adopt the plans and specifications and the attached resolution, and authorize the project for receipt of construction bids.
RESOLUTION NO. __

A RESOLUTION APPROVING THE DESIGN AND PLANS FOR THE ON-CALL SERVICES FOR HVAC MAINTENANCE SERVICES CONTRACT. PURSUANT TO GOVERNMENT CODE SECTION 830.6 AND ESTABLISHING A PROJECT PAYMENT ACCOUNT.

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

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

A. The City Engineer prepared specifications and plans requesting On-Call Services for Heating, Ventilation, and Air Conditioning System (HVAC) Maintenance Services Contract (the “Project”). These plans are complete. Bidding for construction of the Project may begin;

B. The City Council wishes to obtain the immunities set forth in Government Code § 830.6 with regard to the plans and construction of the Project.

SECTION 2: Design Immunity; Authorization.

A. The design and plans for the Project are determined to be consistent with the City’s standards and are approved.

B. The design approval set forth in this Resolution occurred before actual work on the Project construction commenced.

C. The approval granted by this Resolution conforms with the City’s General Plan.

D. The City Engineer, or designee, is authorized to act on the City’s behalf in approving any alterations or modifications of the design and plans approved by this Resolution.

E. The approval and authorization granted by this Resolution is intended to avail the City of the immunities set forth in Government Code § 830.6.

SECTION 3: Project Payment Account. For purposes of the Contract Documents administering the Project, the City Council directs the City Manager, or designee, to establish a fund containing sufficient monies from the current fiscal year budget to pay for the Project (“Project Payment Account”) following receipt of construction bids. The Project Payment Account will be the sole source of funds available for the Contract Sum, as defined in the Contract Document administering the Project.

SECTION 4: The City Clerk is directed to certify the adoption of this Resolution.

SECTION 5: This Resolution will become effective immediately upon adoption.
PASSED AND ADOPTED this ___ day of ____________, 20__.

Bill Fisher, Mayor

ATTEST:

Tracy Weaver, City Clerk

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

By:

Karl H. Berger, Assistant City Attorney
AGENDA DESCRIPTION:

Consideration and possible action to authorize the City Manager to amend the contract with Professional Building Maintenance for temporary custodial services for up to one year and with expanded duties. Project No.: PW 13-13 (Fiscal Impact: $159,130.00)

RECOMMENDED COUNCIL ACTION:

1. Authorize the City Manager to amend the contract with Professional Building Maintenance, in a form approved by the City Attorney, for temporary custodial services for up to one year and with expanded duties.

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

ATTACHED SUPPORTING DOCUMENTS:

None.

FISCAL IMPACT: $159,130.00 for this contract amendment

Amount Budgeted: $144,300 in FY 2012-13 and $154,980 planned in FY 2013-14

Additional Appropriation: None at this time

Account Number(s): 001-400-2601-6206 (Government Buildings: Contract Services)

ORIGINATED BY: Floriza Rivera, Principal Engineer

REVIEWED BY: Stephanie Katsouleas, Public Works Director

APPROVED BY: Greg Carpenter, City Manager

BACKGROUND AND DISCUSSION:

On July 20, 2012, the City entered into an emergency maintenance agreement with Professional Building Maintenance (PBM) in the amount of $22,970.00 for temporary custodial maintenance at all applicable City facilities. The agreement period covers two months, with two 2-month options to extend. The original 2-month duration of the contract was used to expedite bringing PBM on board due to the sudden termination of the previous contractor for performance reasons. Staff is continuing to evaluate the quality and reliability of PBM and would like additional time to complete its review before recommending a permanent, long term, award to this custodial company. Thus we are recommending a one-year extension to the contract term.

Additionally, now that the new lifeguard station and its amenities are open to the public, this facility must be added to the buildings being serviced by PBM. Staff anticipates that during the peak season summer months (May – September), the custodians will need to clean the beach
restrooms three (3) times per day, and reducing to two (2) times per day during non-peak months (October – April)

The original custodial budget for FY 2012-13 was $144,300, which fully covers the $22,970 required for PBM’s emergency contract budget for two months as well as the expected additional $4,150 needed for custodial services to close out FY 2012-13. The FY 2013-14 proposed budget will include $154,980 for custodial services, which will cover the contract extension sought in this staff report for PBM’s custodial services through next year.

City staff recommends that Council grant the City Manager authority to amend the temporary contract, in a form approved by the City Attorney, through September 30, 2014 (one additional year) and increase the contract budget by an additional $159,130 to cover the remainder of FY 2012-13 and all of FY 2013-14. Assuming PBM’s services are of high quality and reliability, staff will return to Council during the FY 2014-15 budget process with a recommendation to extend the contract terms for five years and adjust the annual budget accordingly.
AGENDA DESCRIPTION:
Consideration and possible action to adopt a Resolution approving plans and Specifications for the Elevated Water Tank Restoration Project. Project No. PW 13-07 (Fiscal Impact: estimated to be $650,000)

RECOMMENDED COUNCIL ACTION:
1. Adopt a Resolution approving plans and specifications for the Elevated Water Tank Restoration Project.
2. Alternatively, discuss and take other possible action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
Resolution

FISCAL IMPACT: Additional Appropriation Needed

- **Amount Budgeted:** $240,000 in the FY 2010-11 CIPAC Report
- **Additional Appropriation:** Yes. $Amount To Be Determined from Bid Results
- **Account Number(s):** Water Enterprise Fund: To be Assigned

ORIGINATED BY: Lifan Xu, Principal Engineer

REVIEWED BY: Stephanie Katsouleas, Public Works Director

APPROVED BY: Greg Carpenter, City Manager

BACKGROUND AND DISCUSSION:
In March, 2010, Superior Tank Solutions, Inc. conducted a washout and visual conditional assessment on the 200,000 gallon Elevated Water Tank located in the Water Maintenance Yard at 400 Lomita Street. The purpose of the assessment was to determine the condition of the interior and exterior coating systems along with the extent of corrosion and severity of degradation. The Conditional Assessment Report found the Elevated Tank to be in fair to poor condition, the interior and exterior coating system near its end of useful service life, and localized corrosion present on defected areas. The Report recommends re-painting and re-coating the tank’s exterior and interior, and repairing the tank’s ladders, vents, risers, overflow pipe and various mechanical components.

Staff developed plans and specifications in accordance of the assessment report. Staff recommends that City Council adopt the attached resolution and plans and specifications for the Elevated Water Tank Restoration Project and authorize staff to advertise the project for receipt of construction bids. Staff estimates the following timeline to complete the project:

- **August, 2013** Advertise the Project
- **September, 2013** City Council Awards Project
October, 2013  Start Construction
February, 2014  Complete Construction

During the FY 2010-11 CIPAC (Capital Improvement Program Advisory Committee) process, the Committee recommended and City Council approved $240,000 in funding for this elevated tank restoration project. However, the current budget estimate for construction, including allocating funds for contingency and inspection services, is $650,000, which is significantly higher than that reserved three years ago. Therefore staff will wait until actual construction bids are received and verified before requesting the full budget necessary to complete the project.
RESOLUTION NO. __

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR ELEVATED TANK RESTORATION, PROJECT NO. PW13-07. PURSUANT TO GOVERNMENT CODE SECTION 830.6 AND ESTABLISHING A PROJECT PAYMENT ACCOUNT.

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

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

A. The City Engineer prepared plans and specifications for Elevated Tank Restoration, Project NO. PW13-07 (the “Project”). These plans and specifications are complete. Construction of the Project may begin;

B. The City Council wishes to obtain the immunities set forth in Government Code § 830.6 with regard to the plans and construction of the Project.

SECTION 2: Design Immunity; Authorization.

A. The design plans and specifications for the Project are determined to be consistent with the City’s standards and are approved.

B. The design approval set forth in this Resolution occurred before actual work on the Project construction commenced.

C. The approval granted by this Resolution conforms with the City’s General Plan.

D. The City Engineer, or designee, is authorized to act on the City’s behalf in approving any alterations or modifications of the design and plans approved by this Resolution.

E. The approval and authorization granted by this Resolution is intended to avail the City of the immunities set forth in Government Code § 830.6.

SECTION 3: Project Payment Account. For purposes of the Contract Documents administering the Project, the City Council directs the City Manager, or designee, to establish a fund containing sufficient monies from the current fiscal year budget to pay for the Project (“Project Payment Account”). The Project Payment Account is the sole source of funds available for the Contract Sum, as defined in the Contract Document administering the Project.

SECTION 4: The City Clerk is directed to certify the adoption of this Resolution.

SECTION 5: This Resolution will become effective immediately upon adoption.

PASSED AND ADOPTED this ___ day of ______________, 20__.
ATTEST:

Tracy Weaver, City Clerk

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

By: Karl H. Berger, Assistant City Attorney
AGENDA DESCRIPTION:
Consideration and possible action to authorize the City Manager to enter into a License Agreement with Los Angeles County to use and occupy the El Segundo Beach Bathroom and Lifeguard Station Facility. (Fiscal Impact: $1.00 rental fee)

RECOMMENDED COUNCIL ACTION:
1. Authorize the City Manager to enter into a License Agreement with Los Angeles County, in a form approved by the City Attorney, to use and occupy the El Segundo Beach Restroom and Lifeguard Facility.
2. Alternatively, discuss and take other possible action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
Agreement

FISCAL IMPACT: None
Amount Budgeted: $0
Additional Appropriation: N/A
Account Number(s):

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

BACKGROUND AND DISCUSSION:
The El Segundo Beach Bathroom and Lifeguard Facility was proposed several years ago by then Councilmember Jim Boulgarides. The proposal was to construct a facility that could provide a modern restroom facility for El Segundo’s beach users as well as permanent storage for Los Angeles County Lifeguard equipment and a base for its Junior Guard program. Through a partnership with Chevron to lease land for the facility and $1.7 million in funding from Supervisor Don Knabe’s office, the facility was designed and ultimately constructed. It officially opened to the public July 3, 2013, and has been a welcome retreat for both beach and bike path users. As envisioned, the building has four public restrooms, a rinse station and sinks, and an air compressor for bicycle tires. The building also serves as a secondary look out for lifeguard operations, provides a garage for a lifeguard truck and has a storage room for junior guard equipment.

The building is now ready for Lifeguard occupancy, which requires entering into a License Agreement between Los Angeles County and the City of El Segundo. The draft agreement has been reviewed and tentatively approved by both agencies; it outlines the roles and responsibilities of each agency relative to the building’s use and functions. Therefore, staff recommends that City Council authorize the City Manager to enter into the attached License Agreement with the Los Angeles County Fire Department, Lifeguard Division, to use and
occupy the El Segundo Beach Restroom and Lifeguard Facility at the rate of $1.00 for the 30 year term of the agreement.

In the near future Public Works will initiate the final phase of construction for the building, which includes connecting the facility to a municipally separate sewer system (through partnerships with Chevron and NRG). In the interim, the facility will continue to utilize its holding tank and corresponding pump-out services for wastewater collections.
LICENSE AGREEMENT BETWEEN THE
CITY OF EL SEGUNDO AND
THE CONSOLIDATED FIRE PROTECTION DISTRICT
OF LOS ANGELES COUNTY

THIS LICENSE is made and executed this 9th day of July, 2013, between the CITY OF EL SEGUNDO, a municipal corporation ("CITY"), and the CONSOLIDATED FIRE PROTECTION DISTRICT OF LOS ANGELES COUNTY ("COUNTY"), a special district of the state of California.

1. LICENSE; DESCRIPTION OF PROPERTY. CITY licenses COUNTY to use, on the terms and conditions in this License, real property located at 105 Vista del Mar, El Segundo, CA 90245 ("Property"). CITY's action is not, and should not be construed to be, a conveyance of a property interest or a lease; it is a license to use property only.

2. USE OF PROPERTY.

A. COUNTY may use the Property for the purposes of providing lifeguard services in accordance with applicable law and current and any future, separate, agreement with Chevron U.S.A. Such uses may include:

i. Using the Property as a training facility and restroom facility for COUNTY staff including, without limitation, Junior Lifeguard Instructors (seasonally);

ii. Using the side storage room on the Property for Junior Lifeguard equipment;

iii. Storing lifeguard vehicles, training equipment, EMT supplies, beach rescue equipment, tower supplies, and other, similarly related, equipment;

iv. Using the Property as a secondary lifeguard "look out" station and administrative site for lifeguard operations; and

v. COUNTY staff may include, without limitation, an Area Captain and Ocean Lifeguard Specialist and other staff as needed, who are engaged by COUNTY to provide lifeguard services and other staff as needed.

vi. The CITY is responsible for all Property maintenance and repair. COUNTY is responsible for custodial services for the restricted areas of the Property as defined in Section 17 hereinafter. CITY is responsible for all other custodial services for the Property. For maintenance and repairs, the COUNTY must contact CITY by email or phone call to the El Segundo Public Works Department.
vii. Upon one year (1 year) notice, CITY may change, amend, or terminate COUNTY’s use of Property in its sole discretion, in writing.

3. TERM. The term of this license will begin when executed by COUNTY and end on April 30, 2033. It is the intent of the parties that the COUNTY will have use of the Property so long as the COUNTY is providing lifeguard services within the CITY and surrounding beach areas. Upon mutual written agreement between the parties, this License may be renewed for additional time. This License may also be amended at any time by mutual written agreement of the CITY and the COUNTY.

4. TERMINATION.
   
   A. As stated above, CITY may terminate this License at any time with or without cause, upon giving COUNTY one year (1 year) written notification. Termination will be effective upon notification, unless CITY specifies otherwise.

   COUNTY may terminate this License at any time in writing at least five (5) days before the effective termination date.

   B. By executing this document, COUNTY waives any and all claims for damages that might otherwise arise from CITY’s termination under this Section.

   C. Upon termination, COUNTY will remove all personal property and improvements from Property within thirty (30) days of the effective termination date. Property will be left in a clean and orderly fashion with ordinary wear and tear excepted.

5. COMPENSATION. In exchange for the use of the facilities at Property, COUNTY agrees to pay CITY a sum of one dollar ($1) for the term of this License.

6. CONDEMNATION. If all or part of Property is acquired by eminent domain or purchase in lieu thereof, COUNTY acknowledges that it will have no claim to any compensation awarded for the taking of Property or any portion thereof or for loss of or damage to COUNTY’s improvements.

7. RELOCATION BENEFITS. COUNTY acknowledges that it has been informed that CITY is a public entity and that Property was previously acquired by CITY for a public purpose. COUNTY further acknowledges that any rights acquired under this License arose after the date of acquisition of Property and that said rights are subject to termination when Property is needed by CITY. COUNTY hereby acknowledges that at the time of said termination of this License by CITY, it will not be a “displaced person” entitled to any of the relocation assistance or benefits offered to displaced persons under State or Federal law.

8. ALTERATIONS. COUNTY will not make, or cause to be made, any alterations to Property, or any part thereof, without CITY’s prior written consent.
9. **HAZARDOUS/TOXIC WASTE.** CITY has not, nor, to CITY’s knowledge, has any third party used, generated, stored or disposed of, or permitted the use, generation, storage or disposal of, any Hazardous Material (as defined below) on, under, about or within Property in violation of any law or regulation. COUNTY agrees that it will not use, generate, store or dispose of any Hazardous Material (as defined below) on, under, about or within Property in violation of any law or regulation. COUNTY agrees to defend and indemnify CITY, to the extent stated in Section 12, against any and all losses, liabilities, claims or costs arising from any breach of any warranty or agreement contained in this Section. As used in this Section, “Hazardous Material” means any substance, chemical or waste that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation (including petroleum and asbestos).

10. **SIGNS.** COUNTY will not place any sign upon Property without CITY’s prior written consent. COUNTY will pay for all costs of any approved signage and comply with all applicable sign codes and ordinances.

11. **ASSIGNMENT.** COUNTY will not be permitted to assign this License or any interest therein.

12. **MUTUAL INDEMNIFICATION.**

   A. Except as otherwise provided, COUNTY agrees to hold harmless, defend, and indemnify CITY, its officers, employees, agents, representatives, and successors-in-interest against any and all loss, damage, cost, or expenses which CITY, its officers, employees, agents, representatives, and successors-in-interest may incur or be required to pay by reason of any injury or property damage caused or incurred by COUNTY, its employees, or agents in the performance of this Agreement. Likewise CITY agrees to hold harmless, defend, and indemnify the COUNTY, its officers, employees, agents, representatives, and successors-in-interest against any and all loss, damage, cost or expenses which COUNTY, its officers, employees, agents, representatives, and successors-in-interest may incur or be required to pay by reason of any injury or property damage caused or incurred by CITY, its employees, subcontractors, or agents in the performance of this Agreement.

   B. It is expressly understood and agreed that this Section will survive termination of this Agreement.

13. **DISPUTE RESOLUTION.** Any dispute arising between CITY and COUNTY regarding this Agreement will first attempted to be resolved through mediation between the respective project managers for each party and/or their respective departmental heads.

14. **COMPLIANCE WITH LAW.** COUNTY will, at its sole cost and expense, comply with all of the requirements of all federal, state, and local authorities now in force, or which may hereafter be in force, pertaining to COUNTY’s use of Property and will faithfully observe all
applicable laws. The judgment of any court of competent jurisdiction, or the admission of COUNTY in any action or proceeding against COUNTY, whether CITY be a party thereto or not, that COUNTY has violated any such ordinance or statute in the use of Property will be conclusive of that fact as between CITY and COUNTY.

15. BREACH OF AGREEMENT. The violation of any of the provisions of this License will constitute a breach of this License by COUNTY, and in such event said License will automatically cease and terminate.

16. WAIVER OF BREACH. Any express or implied waiver of a breach of any term of this License will not constitute a waiver of any further breach of the same or other term of this License.

17. ENTRY BY CITY AND PUBLIC. This License does not convey any property interest to COUNTY. Except for areas restricted because of safety concerns, CITY and the general public will have unrestricted access upon Property for all lawful acts. Restricted areas include the operational observation area, personnel locker room, side storage room, and garage area.

18. INSOLVENCY; RECEIVER. Either the appointment of a receiver to take possession of all or substantially all of the assets of COUNTY, or a general assignment by the COUNTY for the benefit of creditors, or any action taken or offered by COUNTY under any insolvency or bankruptcy action, will constitute a breach of this License by COUNTY, and in such event said License will automatically cease and terminate.

19. NOTICES. Except as otherwise expressly provided by law, all notices or other communications required or permitted by this License or by law to be served on or given to either party to this License by the other party will be in writing and will be deemed served when personally delivered to the party to whom they are directed, or in lieu of the personal service, upon deposit in the United States Mail, certified or registered mail, return receipt requested, postage prepaid, addressed to COUNTY at:

Chief, Lifeguard Division
2300 Ocean Front Walk
Venice, CA  90291

or to CITY at:

Director of Public Works
350 Main Street
El Segundo, CA  90245

Either party may change its address for the purpose of this Section by giving written notice of the change to the other party.
20. **ACCEPTANCE OF FACSIMILE SIGNATURES.** The Parties agree that agreements ancillary to this License and related documents to be entered into in connection with this License will be considered signed when the signature of a party is delivered by facsimile transmission. Such facsimile signature will be treated in all respects as having the same effect as an original signature.

21. **GOVERNING LAW.** This License has been made in and will be construed in accordance with the laws of the State of California and exclusive venue for any action involving this License will be in Los Angeles COUNTY.

22. **PARTIAL INVALIDITY.** Should any provision of this License be held by a court of competent jurisdiction to be either invalid or unenforceable, the remaining provisions of this License will remain in effect, unimpaired by the holding.

23. **ENTIRE AGREEMENT.** This instrument and its Attachments constitute the sole agreement between CITY and COUNTY respecting Property, the use of Property by COUNTY, and the specified License term, and correctly sets forth the obligations of CITY and COUNTY. Any agreement or representations respecting Property or its licensing by CITY to COUNTY not expressly set forth in this instrument are void.

24. **CONSTRUCTION.** The language of each part of this License will be construed simply and according to its fair meaning, and this License will never be construed either for or against either party.

25. **AUTHORITY/MODIFICATION.** The Parties represent and warrant that all necessary action has been taken by the Parties to authorize the undersigned to execute this License and to engage in the actions described herein. This License may be modified by written agreement. CITY’s city manager, or designee, may execute any such amendment on behalf of CITY.

26. **COUNTERPARTS.** This License may be executed in any number or counterparts, each of which will be an original, but all of which together will constitute one instrument executed on the same date.
IN WITNESS WHEREOF the parties hereto have executed this contract the day and year first hereinabove written.

CITY OF EL SEGUNDO

By ___________________________  By ___________________________
GREG CARPENTER                DARYL L. OSBY
City Manager                  Fire Chief

Date ___________________________  Date ___________________________

ATTEST:

By ___________________________
TRACY WEAVER
City Clerk

APPROVED AS TO FORM:

MARK D. HENSLEY
City Attorney

By ___________________________
KARL H. BERGER
Assistance City Attorney

APPROVED AS TO FORM:

JOHN KRATTLI
County Counsel

By ___________________________
Deputy
AGENDA DESCRIPTION:

Consideration and possible action to adopt Resolution authorizing the City Manager to Execute a Joint Powers Agreement with the Western Riverside Council of Governments ("Authority") to participate in the California Hero Program; Authorizing the Authority to take action for including property within the City's jurisdiction in the hero program; and authorizing the City Manager, or designee, to execute such documents needed to implement this resolution.

(Fiscal Impact: $0)

RECOMMENDED COUNCIL ACTION:

1. Adopt proposed Resolution; and
2. Alternatively, discuss and take other possible action related to this item.

ATTACHED SUPPORTING DOCUMENTS:

1. Resolution
2. Best Best & Krieger Attorney at Law's Legal Opinion aka Memorandum re: WRCOG California HERO Program - Authority for WRCOG to place assessments on the Tax Roll of Counties other than Riverside County

FISCAL IMPACT: None

Amount Budgeted: $0
Additional Appropriation: N/A
Account Number(s): N/A

ORIGINATED BY: Mickie Tagle, Senior Executive Assistant

REVIEWED BY: Greg Carpenter, City Manager

BACKGROUND AND DISCUSSION:

Assembly Bill (AB) 811 was signed into law on July 21, 2008, and AB 474, effective January 1, 2010, amended Chapter 29 of Part 3 of Division 7 of the Streets & Highways Code of the State of California ("Chapter 29") and authorizes a legislative body to designate an area within which authorized public officials and free and willing property owners may enter into voluntary contractual assessments to finance the installation of distributed generation renewable energy sources, energy efficiency, and/or water conservation improvements that are permanently fixed to real property, as specified.

The HERO Program has been very successful in Western Riverside County, since its launch in late 2012; the Program has approved over $129 million in applications and has funded over $25 million in projects. Because of its success, the California HERO Program was developed as a
turnkey program to save other California jurisdictions time and resources in developing a standalone program. Jurisdictions only need to adopt the form of resolution accompanying this staff report and approve an amendment to the joint exercise of powers agreement related to the California HERO Program attached to such resolution to begin the process.

**ANALYSIS:** The California HERO Program is being offered to allow property owners in participating cities and counties to finance renewable energy, energy water efficiency improvements and electric vehicle charging infrastructure on their property. If a property owner chooses to participate, the improvements to be installed on such owner’s property will be financed by the issuance of bonds by a joint power authority, Western Riverside Council of Governments (“WRCOG”), secured by a voluntary contractual assessment levied on such owner’s property. Participation in the program is 100% voluntary. Property owners who wish to participate in the program agree to repay the money through the voluntary contractual assessment collected together with their property taxes.

The benefits to the property owner include:

- **Eligibility:** In today’s economic environment, alternatives for property owners to finance renewable energy/energy efficiency/water efficiency improvements or electric vehicle charging infrastructure may not be available. As such many property owners do not have options available to them to lower their utility bills.

- **Savings:** Energy prices continue to rise and selecting in energy efficient, water efficient and renewable energy models lower utility bills.

- **100% voluntary.** Property owners can choose to participate in the program at their discretion.

- **Payment obligation stays with the property.** Under Chapter 29, a voluntary contractual assessment stays with the property upon transfer of ownership. Even if there were private enterprise alternatives, most private loans are due on sale of the benefited property, which makes it difficult for property owners to match the life of the repayment obligation with the useful life of the financed improvements. Certain mortgage providers will, however, require the assessment be paid off at the time the property is refinanced or sold.

- **Prepayment option.** The property owner can choose to pay off the assessments at any time, subject to applicable prepayment penalties.

- **Customer oriented program.** Part of the success of the program is the prompt customer service.

The benefits to **the City** include:

- Increase local jobs,

- An increase in housing prices (higher efficient homes are worth more money).
• An increase in sales, payroll and property tax revenue

• As in conventional assessment financing, the City is not obligated to repay the bonds or to pay the assessments levied on the participating properties.

• All California HERO Program and assessment administration, bond issuance and bond administration functions are handled by California HERO. Little, if any, City staff time is needed to participate in the California HERO Program.

• The City can provide access for its residents to the California HERO Program without the higher staff costs that an independent program established by the City would require.

The proposed resolution enables the California HERO Program to be available to owners of property within our City to finance renewable energy, energy efficiency and water efficiency improvements and electric vehicle charging infrastructure. The resolution approves an Amendment to the WRCOG Joint Powers Agreement to add the City as an Associate Member in order that the California HERO Program may be offered to the owners of property located within the City who wish to participate in the California HERO Program.

**FISCAL AND STAFF IMPACTS:** There is no negative fiscal impact to the City’s general fund incurred by consenting to the inclusion of properties within the City limits in the California HERO Program. All California HERO Program administrative costs are covered through an initial administrative fee included in the property owner’s voluntary contractual assessment and an annual administrative fee which is also collected on the property owner’s tax bill.
RESOLUTION NO. ______________

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A JOINT POWERS AGREEMENT WITH THE WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS ("AUTHORITY") TO PARTICIPATE IN THE CALIFORNIA HERO PROGRAM; AUTHORIZING THE AUTHORITY TO TAKE ACTION FOR INCLUDING PROPERTY WITHIN THE CITY'S JURISDICTION IN THE HERO PROGRAM; AND AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE SUCH DOCUMENTS NEEDED TO IMPLEMENT THIS RESOLUTION.

The City Council does resolve as follows:

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

A. The Western Riverside Council of Governments ("Authority") is a joint powers authority established pursuant to Chapter 5 of Division 7, Title 1 of the Government Code of the State of California (Section 6500 and following) (the "Act") and the Joint Power Agreement entered into on April 1, 1991, as amended from time to time (the "Authority JPA");

B. Authority established the California HERO Program to provide for the financing of renewable energy distributed generation sources, energy and water efficiency improvements and electric vehicle charging infrastructure (the "Improvements") to Chapter 29 of the Streets and Highways Code ("Chapter 29") within counties and cities throughout the State of California that elect to participate in such program;

C. El Segundo (the "City") is committed to development of renewable energy sources and energy efficiency improvements, reduction of greenhouse gases, protection of our environment, and reversal of climate change;

D. Pursuant to Chapter 29, cities may assist property owners in financing the cost of installing Improvements through a voluntary contractual assessment program;

E. Installing such Improvements by property owners within the City’s jurisdictional boundaries if it participates in the California HERO Program would promote the purposes cited above;

F. The City wishes to provide innovative solutions to its property owners to achieve energy and water efficiency and independence,
and in doing so cooperate with Authority in order to efficiently and economically assist property owners the City in financing such improvements;

G. The City’s property owners may participate in the California HERO Program, which will be such a voluntary contractual assessment program, once the City joins the Authority and the Authority properly establishes the voluntary assessment districts in accordance with Chapter 29. Consequently, the City finds it is in the public interest for the City of El Segundo to enter into an amendment to the Authority JPA, originally made and entered into April 1, 1991 adding the City of El Segundo as an Associate Member of the Western Riverside Council of Governments to Permit the Provision of Property Assessed Clean Energy (PACE) Program Services within the City (the “JPA Amendment”), by and between Authority and the City, a copy of which is attached as Exhibit “A,” and incorporated by reference, to assist property owners within the incorporated area of the City in financing the cost of installing Improvements; and

H. The City is not responsible for conducting any assessment proceedings; the levy and collection of assessments or any required remedial action in the case of delinquencies in the payment of any assessments or the issuance, sale or administration of any bonds issued in connection with the California HERO Program.

SECTION 2: Authorization. The City Council takes the following actions:

A. Following Authority’s actions to create a voluntary assessment district pursuant to Chapter 29, the City Council consents to including all of the properties within the City of El Segundo’s jurisdictional boundaries and to the Improvements, upon the request by and voluntary agreement of owners of such properties, within the California HERO Program in compliance with the laws, rules and regulations applicable to such program;

B. Upon City becoming part of the HERO program, the City Council consents to Authority assuming jurisdiction of all administrative functions under Chapter 29 and of the HERO program. The City will not have any administrative or legal responsibility for such matters;

C. The consent of this City Council constitutes assent to the assumption of jurisdiction by Authority for all purposes of the California HERO Program and authorizes Authority, upon satisfaction of the conditions imposed in this resolution, to take
each and every step required for or suitable for financing the
Improvements, including the levying, collecting and enforcement of
the contractual assessments to finance the Improvements and the
issuance and enforcement of bonds to represent and be secured by
such contractual assessments;

D. This City Council authorizes the City Manager to execute the JPA
Amendment in a form approved by the City Attorney;

E. The City Manager, or designee, is authorized to implement the
intent of this Resolution and the JPA Amendment;

SECTION 3: This Resolution is exempt from 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 consists only administrative actions for joining a joint powers
authority. Adopting this Resolution will not have the effect of deleting or
substantially changing any regulatory standards or required findings.

SECTION 4: This Resolution will become effective immediately upon adoption
and will remain effective unless repealed or superseded.

SECTION 5: The City Clerk will certify to the passage and adoption of this
Resolution; will enter the same in the book of original Resolutions of said City;
and will make a minute of the passage and adoption thereof in the record of
proceedings of the City Council of said City, in the minutes of the meeting at
which the same is passed and adopted.

PASSED AND ADOPTED this 6th day of August, 2013.

Bill Fisher,
Mayor
STATE OF CALIFORNIA  )
COUNTY OF LOS ANGELES  )  SS
CITY OF EL SEGUNDO    )

I, Tracy Weaver, City Clerk of the City of El Segundo, California, certify that the whole number of members of the City Council of the City is five; that the foregoing Resolution No. _________ was duly passed and adopted by said City Council, approved and signed by the Mayor of said City, and attested to by the City Clerk of said City, all at a regular meeting of said Council held on the ___ day of July 2013, and the same was so passed and adopted by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

__________________________
Tracy Weaver,
City Clerk

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

By: _______________________
Karl H. Berger,
Assistant City Attorney
EXHIBIT A

AMENDMENT TO THE JOINT POWERS AGREEMENT
ADDING CITY OF _______ AS
AS AN ASSOCIATE MEMBER OF THE
WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS
TO PERMIT THE PROVISION OF THE CALIFORNIA HERO
PROGRAM SERVICES WITH SUCH CITY

This Amendment to the Joint Powers Agreement ("JPA Amendment") is made and entered into on the __ day of ____, 2013, by City of __________ ("City") and the Western Riverside Council of Governments ("Authority") (collectively the "Parties").

RECITALS

Authority is a joint exercise of powers authority established pursuant to Chapter 5 of Division 7, Title 1 of the Government Code of the State of California (Section 6500 and following) (the "Joint Exercise of Powers Act") and the Joint Power Agreement entered into on April 1, 1991, as amended from time to time (the "Authority JPA"); and

As of October 1, 2012, Authority had 18 member entities (the "Regular Members").

Chapter 29 of the Improvement Bond Act of 1911, being Division 7 of the California Streets and Highways Code ("Chapter 29") to authorize cities, counties, and cities and counties to establish voluntary contractual assessment programs, commonly referred to as a Property Assessed Clean Energy ("PACE") program, to fund various renewable energy sources, energy and water efficiency improvements, and electric vehicle charging infrastructure (the "Improvements") that are permanently fixed to residential, commercial, industrial, agricultural or other real property; and

Authority intends to establish a PACE program to be known as the "California HERO Program" pursuant to Chapter 29 as now enacted or as such legislation may be amended hereafter, which will authorize the implementation of a PACE financing program for cities and county throughout the state; and

City desires to allow owners of property within its jurisdiction to participate in the California HERO Program and to allow Authority to conduct proceedings under Chapter 29 to finance Improvements to be installed on such properties; and

This JPA Amendment will permit City to become an associate member of Authority and to participate in California HERO Program for the purpose of facilitating the implementation of such program within the jurisdiction of City; and

Pursuant to Government Code §§ 6500 et seq., the Parties are approving this JPA Agreement to allow for the provision of PACE services, including the operation of a PACE financing program, within the incorporated territory of City;
and

The JPA Amendment sets forth the rights, obligations and duties of City and Authority with respect to the implementation of the California HERO Program within the incorporated territory of City.

**MUTUAL UNDERSTANDINGS**

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions hereinafter stated, the Parties hereto agree as follows:

A. **JPA Amendment.**

1. **The Authority JPA.** City agrees to the terms and conditions of the Authority JPA, attached.

2. **Associate Membership.** By adoption of this JPA Amendment, City shall become Associate Member of Authority on the terms and conditions set forth herein and the Authority JPA and consistent with the requirements of the Joint Exercise of Powers Act. The rights and obligations of City as an Associate Member are limited solely to those terms and conditions expressly set forth in this JPA Amendment for the purposes of implementing the California HERO Program within the incorporated territory of City. Except as expressly provided for by the this JPA Amendment, City shall not have any rights otherwise granted to Authority’s Regular Members by the Authority JPA, including but not limited to the right to vote on matters before the Executive Committee or the General Assembly, right to amend or vote on amendments to the Authority JPA, and right to sit on committees or boards established under the Authority JPA or by action of the Executive Committee or the General Assembly, including, without limitation, the General Assembly and the Executive Committee. City shall not be considered a member for purposes of Section 9.1 of the Authority JPA. City shall not be bound by any subsequent amendments of the Authority JPA not expressly agreed to by City.

3. **Rights of Authority.** This JPA Amendment shall not be interpreted as limiting or restricting the rights of Authority under the Authority JPA. Nothing in this JPA Amendment is intended to alter or modify Authority Transportation Uniform Mitigation Fee (TUMF) Program, the PACE Program administered by Authority within the jurisdictions of its Regular Members, or any other programs administered now or in the future by Authority, all as currently structured or subsequently amended.

4. **Rights of City.** This JPA Amendment shall be not interpreted as limiting or restricting the rights of City to establish parameters or limitation on upon the HERO Program as it is conducted within City’s jurisdiction.
B. Implementation of California HERO Program within City Jurisdiction.

1. **Boundaries of the California HERO Program within City Jurisdiction.** City shall determine and notify Authority of the boundaries of the incorporated territory within City's jurisdiction within which contractual assessments may be entered into under the California HERO Program (the "Program Boundaries"), which boundaries may include the entire incorporated territory of City or a lesser portion thereof, upon approval of same by City Council.

2. **Determination of Eligible Improvements.** Subject to any parameters or limitations provided in the resolution of City approving the conduct of the HERO Program within City's jurisdiction, Authority shall determine the types of distributed generation renewable energy sources, energy efficiency or water conservation improvements, electric vehicle charging infrastructure or such other improvements as may be authorized pursuant to Chapter 29 (the "Eligible Improvements") that will be eligible to be financed under the California HERO Program.

3. **Establishment of California HERO Program.** Authority will undertake such proceedings pursuant to Chapter 29 as shall be legally necessary to enable Authority to make contractual financing of Eligible Improvements available to eligible property owners with the California HERO Program Boundaries and will be solely responsible for the conduct of such proceedings.

4. **Financing the Installation of Eligible Improvements.** Upon approval of the conduct of the HERO Program within City's jurisdiction, Authority shall be solely responsible to develop and implement a plan for the financing of the purchase and installation of the Eligible Improvements under the California HERO Program.

5. **Ongoing Administration.** Authority shall be responsible for the ongoing administration of the California HERO Program, including but not limited to producing education plans to raise public awareness of the California HERO Program, soliciting, reviewing and approving applications from residential and commercial property owners participating in the California HERO Program, establishing contracts for residential, commercial and other property owners participating in such program, establishing and collecting assessments due under the California HERO Program, adopting and implementing any rules or regulations for the PACE program, and providing reports as required by Chapter 29.

City will not be responsible for the conduct of any proceedings required to be taken under Chapter 29; the levy or collection of assessments or any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of the Bonds or any other bonds issued in
connection with the California HERO Program.

6. **Phased Implementation.** The Parties recognize and agree that implementation of the California HERO Program as a whole can and may be phased as additional other cities and counties execute similar agreements. City entering into this JPA Amendment will obtain the benefits of and incur the obligations imposed by this JPA Amendment in its jurisdictional area, irrespective of whether cities or counties enter into similar agreements.

C. **Miscellaneous Provisions.**

1. **Withdrawal.** Authority may withdraw from this JPA Amendment upon six (6) months written notice to City; provided, however, there is no outstanding indebtedness of Authority within City. The provisions of Section 6.2 of the Authority JPA shall not apply to City under this JPA Amendment. City may withdraw approval for conduct of the HERO Program within the jurisdictional limits of City upon thirty (30) written notice to WRCOG without liability to the Authority or any affiliated entity. City withdrawal shall not affect the validity of any voluntary assessment contracts (a) entered prior to the date of such withdrawal or (b) entered into after the date of such withdrawal so long as the applications for such voluntary assessment contracts were submitted to and approved by WRCOG prior to the date of City’s notice of withdrawal.

2. **Indemnification and Liability.** Authority shall defend, indemnify and hold City and its directors, officials, officers, employees and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liabilities, losses, damages or injuries of any kind, in law or equity, to property or persons, including wrongful death, to the extent arising out of the acts, errors or omissions of Authority or its directors, officials, officers, employees and agents in connection with the California HERO Program administered under this JPA Amendment, including without limitation the payment of expert witness fees and attorneys fees and other related costs and expenses, but excluding payment of consequential damages, provided that the Authority shall not be required to defend or indemnify City and its directors, officials, officers, employees and agents for City’s sole negligence or willful misconduct. Without limiting the foregoing, Section 5.2 of the Authority JPA shall not apply to this JPA Amendment. In no event shall any of Authority’s Regular Members or their officials, officers or employees be held directly liable for any damages or liability resulting out of this JPA Amendment.

3. **Environmental Review.** Authority shall be the lead agency under the California Environmental Quality Act for any environmental review that may be required in implementing or administering the California HERO Program under this JPA Amendment.

4. **Cooperative Effort.** City shall cooperate with Authority by providing information and other assistance in order for Authority to meet its obligations hereunder. City recognizes that one of its responsibilities related to the California
HERO Program will include any permitting or inspection requirements as established by City. City's cooperation shall not be interpreted to require any approvals without appropriate review or that any discretionary authority of City be exercised other than as provided by law.

5. **Notice.** Any and all communications and/or notices in connection with this JPA Amendment shall be either hand-delivered or sent by United States first class mail, postage prepaid, and addressed as follows:

   Authority:
   Western Riverside Council of Governments
   4080 Lemon Street, 3rd Floor. MS1032
   Riverside, CA 92501-3609
   Att: Executive Director

   City:
   City of __________

6. **Entire Agreement.** This JPA Amendment, together with the Authority JPA, constitutes the entire agreement among the Parties pertaining to the subject matter hereof. This JPA Amendment supersedes any and all other agreements, either oral or in writing, among the Parties with respect to the subject matter hereof and contains all of the covenants and agreements among them with respect to said matters, and each Party acknowledges that no representation, inducement, promise of agreement, oral or otherwise, has been made by the other Party or anyone acting on behalf of the other Party that is not embodied herein.

7. **Successors and Assigns.** This JPA Amendment and each of its covenants and conditions shall be binding on and shall inure to the benefit of the Parties and their respective successors and assigns. A Party may only assign or transfer its rights and obligations under this JPA Amendment with prior written approval of the other Party, which approval shall not be unreasonably withheld.

8. **Attorney's Fees.** If any action at law or equity, including any action for declaratory relief is brought to enforce or interpret the provisions of this Agreement, each Party to the litigation shall bear its own attorney’s fees and costs.

9. **Governing Law.** This JPA Amendment shall be governed by and construed in accordance with the laws of the State of California, as applicable.

10. **No Third Party Beneficiaries.** This JPA Amendment shall not create any right or interest in the public, or any member thereof, as a third party beneficiary hereof, nor shall it authorize anyone not a Party to this JPA Amendment to maintain a suit for personal injuries or property damages under
the provisions of this JPA Amendment. The duties, obligations, and responsibilities of the Parties to this JPA Amendment with respect to third party beneficiaries shall remain as imposed under existing state and federal law.

11. **Severability.** In the event one or more of the provisions contained in this JPA Amendment is held invalid, illegal or unenforceable by any court of competent jurisdiction, such portion shall be deemed severed from this JPA Amendment and the remaining parts of this JPA Amendment shall remain in full force and effect as though such invalid, illegal, or unenforceable portion had never been a part of this JPA Amendment.

12. **Headings.** The paragraph headings used in this JPA Amendment are for the convenience of the Parties and are not intended to be used as an aid to interpretation.

13. **Amendment.** This JPA Amendment may be modified or amended by the Parties at any time. Such modifications or amendments must be mutually agreed upon and executed in writing by both Parties. Verbal modifications or amendments to this JPA Amendment shall be of no effect.

14. **Effective Date.** This JPA Amendment shall become effective upon the execution thereof by the Parties hereto.

IN WITNESS WHEREOF, the Parties hereto have caused this JPA Amendment to be executed and attested by their officers thereunto duly authorized as of the date first above written.

WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS

By: ________________________________ Date: ________________
Executive Committee Chair
Western Riverside Council of Governments

CITY OF ________

By: ________________________________ Date: ________________
Title: ________________________________
Memorandum

To: Rick Bishop, Executive Director, Western
From: Warren B. Diven
Date: May 6, 2013
Re: WRCOG California HERO Program - Authority for WRCOG to place assessments on the Tax Roll of Counties other than Riverside County

This memorandum is written in response to the request from the Los Angeles County Recorder’s office for the legal authority that enables the Western Riverside Council of Governments (“WRCOG”) to place assessments on the tax roll of counties other than Riverside County. Specifically, the assessments in question would be those assessments levied on parcels located in cities in Los Angeles County pursuant to contractual assessments entered into by the owners of such parcels pursuant to the California HERO Program (defined below).

The California HERO Program

The California HERO Program is proposed to be a contractual assessment program to be established by WRCOG pursuant to Chapter 29 of Part 3, Division 7 of the Streets and Highways Code of the State of California (Streets & Highways Code Section 5898.10 and following) (“Chapter 29”) to enable the owners of parcels located within cities and counties throughout the State of California (the “State”) participating in such program in order to finance the installation of distributed generation renewable energy sources, energy and water efficiency improvements and electric vehicle charging infrastructure (“Eligible Improvements”).

Chapter 29 – The Enabling Legislation to Establish a Contractual Assessment Program

What may be financed pursuant to Chapter 29? As originally enacted in 1987, Chapter 29 provided an alternative procedure for authorizing assessments to finance any work which may be done pursuant to the Improvement Act of 1911 (Division 7 of the Streets and Highways Code) (the “1911 Act”). It was the original intent of the Legislature in enacting Chapter 29 that such chapter be used to finance public improvements to lots and parcels which are developed and where the costs and time delays involved in creating an assessment district pursuant to the 1911 Act or other law would be prohibitively large relative to the costs of the public improvements to be financed.1

1 Section 5898.12(a) of Chapter 29.
20323.00016017948574.1
Chapter 29 has been subsequently amended to provide that Chapter 29 should also be used to finance the installation of Eligible Improvements. In amending Chapter 29 to enable the financing of Eligible Improvements, the Legislature made the following findings:

(a) (1) Energy and water conservation efforts, including the promotion of energy efficiency improvements to residential, commercial, industrial, agricultural, or other real property are necessary to address the issue of global climate change.

(2) The upfront cost of making residential, commercial, industrial, agricultural, or other real property more energy and water efficient prevents many property owners from making those improvements. To make those improvements more affordable and to promote the installation of those improvements, it is necessary to authorize an alternative procedure for authorizing assessments to finance the cost of energy and water efficiency improvements.

(b) The Legislature declares that a public purpose will be served by a voluntary contractual assessment program that provides the legislative body of any public agency with the authority to finance the installation of distributed generation renewable energy sources and energy or water efficiency improvements that are permanently fixed to residential, commercial, industrial, agricultural, or other real property.

**Establishment of a Contractual Assessment Program.** As amended, Chapter 29 enables a “public agency” to establish a contractual assessment program to finance such Eligible Improvements. For the purpose of financing the installation of distributed generation renewable energy sources or energy efficiency improvements, a “public agency” is defined to mean a county, city, city and county, or a municipal utility district, an irrigation district, or public utility district that owns and operates an electric distribution system. For the purpose of financing the installation of water efficiency improvements, a “public agency” is defined to mean a city, county, city and county, municipal utility district, community services district, sanitary district or water district, as defined in Water Code Section 20200.

In order for a public agency to establish a contractual assessment program to finance Eligible Improvements, the public agency must follow the procedures specified in Chapter 29 which are briefly described as follows:

**Step One:** The legislative body of the public agency must initiate proceedings to establish a contractual assessment program by adopting a resolution indicating its intention to do so (the
“Resolution of Intention”). In the Resolution of Intention, the legislative body of the public agency may determine “that it would be convenient, advantageous, and in the public interest to designate an area within the public agency, which may encompass the entire public agency or a lesser portion, within which authorized public agency officials and property owners may enter into voluntary contractual assessments to finance the installation of distributed generation renewable energy sources or energy or water efficiency improvements that are permanently fixed to real property pursuant to this chapter.”

The Resolution of Intention must:

- include a statement that the public agency proposes to make voluntary contractual assessment financing available to property owners,

- identify the kinds of public works, distributed generation renewable energy sources, or energy or water efficiency improvements that may be financed,

- describe the boundaries of the area within which voluntary contractual assessments may be entered into,

- briefly describe the proposed arrangements for financing the program, including a brief description of criteria for determining the creditworthiness of a property owner,

- state that it is in the public interest to finance the installation of distributed generation renewable energy sources or energy or water efficiency improvements, or both, if applicable,

- state that a public hearing should be held at which interested persons may object to or inquire about the proposed program or any of its particulars, and shall state the time and place of the hearing,

- direct an appropriate public agency official to prepare a report pursuant to Section 5898.22 of Chapter 29 (the “Program Report”) and to enter into consultations with the county auditor's office or county controller's office in order to reach agreement on what additional fees, if any, will be charged to the city or county for incorporating the proposed voluntary contractual assessments into the assessments of the general taxes of the city or county on real property.

Step Two. The public agency must give notice of the public hearing pursuant to the provisions of Chapter 29.
Step Three. At the time of the public hearing, the Program Report shall be summarized and the legislative body shall afford all persons who are present an opportunity to comment upon, object to, or present evidence with regard to the proposed contractual assessment program, the extent of the area proposed to be included within the program, the terms and conditions of the draft contract, or the proposed financing provisions. At the conclusion of the hearing, the legislative body may adopt a resolution confirming the report or may direct its modification in any respect, and thereafter may adopt a resolution confirming the report as modified, or the legislative body may abandon the proceedings. However, the legislative body may not increase the area within which contractual assessments would be offered without providing notice of the proposed increase in area pursuant to Section 5808.24.10

Issuance of Bonds to Finance the Installation of Eligible Improvements. Once a public agency establishes a contractual assessment program pursuant to the preceding steps, it may issue bonds pursuant to Chapter 29, the principal and interest of which would be repaid by voluntary contractual assessments.11 The provisions of the Improvement Bond Act of 1915 (Division 10 of the Streets and Highways Code) (the “1915 Act”) shall apply to any bonds issued pursuant to Chapter 29, Section 5898.28, insofar as the 1915 Act is not in conflict with Chapter 29.

Levy and Collection of Assessments pursuant to Chapter 29. Chapter 29 provides that assessments levied pursuant to such chapter, and the interest and penalties thereon shall constitute a lien against the lots and parcels on which they are made, until they are paid.12 Section 5898.30 further provides as to such assessments that:

“[The 1915 Act], insofar as those provisions are not in conflict with the provisions of this chapter, Article 13 (commencing with Section 53930) of, and Article 13.5 (commencing with Section 53938) of, Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code apply to the imposition and collection of assessments contracted for pursuant to this chapter, including, but not limited to, provisions related to lien priority, the collection of assessments in the same manner and at the same time as the general taxes of the city or county on real property, and any penalties and remedies in the event of delinquency and default.”

As to the collection of assessments, the 1915 Act provides that:

“The annual proportion of each assessment coming due in any year, together with the annual interest on the assessment, shall be payable in the same manner and at the same time and in the same installments as the general taxes of the city on real property are payable, and the assessment installments and the annual interest on the assessment shall be payable and come delinquent at the same times and in the

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10 Chapter 29, Section 5898.26.
11 Chapter 29, Section 5898.28.
12 Chapter 29, Section 5898.30.
same proportionate amounts and, . . . , shall bear the same proportionate penalties and interest after delinquency as do the general taxes on real property of the city."\(^{13}\)

From the authority set forth in Section 5898.30 of Chapter 39 and Section 8680(a) of the 1915 Act, it is clear that a public agency that establishes a contractual assessment program pursuant to Chapter 29 may collect such assessments levied on properties participating in such program that are located within the area within which assessment contracts may be entered pursuant to such contractual assessment program in the same manner and in the same installments as the general taxes on real property are payable, i.e., on the property tax bills of the county in which such properties are located.


The Joint Exercise of Powers Act, being Chapter 5 of Division 7, Title 1 of the California Government Code (Section 6500 and following) (the "JEP Act") provides that:

> "If authorized by their legislative or other governing bodies, two or more public agencies by agreement may jointly exercise any power common to the contracting parties, even though one or more of the contracting parties may be located outside this state.

It shall not be necessary that any power common to the contracting parties be exercised by each such contracting party with respect to the geographic area in which such power is to be jointly exercised."\(^{14}\)

A “public agency,” as used in Article 1 of the JEP Act, “includes, but is not limited to the federal government or any federal department or agency, this state, another state or any state department or agency, a county, county board of education, county superintendent of schools, city, public corporation, public district, regional transportation commission of this state or another state, a federally recognized Indian tribe, or any joint powers authority formed pursuant to this article by any of these agencies.”\(^{15}\) (Emphasis added) As a result, a county and/or a city or a combination of counties and/or cities are “public agencies” that would be authorized, pursuant to the JEP Act, by agreement to jointly exercise any power common to such contracting parties.

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\(^{13}\) Streets & Highways Code Section 8680(a).

\(^{14}\) Government Code Section 6502.

\(^{15}\) Government Code Section 6500.
An agreement entered into pursuant to the JEP Act shall state the purpose for the agreement or the power to be exercised and shall provide for the method by which the purpose will be accomplished or the manner in which the power will be exercised.\textsuperscript{16}

The agency or entity provided by an agreement entered into pursuant to the JEP Act may be one or more of the parties to such agreement or a commission or board constituted pursuant to the agreement or a person, firm or corporation, including a non-profit corporation, designated in such agreement.\textsuperscript{17} Whenever a joint powers agreement provides for the creation of an agency or entity that is separate form the parties to such agreement and is responsible for the administration of such agreement, such agency or entity shall, within 30 days after the effective date of the agreement, cause a notice of the agreement to be prepared and filed with the Secretary of State.\textsuperscript{18}

The agency shall possess the common power specified in the agreement entered into pursuant to the JEP Act and may exercise it in the manner or according to the method provided for in such agreement.\textsuperscript{19}

**WRCOG – Background and the Original WRCOG HERO Program**

**General.** WRCOG is a joint powers authority originally created in 1991 pursuant to the JEP Act and that certain Joint Powers Agreement of the Western Riverside Council of Governments made and entered into on April 1, 1991 (the “JPA”)\textsuperscript{20} among Riverside County and fourteen (14) cities located in western Riverside County as the original parties to the JPA and members of WRCOG. Four (4) additional cities located in western Riverside County became parties to the JPA and members of WRCOG between 2008 and 2011.

The JPA expressly provided for the creation of WRCOG as a public entity and specified that WRCOG shall be a public entity separate from the parties to the JPA.\textsuperscript{21} The JPA states that the purpose of the formation of WRCOG was to provide an agency to conduct studies and projects designed to improve and coordinate the common governmental responsibilities and services on an area-wide and regional basis through the establishment of an association of governments and that WRCOG would explore areas of inter-governmental cooperation and coordination of government programs and provide recommendations and solutions to problems of common and general concern.\textsuperscript{22} The JPA further provided that when authorized pursuant to

\textsuperscript{16} Government Code Section 6503.
\textsuperscript{17} Government Code Section 6506.
\textsuperscript{18} Government Code Section 6503.5.
\textsuperscript{19} Government Code Section 6508.
\textsuperscript{20} A copy of the JPA is attached to this memorandum as Attachment A hereto.
\textsuperscript{21} JPA, Section 1.1.
\textsuperscript{22} JPA, Recital B.
Implementation Agreements, WRCOG shall implement, manage and administer area-wide and regional programs in the interest of the local public welfare.\textsuperscript{23}

The Original WRCOG HERO Program. In 2010 WRCOG, acting pursuant to Implementation Agreements with Riverside County and 14 the cities within WRCOG at that time, undertook proceedings pursuant to Chapter 29 to establish the “Energy Efficiency and Water Conservation Program for Western Riverside County,” also known as the WRCOG HERO Program. Pursuant to the WRCOG HERO Program, WRCOG exercises the common powers granted pursuant to Chapter 29 to Riverside County and the participating cities to establish a contractual assessment program to enable the owners of properties located with the unincorporated area of Riverside County and the incorporated areas of the participating cities (the “WRCOG HERO Program Boundaries”) to finance the installation of distributed generation renewable energy sources and energy and water efficiency improvements.

Upon the establishment of the WRCOG HERO Program, WRCOG initiated proceedings in the Superior Court of Riverside County to judicially validate, among other issues, the proceedings to establish such program and the assessments authorized be levied on properties participating in such program.\textsuperscript{24} On July 1, 2011, the Superior Court entered judgments validating such proceedings and decreeing as to the contractual assessments levied by WRCOG and approved by the individual property owners to finance the construction and installation of energy efficiency and water conservation improvements, together with the interest and any penalties thereon, shall be collected in the same manner and at the same time as the general taxes on real property are payable.

Implementation of the California HERO Program

As a result of the level of acceptance of the WRCOG HERO Program and the participation in such program by the owners of properties within the WRCOG HERO Program Boundaries, the Executive Committee of WRCOG made the decision to initiate proceedings to establish the California HERO Program in order that other counties and cities throughout the State may, in the exercise of their common powers pursuant to the JEP Act, enable owners of properties located within participating cities and counties\textsuperscript{25} to finance the installation of Eligible Improvements.

In order to enable participation of cities and counties in the California HERO Program, the parties to the JPA approved an amendment thereto entitled “Amendment to the

\textsuperscript{23} JPA, Section 8.1.

\textsuperscript{24} Western Riverside County v All Persons Interested in the Matter of the Proceedings for the WRCOG Energy Efficiency and Water Conservation Program for Western Riverside County, etc. Superior Court of the State of California, County of Riverside, Case Nos. RIC 1103280 and RIC 1103283. Separate actions were filed to judicially validate the commercial and residential components of the WRCOG HERO Program.

\textsuperscript{25} For a county electing to participate in the California PACE Program, only the owners of property located in the unincorporated territory of such county will be eligible to participate in such program.

20323.0001617948574.1
Joint Powers Agreement of the Western Riverside Council of Governments to Permit the Provision of PACE Services" (the "JPA Amendment")\textsuperscript{26}

The JPA Amendment provides the WRCOG shall be empowered to establish and operate one or more Property Assessment Clean Energy ("PACE")\textsuperscript{27} programs pursuant Chapter 29 and to enter into agreements to fulfill such programs both within and outside the jurisdictional boundaries of WRCOG. The JPA Amendment further provides that WRCOG is empowered to establish an "Associate Member" status that provides membership in WRCOG to local jurisdictions outside the WRCOG jurisdictional boundaries but within the boundaries of a PACE program. Such a local jurisdiction shall become an Associate Member of WRCOG by adopting one or more agreements ("PACE Agreement") on the terms and conditions established by the Executive Committee of WRCOG\textsuperscript{28} (the "Executive Committee"). The rights of Associate Members are limited by the JPA Amendment solely to those terms and conditions expressly set forth in the PACE Agreement for the purposes of implementing the PACE Program within the jurisdictional boundaries of such Associate Members.

WRCOG has established a PACE Agreement entitled "Amendment to the Joint Powers Agreement Adding [County of ________ or City of __________] as an Associate Member of the Western Riverside Council Of Governments to Permit the Provision of Property Assessed Clean Energy (Pace) Program Services within such City" (each, an "Associate Member JPA Amendment").\textsuperscript{29} The Associate Member JPA Amendment recites, in part, that:

- WRCOG intends to establish a PACE program to be known as the "California HERO Program" pursuant to Chapter 29 as now enacted or as such legislation may be amended hereafter, which will authorize the implementation of a PACE financing program for cities and county throughout the State;

- the city or county that enters into the Associate Member JPA Amendment desires to allow owners of property within its jurisdiction to participate in the California HERO Program and to allow WRCOG to conduct proceedings under Chapter 29 to finance Eligible Improvements to be installed on such properties;

- the Associate Member JPA Amendment will permit the city or county to become an associate member of WRCOG and to participate in the California HERO Program for the purpose of facilitating the implementation of such program within the jurisdiction of the city or county; and

\textsuperscript{26} A copy of the JPA Amendment is attached to this memorandum as Appendix B hereto.
\textsuperscript{27} "PACE" is an acronym for "property assessed clean energy" a commonly used term to generically describe programs such as the WRCOG HERO Program, the California HERO Program and other similar programs established throughout the State and nation.
\textsuperscript{28} Pursuant to the JPA, WRCOG is governed by its General Assembly. The JPA also establishes an Executive Committee which exercises the powers of the JPA between sessions of the General Assembly.
\textsuperscript{29} A copy of the form of the Associate Member JPA Amendment is attached to this memorandum as Appendix C hereto.
- pursuant to the JEP Act, WRCOG and the city or county are approving the Associate JPA Agreement to allow for the provision of PACE services, including the operation of a PACE financing program, within the territory of the city or county.

To implement the California HERO Program within a city or county, the Associate Member JPA Amendment provides, in part, that:

- the city or county shall determine and notify WRCOG of the boundaries of the territory within such city or county jurisdiction within which contractual assessments may be entered into under the California HERO Program (the “Program Boundaries”);

- WRCOG will undertake such proceedings pursuant to Chapter 29 as shall be legally necessary to enable WRCOG to make contractual financing of Eligible Improvements available to eligible property owners within the Program Boundaries; and

- WRCOG shall be responsible for the ongoing administration of the California HERO Program, including but not limited to producing education plans to raise public awareness of the California HERO Program, soliciting, reviewing and approving applications from residential and commercial property owners participating in the California HERO Program, establishing contracts for residential, commercial and other property owners participating in such program, establishing and collecting assessments due under the California HERO Program, adopting and implementing any rules or regulations for the PACE program, and providing reports as required by Chapter 29. (Emphasis added)

By entering into an Associate Member JPA Amendment, a city or county will be agreeing to jointly exercise the powers granted to such city or county pursuant to Chapter 29 with WRCOG and the other cities and counties participating in the California HERO Program, including but not limited to, the authority to collect assessments levied pursuant to assessment contracts entered into by the owners of properties located in such city or county. Additionally, WRCOG shall, pursuant to Government Code Section 6503.7, possess the common powers specified in the JPA, as amended by the JPA Amendment and the Associate Member JPA Amendments, and may exercise such common powers in the manner or according to the method provided for in the JPA as so amended. Such common powers will include that power to collect the assessments on the property tax roll pursuant to Section 5898.30 of Chapter 39 and Section 8680(a) of the 1915 Act.

**Confirmation of the Authority of WRCOG to Establish and Administer the California HERO Program**

To verify the authority of WRCOG to establish and administer the California HERO Program, WRCOG will be undertaking the judicial validation of the proceedings to establish such program as well as the authority to collect the assessments levied pursuant to Chapter 39 on properties located within the jurisdictional boundaries of the cities and counties
participating in the California HERO Program which would include cities located in Los Angeles County.

Please feel free to contact me with any further questions the Los Angeles County Auditor’s office may have regarding this question.
AGENDA DESCRIPTION:
Consideration and possible action to authorize the City Manager to sign an agreement with the City of Long Beach and the Los Angeles Area Fire Chiefs’ Association (LAFFCA) regarding the acceptance of a SMART Classroom system including hardware, software, and equipment to be installed at El Segundo Fire Station 2. The SMART Classroom is to be funded by a $75,000 award in grant funding from the United States Department of Homeland Security, through the Office of Grants and Training, under fiscal year 2012 Urban Areas Security Initiative (UASI).
(Fiscal Impact: None)

RECOMMENDED COUNCIL ACTION:
1. Authorize the City Manager to sign an agreement with the City of Long Beach and the Los Angeles Area Fire Chiefs’ Association (LAFFCA) to establish a collaborative relationship with respect to the LAFFCA’s Regional Fire Departments SMART Classroom Project.
2. Alternatively, discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
Memorandum of Understanding Between the City of Long Beach, Los Angeles Area Fire Chiefs’ Association, and the City of El Segundo

FISCAL IMPACT: None

Amount Budgeted: None
Additional Appropriation: N/A
Account Number(s): N/A

ORIGINATED BY: Kevin S. Smith, Fire Chief
REVIEWED BY: Kevin S. Smith, Fire Chief
APPROVED BY: Greg Carpenter, City Manager

BACKGROUND AND DISCUSSION:
The SMART Classroom Project is part of the LAFFCA’s Regional Fire Service Training Strategic Plan. The intent is to utilize technology to improve the effectiveness and efficiency of training of Fire Department personnel throughout the region. SMART classrooms strategically placed throughout the region will enable Fire personnel the opportunity to receive or provide training at fire stations within or close to their jurisdiction. The SMART classroom will use components such as electronic whiteboards; audio/video recording devices; computers; projectors with projection screens; and audio speakers. The room will be used to receive and provide interactive instruction to and from remote locations via telepresence. The LAFFCA has applied for and received UASI grant funding on behalf of its member agencies to establish a regional network of SMART Classrooms. Under the UASI 2012 grant, the City of Long Beach will be the sub-recipient of the grant funds and will be responsible for the fiscal portion of the
grant including developing the request for proposals; accepting bids; paying for the projects; and then receiving the grant reimbursable funds for the installation of the systems and a 3 year extended warranty on behalf of the Cities of El Segundo, Long Beach, Monterey Park and Pasadena Fire Departments.
MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF LONG BEACH,
LOS ANGELES AREA FIRE CHIEFS ASSOCIATION (LAAFCA)
AND THE CITY OF EL SEGUNDO

1. Parties. This Memorandum of Understanding ("MOU") is made and entered into by and between the City of Long Beach, the Los Angeles Area Fire Chiefs Association ("LAAFCA"), and the City of El Segundo, collectively referred to as the "Parties".

2. Purpose. The purpose of this MOU is to establish a collaborative relationship with respect to LAAFCA's Regional Fire Departments Smart Classroom Project.

3. Scope. The scope of this MOU includes all related planning, implementation, site management, site administration, maintenance, support and reporting activities to be undertaken by the Parties associated with the hardware, software and equipment (the "System") to be implemented under a separately executed Agreement between the City of Long Beach and AWARDED VENDOR for purchase and implementation of the System. (Agreement No. ______, "Agreement Between the City of Long Beach and AWARDED VENDOR for all Hardware, Software, Equipment, and Services Related to the Regional Fire Departments Smart Classroom Project"). LAAFCA and the City of El Segundo acknowledge and represent that they have reviewed such Agreement.

4. Access. By executing this MOU, the City of El Segundo, hereby grants all necessary access to the City of El Segundo's premises during normal business hours, unless mutually agreed upon, located at ______________________ to authorized personnel and subcontractors of AWARDED VENDOR for purposes of providing its services under Agreement No. ________.
5. **Term.** The term of this MOU shall be from the date of execution through __________, unless the System is replaced or upgraded prior to that date.

6. **Financial Provisions.** The City of Long Beach received $________ in Urban Area Security Initiative (UASI) federal grant funding for purchase and implementation of the System, and a 3-year extended warranty for the System.

7. **Responsibilities of the City of Long Beach.** As the grant recipient, the City of Long Beach is primarily responsible to the granting authority for ensuring that the System is implemented according to the prescribed schedule dictated by the granting authority, and maintaining accurate records of all System components for purposes of periodic reports to the granting authority. The City of Long Beach will identify, in writing to the other Parties, a primary and secondary site manager and/or site technician to coordinate with the designated LAAFCA representatives described in Section 8 below, who will be appointed as primary and secondary site managers and/or site administrators for each of the locations identified above.

8. **Responsibilities of LAAFCA.** The System is part of LAAFCA's Regional Training Group's Regional Fire Service Training Strategic Plan, and LAAFCA is responsible for designating, in writing to the other Parties, primary and secondary site managers and/or site administrators at each location identified above. LAAFCA is also responsible for ensuring coordination of the Parties on an ongoing basis once implementation of the System is complete, as well as determining short and long-term goals, policies, and procedures related to System use, training, and all other ongoing activities related to the System.

9. **Responsibilities of the City of El Segundo.** In addition to the other responsibilities detailed in this MOU, the City of El Segundo is responsible for pickup and delivery of all System components designated for installation at the City of El Segundo's locations, providing access to the other Parties as necessary for appropriate inventory.
and management of the System, ensuring timely responses to City of Long Beach and
LAAFCO representatives related to requests for documentation or other relevant
information or actions.

10. Points of Contact. Each Party is responsible for designating, in
writing to the other Parties, at least one primary and one secondary points of contact,
which may or may not be the primary and secondary site managers and/or site
administrators. These points of contact shall be responsible for providing the Parties with
requested information, responses, coordination, access, and other activities and may
change from time to time. Each Party is responsible for immediately reporting a change in
a point of contact to the other Parties, and designating a temporary or permanent
replacement contact.

11. Confidential / Proprietary Information. Pursuant to this MOU, the
Parties may provide each other with confidential or proprietary information, and/or access
to confidential or proprietary information including public safety information (the
"Information"), which may be obtained pursuant to a License Agreement with a third
party, or which is the proprietary information of one of the Parties, and which is not
publicly known. The Parties shall hold the Information private and confidential, and shall
not: (a) use the Information, nor cause the Information to be used for any purpose other
than in performance of its duties under this MOU, (b) participate in the wrongful use,
illegal use, or unauthorized disclosure of the Information, or (c) sell, release, free trade,
assign, or provide access to the Information, directly or indirectly, to third parties, except
as may be required by law, or as the City of Long Beach needs to disclose to AWARDED
VENDOR for successful completion of its services under the Agreement.

12. Notification. The City of El Segundo will immediately notify the other
Parties upon discovery of any damaged, lost or stolen System components, and will
coordinate any replacement or repair with the other Parties to ensure accurate reports to
the granting authority.
13. **Termination.** This MOU may only be terminated prior to the expiration of the term of this MOU by mutual agreement of the Parties in writing. If this MOU is terminated prior to expiration of the MOU term, the City of El Segundo shall return to the City of Long Beach all hardware, software and equipment delivered and installed by AWARDED VENDOR pursuant to Agreement No. ______ with the City of Long Beach for purposes of redeployment and reporting to the grant authority.

14. **Independent Contractor / No Agency.** No Party shall have control over the conduct of another Party in connection with such Party's manner of performance of its obligations hereunder. No Party is an agent of another Party, and No Party shall, at any time, or in any manner, represent that it is an agent of another Party.

15. **Governing Law.** The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

16. **Counterparts.** This Agreement may be executed in counterparts (each of which shall be deemed to be an original but all of which taken together shall constitute one and the same agreement) and shall become effective when one or more counterparts have been signed by each of the Parties and delivered to the other Party.

17. **Entire Agreement.** This MOU represents the entire integrated agreement between the Parties and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by a written instrument signed by all Parties.

18. **Severability.** Invalidation of any provision contained herein or the application thereof to any person or entity by judgment or court order shall in no way affect any of the other covenants, conditions, restrictions, or provisions hereof, or the application thereof to any other person or entity, and the same shall remain in full force and effect.

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IN WITNESS WHEREOF, the Parties execute this MOU on the date of their signatures.

_______, 2013

By MIKE DUREE
Fire Chief
City of Long Beach

_______, 2013

By SCOTT FERGUSON
Vice President / Grants Coordinator
Los Angeles Area Fire Chiefs Association

_______, 2013

By
Name: 
Title: 
City of El Segundo
AGENDA DESCRIPTION:
Consideration and possible action to accept donation of materials and labor from Alex Kirby to enhance the grass area at Camp Eucalyptus for his Boy Scout Eagle Project. (Fiscal Impact: $200 for City improvements)

RECOMMENDED COUNCIL ACTION:
1. Approve to accept donation of materials and labor from Alex Kirby;
2. Adopt a Resolution that includes approval of the project’s plan;
3. Authorize the City Manager to execute a contract with Alex Kirby’s parent or guardian in a form approved by the City Attorney; and/or
4. Alternatively, discuss and take other action related to these items.

ATTACHED SUPPORTING DOCUMENTS:
1. Proposal from Alex Kirby;
2. Resolution.

FISCAL IMPACT: $200 for City improvements

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ORIGINATED BY: Vina Ramos, Administrative Analyst
REVIEWED BY: Bob Cummings, Director of Recreation and Parks
APPROVED BY: Greg Carpenter, City Manager

BACKGROUND AND DISCUSSION:
On July 3, 2013, Eagle Scout candidate Alex Kirby submitted a proposal to the Department of Recreation and Parks to replace the grass area at Camp Eucalyptus. The Girl Scouts organization supports the proposal of enhancing the visual appearance of the current area by replacing the grass with a low growing red apple ice plant. Alex will work with approximately twelve volunteers with a $200 budget for supplies and materials.

Staff recommends accepting the donation of materials and labor from Alex Kirby. To work on public property, Alex Kirby and his parent/guardian will be required to enter into an agreement with the City in a form approved by the City Attorney and provide insurance requirements.
Eagle Scout Service Project
Camp Eucalyptus, El Segundo

Introduction
Camp Eucalyptus is located near the center of El Segundo and is used by 8 different Girl Scout troops as well as being open on both weekdays and weekends to facilitate special events and campouts. A portion of the camp is a possible safety hazard to those who use it.

Purpose
My eagle scout project involves replacing an area of grass with a low-growing ice plant (red apple ice plant) providing the following long-term improvements to the area:
1. Safety- the ice plant will deter children from playing on the raised area, preventing risk of falling and tripping on the uneven ground.
2. Water conservation-
3. Hardy- the particular strain of ice plant which will be used is well known for it’s ability to survive in almost any soil condition.
4. Aesthetic- Looks better than dead grass, especially when in bloom.

Plan
The general idea of form of the labor is an assembly line. Tools will go through the area, one or two at a time which will then be passed on to the next group, allowing all the scouts to experience working with each tool
1. 2 hoes to loosen dirt and uproot grass
2. 2 rakes to uproot any remaining grass and to put it all in one place
3. Gloves and trash bags to get all the grass out of the area
4. Spreader to distribute fertilizer
5. 2 Shovels to even out dirt
6. Rakes again to get the area very flat
7. Tie strings to fences and pull acrossed to serves as an area map for planting
8. plant wherever two strings cross
9. clean up

Thank you for your time
RESOLUTION NO. _____

A RESOLUTION APPROVING THE DESIGN AND PLANS TO ENHANCE GRASS AREA AT CAMP EUCALYPTUS LOCATED AT 641 CALIFORNIA STREET PURSUANT TO GOVERNMENT CODE § 830.6 AND AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH ALEX KIRBY’S PARENT OR GUARDIAN.

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

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

A. On July 3, 2013, the City received a proposal by Alex Kirby (“VOLUNTEER”) to enhance grass area at Camp Eucalyptus (the “Project”);

B. The Project consists of replacing an area of grass with a low-growing red apple ice plant.

C. VOLUNTEER proposes to donate all materials and labor for the Project. The City would not incur any cost;

D. Based upon information supplied by the VOLUNTEER and Recreation & Parks staff, the Council understands and believes that the total value of the materials would be $200 and will utilize approximately 12 community volunteers for the labor;

E. Ordinarily, the City would need to comply with the competitive bidding requirements set forth in the California Public Contracts Code for this type of project;

F. The purpose of such bidding requirements is to guard against favoritism, improvidence, extravagance, fraud and corruption, to prevent waste of public funds, and to obtain the best economic result for the public;

G. The facts and circumstances of this Project, however, demonstrate that competitive bids would be unavailing or would not produce an advantage, and the advertisement for competitive bid would thus be undesirable and impractical for the following reasons:

1. There is, at most, only a nominal cost to the public for the reason that VOLUNTEER will donate all materials and labor;

2. VOLUNTEER will not receive any public funds for completing the Project;

3. VOLUNTEER’s only motivation in constructing the Project is to accomplish charitable works for the City;
4. It is improbable that any other private contractor can construct the Project for a lesser amount; and

5. To complete the Project, VOLUNTEER will still be required to comply with the City’s standard contract requirements.

H. In waiving the competitive bid requirements otherwise required by the SPMC, the City Council takes note of the analysis and decisions set forth in Graydon v. Pasadena Redevelopment Agency (1980) Cal.App.3d 631; Hodgeman v. City of San Diego (1942) 53 Cal. App.2nd 610; Orange County Water Dist. v. Bennett (1958) 156 Cal. App.2nd 745; and Los Angeles G&E Corp. v. City of Los Angeles (1922) 188 Cal. 307;

I. The City Engineer designed the Project and prepared the Project’s plans and specifications. The plans are now complete and the Project may be constructed;

J. The City Council wishes to obtain the immunities set forth in Government Code § 830.6 with regard to the plans and construction of the Project; and

K. In accepting VOLUNTEER’s donation of the Project, the City notes that Labor Code § 1720.4 specifically exempts work performed by volunteers from payment of prevailing wages. In addition, the Department of Industrial Relations ("DIR") has determined that prevailing wages need not be paid for the Project (see DIR Decision No. 98-004 dated June 10, 1998 [donated pergola on city property]; and DIR Decision No. 99-058 dated January 7, 2000 [volunteer labor]). Accordingly, the Project is not a "public work" under the Labor Code and twenty volunteers need not be paid prevailing wages.

SECTION 2: Design Immunity.

A. The design and plans for the Project are determined to be consistent with the City’s standards and are approved.

B. The design approval set forth in this Resolution occurred before actual work on the Project construction commenced.

C. The approval granted by this Resolution conforms with the City’s General Plan.

D. The approval and authorization granted by this Resolution is intended to avail the City of the immunities set forth in Government Code § 830.6.

SECTION 3: Authorizations.

A. The City Engineer, or designee, is authorized to act on the City’s behalf in
approving any alterations or modifications of the design and plans approved by this Resolution.

B. The City Manager is authorized to execute a contract with VOLUNTEER for construction of the Project in a form approved by the City Attorney.

SECTION 4: The City Clerk is directed to certify the adoption of this Resolution.

SECTION 5: This Resolution will become effective immediately upon adoption.

PASSED AND ADOPTED this 6th day of August, 2013.

Bill Fisher, Mayor

ATTEST:

Tracy Weaver, City Clerk

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

By

Karl H. Berger, Assistant City Attorney
AGENDA DESCRIPTION:

Consideration and possible action regarding 1) Approval of a title change from Management Analyst – Payroll to Management Analyst for the current classification. Fiscal Impact: None

RECOMMENDED COUNCIL ACTION:

1. Approve the proposed title change.
2. Alternatively, discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:

1. Classification Specification including proposed title change

FISCAL IMPACT: None

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

ORIGINATED BY: Lisa Jenkins, Senior Human Resources Analyst
REVIEWED BY: Martha Dijkstra, Director of Human Resources
APPROVED BY: Greg Carpenter, City Manager

BACKGROUND AND DISCUSSION:

In anticipation of the recruitment, testing, and selection process to fill a Management Analyst position within the Public Works Department, staff has determined the need to change the class specification title to more accurately reflect the general nature of the classification. While the class specification accurately represents the duties, responsibilities, and requirements, the title change will allow for the classification to be appropriately allocated to any department/division requiring a Management Analyst position.
MANAGEMENT ANALYST (PAYROLL)

**Definition:** Under general supervision, provides and coordinates professional administrative, analytical and/or financial management support to department, grant or contract operations and/or programs.

**Essential Functions:** Essential functions, as defined under the Americans with Disabilities Act, may include the following duties and responsibilities, knowledge, skills and other characteristics. This list of duties and responsibilities is ILLUSTRATIVE ONLY, and is not a comprehensive listing of all functions and tasks performed by positions in this class.

**Characteristic Duties and Responsibilities:**

Positions in this classification typically perform a full range of duties at a level of complexity represented by the following types of responsibilities:

Coordinates and facilitates administrative and/or management functions including accounting, purchasing, payroll and related activities for a department, program, grant or contract; administers designated contract or grant-funded program activities; assesses and evaluates departmental organization, budget, staffing and management practices; participates in the development of department goals and objectives.

Performs complex financial management services for a City department, grant, contract and/or program; responsible for payroll activities including but not limited to taxes, benefits and other related payroll activities; participates in budget development and preparation; monitors and analyzes budget related activities; identifies trends and practices.

Conducts research and statistical analyses; prepares and presents reports of findings and recommendations; prepares correspondence, policies, procedures, handbooks, manuals, rules and regulations, resolutions or publications relating to administration, finance, staffing and/or operations.

Provides administrative and management assistance to department executives, management, other City personnel regarding administrative, fiscal or operational issues, collective bargaining, and other policies and procedures.

Provides professional-level staff support to departmental committees, boards and other groups, including coordinating meeting schedules and agendas, facilitating meetings, etc.; represents the department at meetings and commits the department to a course of action; may coordinate and facilitate Citywide functions and events.

Responds to inquiries from other City employees and the public regarding department management, administration and/or operations; provides public and media relations for programs and advisory committees, including developing and producing promotional and information materials.
Characteristic Duties and Responsibilities (Continued):

Recruits, hires, schedules, assigns, monitors and evaluates staff; provides for and/or conducts staff development; establishes work methods and standards; initiates corrective and/or disciplinary action and responds to grievances and complaints according to established personnel policies and procedures and in consultation with Human Resources.

Knowledge, Skills and Other Characteristics:

Knowledge of principles of municipal administration and budget development.
Knowledge of organization and functions of the assigned municipal department.
Knowledge of computer applications in administrative functions.
Knowledge of related laws, ordinances and regulations.
Knowledge of principles of research, statistical analysis and report preparation.
Knowledge of principles and practices of supervision.

Skill in performing complex professional level administrative and analytical work.
Skill in interpreting and applying laws, ordinances and policies.
Skill in conducting research, analyzing statistical and other data, and preparing and presenting reports.
Skill in providing information and explaining laws, policies and procedures to others.
Skill in communicating effectively orally and in writing.
Skill in establishing and maintaining effective working relationships with other department staff, other City employees and the public.

Qualifications:

A Bachelors degree in Business Administration, Accountancy, Public Administration or a closely related field, and three (3) years of increasingly responsible administrative/management experience, or an equivalent combination of education and experience.
EL SEGUNDO CITY COUNCIL
AGENDA STATEMENT

AGENDA DESCRIPTION:

Consideration and possible action regarding approval of a contract amendment for Aerotek, Inc for additional temporary staffing services in the RSI Program for an administrative specialist and in the Public Works Streets Division for Street Maintenance Work. (Fiscal Impact: $30,000.00)

RECOMMENDED COUNCIL ACTION:

1. Authorize the City Manager to execute a contract amendment, in a form approved by the City Attorney, with Aerotek, Inc. for additional temporary staffing services; or
2. Alternatively, discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:

None

FISCAL IMPACT: Included in Adopted Budget

Amount Budgeted: $30,000.00
Additional Appropriation: No
Account Number(s): 116-400-0000-6214 (RSI Program: Professional/Technical)
501-400-7102-6206 (Water Division: Contract Services)

ORIGINATED BY: James S. O’Neill, RSI Program Manager
REVIEWED BY: Stephanie Katsouleas, Director of Public Works
APPROVED BY: Greg Carpenter, City Manager

BACKGROUND AND DISCUSSION:

On March 1, 2012, El Segundo entered into a six month, on-call service agreement with Aerotek, Inc. to provide temporary staffing services for an amount not to exceed $25,000.

On September 18, 2012, as part of the approval of ongoing agreements and blanket purchase orders, staff was authorized to extend the ongoing professional service Agreement (4269) with Aerotek to September 30, 2013 to continue providing temporary staffing services for the Public Works Department, with a new, not to exceed budget of $50,000 for FY 2012-13. The amendment also authorized the increase of individual task orders from a “not to exceed” cap of $10,000 to $50,000.

On February 5, 2013 City Council authorized a second contract amendment with Aerotek to increase the budget by an additional $50,000, for a new total amount of $100,000 for Public Works continued temporary staffing needs in Streets, Water and General Services.

At this time, staff is requesting authorization to execute a third contract amendment for $30,000, in a form approved by the City Attorney, for Aerotek to provide additional temporary staffing services. This amount includes $15,000 in temporary staffing for the RSI Program, which will be funded by grants from the Federal Aviation Administration and Los Angeles World Airports, and an additional $15,000 for continued temporary staffing for the Public Works Department.
AGENDA DESCRIPTION:
Consideration and possible action regarding the presentation of fiscal year 2012-13 Third Quarter Financial Review and presentation of the fiscal year 2013-14 Preliminary Operating Budget. (Fiscal Impact: none)

RECOMMENDED COUNCIL ACTION:
1.) Receive and file FY 2012-13 Third Quarter Financial staff report.
2.) Receive and file FY 2013-14 Preliminary Operating Budget.
3.) Publish announcements of the key budget dates:
   a) Public Hearing September 3, 2013, 7:00 p.m.
   b) Continued Public Hearing and Adoption September 17, 2013, 7:00 p.m.
4.) Alternatively discuss and take other action related to these items.

ATTACHED SUPPORTING DOCUMENTS:
n/a

FISCAL IMPACT: None

Amount Budgeted: $0
Additional Appropriation: N/A
Account Number(s): None

ORIGINATED BY: Steve Jones, Business Services Manager
Angelina Garcia, Fiscal Services Manager

REVIEWED BY: Deborah Cullen, Director of Finance
APPROVED BY: Greg Carpenter, City Manager

BACKGROUND AND DISCUSSION:
Staff has reviewed all revenues and expenditures for third quarter Fiscal Year 2012-2013, with an emphasis on the General Fund, to determine if all sources and uses are on target with the originally adopted budget and to highlight any areas that may end the fiscal year significantly above or below budget. As we review the third quarter results and present the Preliminary FY 2013-2014 Budget, we will focus on the continuing fluctuations in major revenues within the General Fund Operating Budget and the leading causes. This report also includes the actions that have been taken by staff to address the stagnant revenues and operate with a significantly smaller expenditure budget.
Third Quarter Financial Review Fiscal Year 2012-2013

General Fund Revenues

The following is a list of major General Fund revenues and the performance of each source through the third quarter:

Table 1: General Fund Revenues

<table>
<thead>
<tr>
<th>Revenue Source</th>
<th>Prior Year Through 6/30/2012</th>
<th>Current Year Through 6/30/2013</th>
<th>FY 2012-2013 Adopted Budget</th>
<th>% of Budget Received</th>
<th>FY 2012-2013 Year-end Estimate</th>
<th>Variance Over/ (Under) FY 2012-2013 Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business License</td>
<td>10,054,885</td>
<td>9,958,128</td>
<td>10,306,800</td>
<td>96.62%</td>
<td>10,028,000</td>
<td>-278,800</td>
</tr>
<tr>
<td>Sales &amp; Use Tax</td>
<td>6,138,223</td>
<td>4,448,657</td>
<td>6,620,000</td>
<td>67.20%</td>
<td>6,800,000</td>
<td>180,000</td>
</tr>
<tr>
<td>Sales Tax in Lieu</td>
<td>2,773,604</td>
<td>2,651,923</td>
<td>1,948,900</td>
<td>136.07%</td>
<td>2,652,000</td>
<td>703,100</td>
</tr>
<tr>
<td>Property Tax</td>
<td>5,167,036</td>
<td>5,827,231</td>
<td>6,000,000</td>
<td>97.12%</td>
<td>6,130,000</td>
<td>130,000</td>
</tr>
<tr>
<td>Transient Occupancy (TOT)</td>
<td>3,182,494</td>
<td>3,410,467</td>
<td>5,100,000</td>
<td>66.87%</td>
<td>5,100,000</td>
<td>0</td>
</tr>
<tr>
<td>Charges for Services</td>
<td>4,249,949</td>
<td>3,395,776</td>
<td>4,169,300</td>
<td>81.45%</td>
<td>4,360,696</td>
<td>191,396</td>
</tr>
<tr>
<td>Electric Utility Tax</td>
<td>2,236,694</td>
<td>2,179,663</td>
<td>3,200,000</td>
<td>68.11%</td>
<td>3,200,000</td>
<td>0</td>
</tr>
<tr>
<td>Franchise Tax</td>
<td>2,361,937</td>
<td>2,248,235</td>
<td>2,400,000</td>
<td>93.68%</td>
<td>2,340,000</td>
<td>-60,000</td>
</tr>
<tr>
<td>Cogeneration Electric</td>
<td>657,730</td>
<td>890,241</td>
<td>1,350,000</td>
<td>65.94%</td>
<td>1,334,000</td>
<td>-16,000</td>
</tr>
<tr>
<td>License &amp; Permits</td>
<td>1,273,335</td>
<td>1,206,942</td>
<td>1,446,200</td>
<td>83.46%</td>
<td>1,554,500</td>
<td>108,300</td>
</tr>
<tr>
<td>Gas Utility Tax</td>
<td>527,347</td>
<td>1,193,389</td>
<td>750,000</td>
<td>159.12%</td>
<td>1,600,000</td>
<td>850,000</td>
</tr>
<tr>
<td>Tax Resolution Agreement</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>5,682,000</td>
<td>5,682,000</td>
</tr>
<tr>
<td>Interest on Investments/Rentals</td>
<td>310,599</td>
<td>-45,090</td>
<td>240,000</td>
<td>-18.79%</td>
<td>210,000</td>
<td>-30,000</td>
</tr>
<tr>
<td>Other Revenues</td>
<td>3,237,950</td>
<td>3,275,580</td>
<td>4,081,100</td>
<td>80.26%</td>
<td>3,932,850</td>
<td>-148,250</td>
</tr>
</tbody>
</table>

Total General Fund Revenues

Net of Transfers                    42,171,784 40,641,141 47,612,300 85.36% 54,924,046 7,311,746

Transfers In                          1,200,000 3,435,003 4,580,000 75.00% 4,580,000 0

Total General Fund Revenues            43,371,784 44,076,144 52,192,300 84.45% 59,504,046 7,311,746

Business License Tax is the City’s largest General Fund revenue source, accounting for 18% of general fund revenues. The majority of this revenue stream is collected in January and February. Based on the revenues received in the first 9 months of the fiscal year, this category is projected to fall short by approximately $278,800 of the adopted budget. This under performance is primarily due to a decrease in employee headcount of approximately 2,000 employees in the City’s business sector.
**Business License Tax**

FY 2012 Actual Revenue: $10,145,241  
FY 2013 Adopted Budget: $10,306,800  
FY 2013 Yearend Estimate: $10,028,000

**Sales & Use Tax and Sales Tax in Lieu** combined is the City's second largest revenue source, accounting for 17% of the General Fund revenues. Sales and Use Tax receipts for the City's April through June receipts (1st quarter sales January – March 2013) were 3.0% lower than the same quarter last year. Actual sales activity decreased 4.7% after accounting aberrations were factored out. A current period correction of a miscoded allocation error along with declining fuel consumption depressed fuel and service station receipts and was primarily responsible for the overall decrease. Yearend estimates track slightly over budget and show a projected decrease over FY 11/12 yearend of $1,050,000. Adjusted for reporting aberrations, taxable sales for all of Los Angeles County showed an increase compared to first quarter last year of 4.9% while the Southern California region as a whole was up 6.5%.

**Sales Tax in Lieu** is received in two payments each year (January and May). These estimated payments from the State Board of Equalization are based on prior year actuals, and although it is ending the year over budget by $703,100, the FY 13/14 payment will be reduced based on FY 12/13 actuals.

**Sales & Use Tax**

FY 2012 Actual Revenue: $7,849,633  
FY 2013 Adopted Budget: $6,620,000  
FY 2013 Yearend Estimate: $6,800,000

**Sales Tax in Lieu**

FY 2012 Actual Revenue: $2,773,604  
FY 2013 Adopted Budget: $1,948,900  
FY 2013 Yearend Estimate: $2,652,000

**Property Tax** is currently 12.7% or $660,195 more than the same period last year and is projected to end the year approximately $130,000 over budget. The City has experienced a net taxable value increase of 2.7% for the 2012-2013 tax roll, which was slightly more than the increase experienced countywide at 2.1%. The assessed value increase between 2011-2012 and 2012-2013 was $254 million, which contributed to the overall increase in assessed value this year. The change attributed to the 2% Proposition 13 inflation adjustment was $156 million, which accounted for 61% of all growth experienced in the city.

**Property Taxes**

FY 2012 Actual Revenue: $5,946,167  
FY 2013 Adopted Budget: $6,000,000  
FY 2013 Yearend Estimate: $6,130,000
Transient Occupancy Tax (TOT) is currently 7.1% or $227,973 above the same period last year, with 66.8% of budget received. This revenue is rebounding as the economy improves due to increased occupancies and room rates. At this time TOT appears to be on target to meet budget. Staff will continue to monitor and report any changes due to the economic conditions at yearend.

**Transient Occupancy Tax**

- FY 2012 Actual Revenue: $4,735,585
- FY 2013 Adopted Budget: $5,100,000
- FY 2013 Yearend Estimate: $5,100,000

Charges for Services includes Zoning and Planning fees, Plan Check fees, Plan Retention fees, Energy Plan Check fees, and Planning Service fees and have a combined budget of $4,169,300. The City has received $3,395,776 or 81.45% combined through third quarter. At this time staff is estimating this revenue group to end the year approximately $191,000 over budget.

**Charges for Services**

- FY 2012 Actual Revenue: $5,220,232
- FY 2013 Adopted Budget: $4,169,300
- FY 2013 Yearend Estimate: $4,360,696

Electric Utility User’s Tax is estimated to come in on budget. As of June 30, 2013, this revenue source is at 68.11% of the Adopted Budget. Based on staff research, electric rates have increased in June between 4-5% depending on a customer’s class rate. However, there has been a continued decrease in usage from the commercial/industrial sector. The fourth quarter has consistently been the highest quarter for the fiscal year due to increased usage in summer.

**Electric Utility User’s Tax**

- FY 2012 Actual Revenue: $3,233,215
- FY 2013 Adopted Budget: $3,200,000
- FY 2013 Yearend Estimate: $3,200,000

Franchise Tax is another one of the City’s major revenue sources that has been impacted by the fluctuating price of natural gas. This year’s annual payment from the two top tax producers was $126,618 less than last year’s payment primarily due to a decrease in water pumping and low natural gas prices last year. These two companies account for approximately 84% of the total revenue received in this category and payments are made to the City once each year. However, this revenue category is down approximately $1.24 million compared to its high in FY 2008-09.

**Franchise Tax**

- FY 2012 Actual Revenue: $2,455,099
- FY 2013 Adopted Budget: $2,400,000
- FY 2013 Yearend Estimate: $2,340,000
Cogenerated Electric Utility User’s Tax is estimated to come in lower than budget by $16,000 attributable to the newest cogenerated unit having a delayed startup. This revenue is projected to end the year approximately $463,000 higher than FY 2012 yearend.

**Cogenerated Electric Utility User’s Tax**

<table>
<thead>
<tr>
<th>Year</th>
<th>Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 2012 Actual</td>
<td>$ 871,155</td>
</tr>
<tr>
<td>FY 2013 Adopted</td>
<td>$1,350,000</td>
</tr>
<tr>
<td>FY 2013 Yearend</td>
<td>$1,334,000</td>
</tr>
</tbody>
</table>

**License and Permits** revenue stream is tracking at 83.46% of the estimated budget at third quarter, and is anticipated to end the year over budget by $108,300 due to an increase in anticipated building permits.

**License and Permits**

<table>
<thead>
<tr>
<th>Year</th>
<th>Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 2012 Actual</td>
<td>$ 1,709,809</td>
</tr>
<tr>
<td>FY 2013 Adopted</td>
<td>$ 1,446,200</td>
</tr>
<tr>
<td>FY 2013 Yearend</td>
<td>$ 1,554,500</td>
</tr>
</tbody>
</table>

**Gas Utility Tax** is currently at 159.12% of budget. This revenue source continues to be difficult to forecast based on the uncertainty of the local power plant being called into the grid along with the fluctuation of the price of natural gas. In addition, there has been increased usage at the old portion of the power plant due in part to the San Onofre power plant closure. The new portion of the power plant is expected to go online in August 2013.

**Gas Utility Tax**

<table>
<thead>
<tr>
<th>Year</th>
<th>Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 2012 Actual</td>
<td>$ 921,732</td>
</tr>
<tr>
<td>FY 2013 Adopted</td>
<td>$ 750,000</td>
</tr>
<tr>
<td>FY 2013 Yearend</td>
<td>$1,600,000</td>
</tr>
</tbody>
</table>

**Interest on Investments** continues to experience a significant reduction due to the current economic crisis and the result of the Federal Reserve Bank’s rate reduction in short-term and long-term interest rates. Currently, the City’s portfolio is invested in Local Agency Investment Funds (LAIF) (31.4% of the portfolio value), money market accounts (0.2% of the portfolio value), negotiable CD’s (20.1% of the portfolio value), miscellaneous securities (8.7% of portfolio value), and Federal Agency Issues (39.6% of the portfolio value). The average return on our Federal Agency Issues through the quarter was 1.0%, and LAIF was 0.24%, with the total average return for entire portfolio being 0.65%. LAIF is predicted to continue to return 0.24% or less through the end of the year. It is estimated interest income will be $30,000 less than the budgeted amount and property rentals are expected to be on target with budget.

**Interest on Investments/Property Rentals**

<table>
<thead>
<tr>
<th>Year</th>
<th>Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 2012 Actual</td>
<td>$ 393,720</td>
</tr>
<tr>
<td>FY 2013 Adopted</td>
<td>$ 240,000</td>
</tr>
<tr>
<td>FY 2013 Yearend</td>
<td>$ 210,000</td>
</tr>
</tbody>
</table>
Estimated Revenues for Enterprise Funds

Revenues in the Water, Sewer, and Golf Course Funds are expected to be on target with budget at year end.

**Water Fund**
- FY 2012 Actual Revenue: $23,384,237
- FY 2013 Adopted Budget: $24,936,300
- FY 2013 Yearend Estimate: $24,936,300

**Sewer Fund**
- FY 2012 Actual Revenue: $3,280,558
- FY 2013 Adopted Budget: $4,170,400
- FY 2013 Yearend Estimate: $4,170,400

**Golf Course Fund**
- FY 2012 Actual Revenue: $1,919,743
- FY 2013 Adopted Budget: $2,048,000
- FY 2013 Yearend Estimate: $2,048,000

**General Fund Expenditures**

With 9 months or 75% of the year completed, the General Fund Expenditures total $38,800,000, or 74.34% of the 2012-2013 Adopted Budget. Based on current year estimates (shown below), it is projected that we will end the year with $53,878,430 in General Fund Expenditures. This is an increase of $1,378,350 over the estimates presented at the April 30, 2013 Strategic Planning Session (SPS). Since then, the following council-approved items have been incorporated in the yearend estimates:

*Table 2 – General Fund Expenditures – FY 2012-2013*

<table>
<thead>
<tr>
<th>Changes in Estimates</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund Expenditures</td>
<td>Estimates</td>
</tr>
<tr>
<td>Yearend Estimates, as reported at Midyear:</td>
<td>$52,500,080</td>
</tr>
<tr>
<td>Cancel OPEB Drawdown:</td>
<td>1,000,000</td>
</tr>
<tr>
<td>Emergency Roof Repairs:</td>
<td>378,350</td>
</tr>
<tr>
<td>Total:</td>
<td>$53,878,430</td>
</tr>
</tbody>
</table>

The cancellation of the Other Post-Employment Benefits (OPEB) Drawdown was approved at the April 30th SPS. The Emergency Roof Repairs were approved at a regular City Council Meeting held on April 2nd, 2013. Staff recommended the above changes based on the resolution of the tax agreement with Chevron.
The General Fund expenditures through June 30, 2013 are illustrated in the following table:

Table 3 – General Fund Expenditures by Department – Current Year Compared to Prior Year

<table>
<thead>
<tr>
<th>Department</th>
<th>Third Quarter YTD 11/12</th>
<th>Third Quarter YTD 12/13</th>
<th>Change from PY Third Quarter</th>
<th>% Change from PY Third Quarter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Elected Officials</td>
<td>$672,239</td>
<td>$641,314</td>
<td>$(30,925)</td>
<td>-4.60%</td>
</tr>
<tr>
<td>Administrative Support</td>
<td>3,223,198</td>
<td>2,690,293</td>
<td>$(532,905)</td>
<td>-16.53%</td>
</tr>
<tr>
<td>Police</td>
<td>11,764,909</td>
<td>11,611,592</td>
<td>$(153,317)</td>
<td>-1.30%</td>
</tr>
<tr>
<td>Fire</td>
<td>10,191,795</td>
<td>9,612,679</td>
<td>$(579,116)</td>
<td>-5.68%</td>
</tr>
<tr>
<td>Communications Center</td>
<td>990,468</td>
<td>986,500</td>
<td>$(3,968)</td>
<td>-0.40%</td>
</tr>
<tr>
<td>Planning/Building Safety</td>
<td>1,855,105</td>
<td>1,628,991</td>
<td>$(226,114)</td>
<td>-12.19%</td>
</tr>
<tr>
<td>Public Works</td>
<td>3,435,578</td>
<td>3,634,747</td>
<td>199,169</td>
<td>5.80%</td>
</tr>
<tr>
<td>Recreation and Parks</td>
<td>3,600,884</td>
<td>3,506,530</td>
<td>$(94,354)</td>
<td>-2.62%</td>
</tr>
<tr>
<td>Library</td>
<td>1,545,972</td>
<td>1,542,400</td>
<td>$(3,572)</td>
<td>-0.23%</td>
</tr>
<tr>
<td>Nondepartment</td>
<td>3,488,243</td>
<td>2,853,156</td>
<td>$(635,087)</td>
<td>-18.21%</td>
</tr>
<tr>
<td>Transfers to Other Funds</td>
<td>369,925</td>
<td>92,568</td>
<td>(277,357)</td>
<td>-74.98%</td>
</tr>
<tr>
<td>Total General Fund Expenditures</td>
<td>41,138,316</td>
<td>38,800,770</td>
<td>(2,337,546)</td>
<td>-8.46%</td>
</tr>
</tbody>
</table>

As demonstrated in Table 3, the City has been able to save $2.3 million or approximately 8.46% compared to the first nine months of Fiscal Year 2011-2012.

Attributed to these savings are:

1. $708,200 reduction in Vacation/Sick Leave Payouts when compared to Third Quarter 2012; In FY 2011-2012, there were approximately 9 retirements in the safety groups. Upon retirement, their vacation/sick leave balances were liquidated.

2. $1,072,500 savings from the cancellation of the FY 2012-2013 Equipment Replacement Charge incurred by most City departments. The annual amount of this charge to the General Fund is $1,430,000.

3. $277,350 reduction in transfers to other funds.
Table 4 – Fiscal Year 2012-2013 Budget v. Projected Year-end – General Fund

<table>
<thead>
<tr>
<th>Department</th>
<th>Third Quarter 12/13</th>
<th>Adopted 12/13</th>
<th>% Expended YTD</th>
<th>Year-end Estimate 12/13</th>
<th>Over (Under) Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Elected Officials</td>
<td>$641,314</td>
<td>$818,369</td>
<td>78.36%</td>
<td>$818,369</td>
<td>(18,500)</td>
</tr>
<tr>
<td>Administrative Support</td>
<td>2,690,293</td>
<td>3,784,723</td>
<td>71.08%</td>
<td>3,766,223</td>
<td>56,210</td>
</tr>
<tr>
<td>Police</td>
<td>11,611,592</td>
<td>15,510,640</td>
<td>74.86%</td>
<td>15,566,850</td>
<td>56,210</td>
</tr>
<tr>
<td>Fire</td>
<td>9,612,679</td>
<td>12,917,683</td>
<td>74.41%</td>
<td>13,100,650</td>
<td>182,967</td>
</tr>
<tr>
<td>Communications Center</td>
<td>986,500</td>
<td>1,389,500</td>
<td>71.00%</td>
<td>1,389,500</td>
<td>-</td>
</tr>
<tr>
<td>Planning /Building Safety</td>
<td>1,628,991</td>
<td>2,379,823</td>
<td>68.45%</td>
<td>2,379,823</td>
<td>-</td>
</tr>
<tr>
<td>Public Works</td>
<td>3,634,747</td>
<td>5,422,235</td>
<td>67.03%</td>
<td>5,422,235</td>
<td>-</td>
</tr>
<tr>
<td>Recreation and Parks</td>
<td>3,506,530</td>
<td>4,819,479</td>
<td>72.76%</td>
<td>4,819,479</td>
<td>-</td>
</tr>
<tr>
<td>Library</td>
<td>1,542,400</td>
<td>2,210,621</td>
<td>69.77%</td>
<td>2,210,621</td>
<td>-</td>
</tr>
<tr>
<td>Nondepartment</td>
<td>2,853,156</td>
<td>2,800,157</td>
<td>101.89%</td>
<td>3,887,480</td>
<td>1,087,323</td>
</tr>
<tr>
<td>Transfers to Other Funds</td>
<td>92,568</td>
<td>138,850</td>
<td>66.67%</td>
<td>517,200</td>
<td>378,350</td>
</tr>
</tbody>
</table>

Total General Fund Expenditures 38,800,770 52,192,079 74.34% 53,878,430 1,686,350

The following is summary of General Fund expenditures by major categories:

**Elected Officials and Administrative Support Services**

The Elected Officials category, which consists of the City Council, City Clerk and City Treasurer, has expenditures totaling $641,314 or 78.36% of the adjusted budget. It is expected that this category comes in on target with budgeted amounts.

The Administrative Support category, which includes the City Manager’s office, Finance and Human Resources, has expenditures totaling $2,690,293 or 71.08% of budget. It is expected that this category comes in slightly under budget at yearend.

**Public Safety**

The Police Department is projected to come in over budget by approximately $56,211 at yearend, primarily due to the pension contribution rate increase, beginning on July 1 of this year. The rate increase was communicated to the City by CalPERS subsequent to the FY 2012/2013 budget adoption. Expenditures through the end of the Third Quarter totaled $11,611,592 or 74.86% of budget.

The Fire Department is projected to come in over budget at yearend as well, also because of the pension contribution rate increase. In addition, there was unexpected overtime, which resulted in an additional $93,000 in overtime expense. In total, the Fire Department is estimated to exceed their budget by approximately $182,967. Expenditures through the end of the Third Quarter totaled $9,612,679 or 74.41% of budget.

The Communications Center is projected to come in at budget at yearend. Expenditures through the end of the Third Quarter totaled $1,301,106 or 91.62% of budget. This category is expected...
to come in within budget as all contractual payments have been made for the remainder of this fiscal year.

**Planning and Building Safety**

Expenditures through the end of the Third Quarter totaled $1,628,991 or 68.45% of the budget. This department continues to maximize staffing efficiency with consultant resources; this, in turn enables them to more effectively control expenditures when necessary due to the uncertain economic conditions and fluctuation in the volume of permit applicants. This department is projected to come in on target with budget at year-end.

**Public Works**

This function’s General Fund divisions consist of Government Buildings, Engineering, Street Services, Street Maintenance, Traffic Safety, Solid Waste Recycling, Wastewater, Storm Drains, Equipment Maintenance and Administration. Expenditures through the end of the Third Quarter totaled $3,634,747 or 67.03% of budget.

**Recreational, Cultural and Information Services**

The Recreation, Cultural and Information Services function includes the Recreation and Parks Department and the Library Department.

For the first 9 months of the fiscal year, the Recreation and Parks department is slightly below budget with actual expenditures at $3,506,530 or 72.76% of budget. Currently, the Parks Division is at $1,414,394 or 77.03% of budget and the Recreation Division is at $2,092,136 or 70.12% of budget. It is expected that this department will come in on target with budget at yearend.

Library Services is on target with budget at $1,542,400 or 69.77% of expenditures realized though the first 9 months of the fiscal year. It is expected that this department will come in on target with budget at yearend.

**Nondepartment**

Nondepartment is projected to end the year over plan by $1,087,322. As mentioned in the discussion for Table 1, at the April 30th SPS, Council gave staff direction to cancel the FY 2012-2013 OPEB Drawdown of $1,000,000. This is a drawdown from the OPEB Trust the City has funded with CalPERS. Per the terms of the trust agreement with CalPERS, the City can draw down from its trust to pay for retiree health benefit premiums. By cancelling the scheduled drawdown, the City incurs the full health benefit premium, and maintains its full balance in the CalPERS Trust, which helps reduce the long-term liability.
Summary

This Third Quarter review shows that the approved budget realistically forecasted revenues and expenses and staff has been managing operations within the constraints of the current budget.

Staff will continue to identify expenditures savings and continue to implement cost reduction measures in an effort to reduce or eliminate the estimated shortfall.

FY 2013-2014 Preliminary Budget

Initial planning for the FY 2012-2013 budget started in April 2013. The first of two Strategic Planning Sessions (SPS) was held on April 30, 2013. The second SPS was held on June 27th. At this session, staff presented an update to the FY 2011-2012 General Fund Year-end Projection, as well as the Preliminary FY 2012-2013 General Fund Operating Budget.

The Preliminary FY 2012-2013 Operating Budget has been distributed to Council and has been made available to the public on August 1, 2013 at the El Segundo Public Library, City Clerk’s Office, and on the City’s website at [www.elsegundo.org](http://www.elsegundo.org).

General Fund Revenues

Generally revenues are still being impacted by the business sector. The City receives 69% of its General Fund tax revenues from this sector which is predicted to have very little growth in the next fiscal year. Overall, the General Fund’s core tax revenues are estimated to grow 2.58% or $929,000 compared to FY 12-13 yearend estimates.

Below is a summary of the revenue assumptions as compared to yearend estimates:

- Business License Tax – $352,000 net increase over yearend estimates; 3.5% Growth due to annual CPI change and anticipated reduction of sales and use tax credits which result in a higher Business License Tax
- Property Tax – Current projection is flat based on pending reassessment appeals
- Transient Occupancy Tax (TOT) – Current projection is flat based on uncertainty with one of the City’s largest hotels and the impact of increased long term stay exemptions
- Sales Tax – $700,000 or 10.3% increase from 2013 estimated yearend; this increase is primarily due to the resolution of a large misallocation to the City
- Charges for Services – ($145,000) or 3.3% decrease from yearend estimates based on a forecasted reduction of planning and building safety fees
- Interest on Investments – ($30,000) or 14.3% decrease from yearend estimates primarily due to low Federal Reserve Rate
- Utility Users’ Tax – $256,000 or 3.5% increase from yearend estimates. This revenue category is still being impacted from the fluctuation of the price of natural gas
- Tax Resolution Agreement – Based on an executed agreement with Chevron USA, the City is estimating a resolution payment of $5,906,900 in FY 13-14
- All other revenues remain flat or have very little growth compared to yearend estimates
Below is a summary of Preliminary General Fund Revenues for FY 2013-2014:

### Table 5 – Fiscal Year 2013-2014 General Fund Revenues:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Business License</td>
<td>$10,306,800</td>
<td>10,331,800</td>
<td>10,380,000</td>
<td>48,200</td>
</tr>
<tr>
<td>Sales &amp; Use Tax</td>
<td>6,620,000</td>
<td>6,620,000</td>
<td>7,500,000</td>
<td>880,000</td>
</tr>
<tr>
<td>Sales Tax in Lieu</td>
<td>1,948,900</td>
<td>2,652,000</td>
<td>2,226,500</td>
<td>(425,500)</td>
</tr>
<tr>
<td>Property Tax</td>
<td>6,000,000</td>
<td>6,130,000</td>
<td>6,094,500</td>
<td>(35,500)</td>
</tr>
<tr>
<td>Transient Occupancy (TOT)</td>
<td>5,100,000</td>
<td>5,100,000</td>
<td>5,125,000</td>
<td>25,000</td>
</tr>
<tr>
<td>Charges for Services</td>
<td>4,169,300</td>
<td>4,196,900</td>
<td>4,215,900</td>
<td>19,000</td>
</tr>
<tr>
<td>Electric Utility Tax</td>
<td>3,200,000</td>
<td>3,200,000</td>
<td>3,225,000</td>
<td>25,000</td>
</tr>
<tr>
<td>Franchise Tax</td>
<td>2,400,000</td>
<td>2,450,000</td>
<td>2,455,000</td>
<td>5,000</td>
</tr>
<tr>
<td>Cogenerated Electric</td>
<td>1,350,000</td>
<td>1,350,000</td>
<td>1,350,000</td>
<td>-</td>
</tr>
<tr>
<td>License &amp; Permits</td>
<td>1,446,200</td>
<td>1,586,500</td>
<td>1,477,500</td>
<td>(109,000)</td>
</tr>
<tr>
<td>Gas Utility Tax</td>
<td>750,000</td>
<td>1,600,000</td>
<td>1,800,000</td>
<td>200,000</td>
</tr>
<tr>
<td>Interest on Investments</td>
<td>240,000</td>
<td>210,000</td>
<td>240,000</td>
<td>30,000</td>
</tr>
<tr>
<td>Tax Resolution Agreement</td>
<td>-</td>
<td>5,682,000</td>
<td>5,906,900</td>
<td>224,900</td>
</tr>
<tr>
<td>Other Revenues</td>
<td>4,081,100</td>
<td>3,697,600</td>
<td>3,989,800</td>
<td>292,200</td>
</tr>
<tr>
<td><strong>Total General Fund Revenues, Net of Transfers</strong></td>
<td><strong>47,612,300</strong></td>
<td><strong>54,806,800</strong></td>
<td><strong>55,986,100</strong></td>
<td><strong>1,179,300</strong></td>
</tr>
<tr>
<td>Transfers In</td>
<td></td>
<td></td>
<td>400,000</td>
<td>(4,135,000)</td>
</tr>
<tr>
<td><strong>Total General Fund Revenues</strong></td>
<td><strong>$ 52,192,300</strong></td>
<td><strong>59,341,800</strong></td>
<td><strong>56,386,100</strong></td>
<td><strong>(2,955,700)</strong></td>
</tr>
</tbody>
</table>

Included in the FY 2012-2013 General Fund Revenues is $4,180,000 in one-time transfers. This was done in order to balance the budget and in anticipation of resolution of the Chevron Tax Resolution Agreement.

### General Fund Expenditures

General Fund expenditure assumptions are as follows, as compared to the prior year adopted budget:

- Salaries – increase of $972,000 due to:
  - COLA Increase - $822,000
  - Step increases and longevity/educational incentive premiums - $150,000

- California Public Employees’ Retirement System(CalPERS) Rate Increases – $840,000 increase in the discount rate, going from 7.75% return to 7.5%. This impacts both rates, safety and nonsafety:
  - Safety Rate Increase: $427,300
  - Misc Group Rate Increase: $412,700
• Other Post-Employment Benefits (OPEB)
  - Increase due to updated valuation - $239,000 (Using two-year smoothing).
  - Full recognition of 100% of Retiree Health Benefit Costs. In the prior year, the amount budgeted was $1,000,000 lower than the FY 2013-2014 Preliminary Budget due to a drawdown of that amount from the City’s OPEB Trust. The $1 million was to be withdrawn from the Trust and transferred over to the City’s General Fund as reimbursement of retiree health benefit costs.

• Health Benefits – no increases

• Workers’ Compensation – Increase in the insurance premium and a rising cost of currently open claims - $546,000

• Reinstatement of 401(a) Match - $214,500 required to be paid out in December of 2013. This is for one labor group and consistent with the terms of their MOU.

• Increase in Vacation/Sick Leave Payouts - $375,000; it is anticipated that more employees will participate in the 3-year buy back option which reduces the City’s leave liability by allowing them to cash out before retirement.

• Non-Personnel Costs - Total increase of $2,857,100 or 29%
  - Equipment Replacement Cost – Funded at 100% - $1,420,400. This expenditure has been deferred or underfunded in the last three budget years.
  - Restoration of previous expenditure reductions - $284,100
  - Storm Drain Mandates - $300,000
  - Emergency Preparedness - $80,000
  - General Liability – $262,200 - Increase in estimated claims expense for the next year due to an increased number of outstanding claims. None of the claims to be paid out in FY 2013-2014 are expected to exceed the Self-Insured Retention (SIR).
  - Contractual Services – Increase of $150,000;
    • Resources needed for labor negotiations
    • Increase in tree maintenance contract

• Transfers to other funds - increase of $207,600
  - Increase in Transfers to Facilities Maintenance - $175,000
  - Increase in Transfers to Community Development Block Grant Fund – $32,600; During the current fiscal year, the funding agency changed its regulations and eliminated the ability of agencies to exchange CDBG restricted funds for unrestricted General Fund monies. Due to this, the funds awarded to the City’s CDBG Fund can no longer be transferred to the General Fund.

• ESUSD Funding –
  - $250,000 Cash Contribution
  - $ 80,000 Crossing Guard Services
  - $825,215 in In-Kind Services
In total, the City contributes an estimated $1,155,215 to ESUSD annually.

**Staff Priorities**

Staff also addressed critical needs identified for Council consideration. These items have been added to the FY 2013-2014 Preliminary Budget.

<table>
<thead>
<tr>
<th><strong>Table 6 – Fiscal Year 2013-2014 Critical Needs:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Community Service Challenges</strong></td>
</tr>
<tr>
<td>Information Technology Masterplan</td>
</tr>
<tr>
<td>Library - Open Fridays 1-5pm</td>
</tr>
<tr>
<td><strong>Infrastructure Challenges</strong></td>
</tr>
<tr>
<td>Tree Maintenance</td>
</tr>
<tr>
<td>Building Repairs: Library, Parks, City Hall, Fire Station</td>
</tr>
<tr>
<td><strong>Challenges in Financial Stability</strong></td>
</tr>
<tr>
<td>Resources Needed for Labor Negotiations</td>
</tr>
<tr>
<td><strong>Quality Workforce Challenges</strong></td>
</tr>
<tr>
<td>Citywide Reorganization, Succession Planning &amp; Training</td>
</tr>
<tr>
<td><strong>Total</strong></td>
</tr>
</tbody>
</table>

**Position Additions and Reclassifications**

The following Personnel Additions and Reclassifications were presented to City Council during the Strategic Planning Session. The net cost of these actions is $97,200.

- **Police Department**
  - Eliminate Senior Administrative Analyst position
  - Add two Full-Time Administrative Specialist Positions
  - Eliminate Part-Time Office Specialist Position
    - Fiscal Impact – $17,200 Savings
- **Recreation and Parks Department**
  - Reclassify one Administrative Analyst position to Senior Administrative Analyst.
    - Fiscal Impact – $13,300 in Savings from rehiring Supervisory positions at Step A
- **Human Resources Department**
  - Reclassify Human Resources Manager to Human Resources Director
    - Fiscal Impact – $14,650
• **Finance Department**
  - Reclassify Senior Accountant position to Accounting Supervisor
  - Reclassify Management Analyst to Senior Management Analyst
  - Convert Part-Time Accounts Specialist to Full-Time Accounts Specialist
  - Eliminate vacant Senior Administrative Specialist Position
  - Add Payroll Accountant
    • Fiscal Impact – $13,300

• **Public Works Department**
  - Add Building Inspector II (Shared with Planning & Building Safety)
  - Reclassify Associate Engineer to Senior Civil Engineering Associate.
  - Reclassify Equipment Mechanic II to Fire Mechanic
    • Fiscal Impact – $90,050

• **City Treasurer**
  - Reclassify Accounts Specialist II to Accounting Technician
    • Fiscal Impact $9,700

### Table 7 – Fiscal Year 2013-2014 General Fund Expenditures:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Elected Officials</td>
<td>$818,369</td>
<td>818,369</td>
<td>985,820</td>
<td>167,451</td>
</tr>
<tr>
<td>Administrative Support</td>
<td>3,784,723</td>
<td>3,766,223</td>
<td>4,326,598</td>
<td>560,375</td>
</tr>
<tr>
<td>Police</td>
<td>15,510,639</td>
<td>15,566,850</td>
<td>17,197,064</td>
<td>1,630,214</td>
</tr>
<tr>
<td>Fire</td>
<td>12,917,683</td>
<td>13,100,650</td>
<td>14,724,417</td>
<td>1,623,767</td>
</tr>
<tr>
<td>Communications Center</td>
<td>1,389,500</td>
<td>1,389,500</td>
<td>1,389,500</td>
<td>-</td>
</tr>
<tr>
<td>Planning /Building Safety</td>
<td>2,379,823</td>
<td>2,379,823</td>
<td>2,894,107</td>
<td>514,284</td>
</tr>
<tr>
<td>Public Works</td>
<td>5,422,235</td>
<td>5,422,235</td>
<td>5,935,127</td>
<td>512,892</td>
</tr>
<tr>
<td>Recreation and Parks</td>
<td>4,819,479</td>
<td>4,819,479</td>
<td>5,146,494</td>
<td>327,015</td>
</tr>
<tr>
<td>Library</td>
<td>2,210,621</td>
<td>2,210,621</td>
<td>2,390,007</td>
<td>179,386</td>
</tr>
<tr>
<td>Nondepartment</td>
<td>2,800,157</td>
<td>3,887,479</td>
<td>4,591,145</td>
<td>703,666</td>
</tr>
<tr>
<td>Transfers to Other Funds</td>
<td>138,850</td>
<td>517,200</td>
<td>346,400</td>
<td>(170,800)</td>
</tr>
</tbody>
</table>

**Total General Fund Expenditures**

- $51,673,900
- 53,878,429
- 59,926,679
- 6,048,250

### Other Funds

#### Internal Service Funds

The budgets in the Internal Service Funds, which include Equipment Replacement, General Liability, and Workers’ Compensation, are all in balance. These funds are used to accumulate and allocate costs internally among the City’s various functions.

The Equipment Replacement Fund will charge 100% of the annual equipment replacement charge to all funds.
The General Liability and Workers’ Compensation Funds have been funded at the actuarially determined expected rate.

Enterprise Funds

The budgets in the Water and Sewer are in balance. The Golf Course Fund is reporting a deficit of around $159,700. This deficit includes a loan repayment to the General Fund of $200,000.

Collectively, these are all separate funds where the City charges a fee to customers to cover all or most of the costs of services it provides.

All Other Funds

The budgets of all other funds are in balance.

Summary

General Fund – Overall, General Fund Revenues are growing at a rate of 2.15% compared to the 2012/2013 yearend estimate. The City is still being impacted by a sluggish economy and overall reduction in revenues coming from the business base, which will keep revenues well below the levels needed to keep up with projected growths in expenditures. Expenditures have been forecasted to grow at an average rate of approximately 6% over the next three years. The City Manager has scheduled a Strategic Planning Session on August 22, 2013 to address these projected future deficits. The FY 13/14 revenue and expenditure gap is being covered by the receipt of the first 2 tax resolution payments made by Chevron.

The next step in the FY 2013/2014 budget process is the first public hearing on September 3, 2013, followed by a second public hearing and final budget adoption on September 17, 2013. As part of the final budget adoption, staff will prepare a reconciliation of changes from the preliminary to the final adopted budget. Staff will continue to monitor revenues and expenditures and report quarterly to City Council and the public.
AGENDA DESCRIPTION:

Consideration and possible action to adopt policy changes to the City's Residential Sound Insulation (RSI) Program.
(fiscal impact: none).

RECOMMENDED COUNCIL ACTION:

1. Adopt policy changes detailed in this staff report; and/or
2. Alternatively discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:

None

FISCAL IMPACT: None

<table>
<thead>
<tr>
<th>Amount Budgeted:</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Additional Appropriation:</td>
<td>N/A</td>
</tr>
<tr>
<td>Account Number(s):</td>
<td>N/A</td>
</tr>
</tbody>
</table>

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:

Product Submittals

Last September, the City adopted a policy change that required the apparent low bidder to submit product submittals within thirty (30) days of the date Bids are due. Alternatively, a Bidder may submit a letter stating that it will supply all products in accordance with submittals previously accepted by the City for a previous RSI project, as long as those submittals were accepted by the City within twelve (12) months of the current bid due date.

The previous policy required bidders to submit product submittals at the time of the bid.

Staff is recommending changing the policy to again require product submittals with bids, unless a letter stating that the bidder will supply products in accordance with a previous submittal that was accepted by the City within the previous twelve months. This recommendation is made to:

1. Allow for a more timely review of bids in accordance with FAA guidelines
2. Prevent recurrence of concerns experienced with bids since the policy change in September
3. Offset a new 30 day review of bid information prior to advertisement for bids
The Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Handbook states:

**b. Nonresponsive.** When a bid does not conform to all the material items and conditions of the IFB [Invitation for Bids] that are deemed substantial, it is nonresponsive. It is the sponsor’s [City’s] responsibility to determine if the exceptions taken by a bidder to the solicitation are substantial or not and the extent of deviation it is willing to accept. Sponsors should be encouraged to disallow all deviations except for those that they would waive as being immaterial. Items affecting material terms and conditions of the invitation for bids such as delivery time, quality, technical specifications, price, etc. should be considered material.” and “Determinations of nonresponsiveness should not be based upon deviations that are not substantial.”

Product submittals are commonly used to document that products on which the bid is based meet terms and conditions of technical specifications. As such, product submittals that do not document intended products ability to meet technical specifications should be considered material, therefore substantial, and therefore define the bid as nonresponsive.

On the most recent RSI project, the apparent low bidder did not turn in any submittals until the thirtieth (30th) day after bids were due, were incomplete and did not meet requirements of the technical specifications. The bid could not be completely reviewed until such information was submitted to the City. As the policy only required submittals from the apparent low bidder, a complete review of any other bid could not be started until submittals, or appropriate letter complying with current policy, for that bid was submitted. This delay could easily be experienced with bids for future projects under the current policy.

Further complicating the issue is the contract documents state that “Bids may not be modified, withdrawn, or canceled within sixty (60) days after the Bid Deadline unless otherwise provided in Addenda.” As such, if the apparent low Bid is determined to be nonresponsive based on submittals submitted on the thirtieth (30th) day, there may not be enough time to properly determine if another Bid is responsive and make a recommendation to the City Council to award a contract.

The Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Handbook states:

*When the competitive sealed bid procurement method is used, the contract must be awarded to the lowest responsible and responsive bidder. If the sponsor determined that the apparent low bidder (i.e. the bidder submitting the lowest dollar amount) is not responsible and/or nonresponsive, FAA must review and concur in this determination. Although the sponsor can award to other than the apparent low bidder, Federal funds cannot be used in the contract unless FAA concurs in the determination prior to award of the contract.*
To address the time needed for the required review by FAA and receive concurrence in the City’s potential determination on future projects, staff recommends that the sixty day requirement be revised to one hundred and twenty (120) days for future projects.

Lastly, the new Letter Agreement with Los Angeles World Airports (LAWA) requires plans and specifications be submitted to LAWA for a project (commonly referred to as a “Group”) at least thirty (30) days prior to advertising for contractor bids. This may add thirty (30) days to the process for each Group, which has not been part of the process to date. (Instead of advertising for contractor bids once plans and specifications are complete for a project, such documents would be sent to LAWA for review before staff was authorized to advertise for contractor bids.) Given a looming deadline of December 31, 2015 (29 months from now) and the City’s goal of treating as many homes as possible, staff continues to look for ways to expedite the process overall. This was discussed with LAWA staff on Tuesday, July 30th.

As was provided with the recommendations in September 2012, the anticipated impacts (“pros” and “cons”) of the policy change is briefly outlined as:

- (Pro): The City is less likely to award a contract to a bidder that may not understand some of the more technical aspects of the products, or how they are to be installed, and therefore help avoid contractors that may look for ways to cut costs to make up for unexpected expenses, or request change orders
- (Pro): It will help expedite the process to award and execute contracts with contractors, as staff will not have to wait longer for such information to be submitted
- (Con): Potential bidders are less likely to bid, as there are more documents due at the bid deadline, and potential bidders are less likely to prepare submittals, and incur the associated costs of preparing submittals, for a project that they are unsure if they will be awarded a contract

**Owner Upgrades**

The City’s Residential Sound Insulation (RSI) Program is intended to offer necessary improvements to residential structures to increase the home’s ability to shield against noise from air traffic from Los Angeles International Airport (LAX), so that interior noise levels in habitable portions of the home meet federally set standards. As such, improvements typically include replacement of exterior windows and doors in habitable portions of the home, the installation of chimney damper or fireplace glass door at fireplaces where fireplace glass doors are not present, the installation of baffles at attic vents and kitchen exhaust vents and additional attic insulation, and a mechanical system to provide a means of providing some outside air, which is typically a furnace system or ventilation-only system where a furnace system cannot be installed.

Item a. 2 of Article 812 (Noise Insulation Projects) of FAA Order 5100.38C, states:

*The purpose of noise insulation projects is to reduce the adverse impact of airport related noise on building occupants or residents. These projects are not intended to compensate for inadequate maintenance, to bring nonconforming structures up to building code standards, or to improve the comfort or attractiveness of a building, although these benefits may result indirectly from the project. Therefore, if a noise insulation project requires that new windows be installed, or that upgraded electrical service be provided for ventilation equipment to achieve*
noise reduction objectives, the costs associated with those work elements are allowable costs. If, however, it is determined in the course of designing a project that a building needs several improvements to conform to local building codes, the costs of such improvements are not allowable under the grant program.

Therefore, typical improvements are determined based on a general “like for like” principal. Although it can be argued that the acoustically-rated replacement products (i.e. windows and doors) are not “like” the windows and doors they are replacing due to bulkier frames, thicker glass and overall thickness, they are generally “like for like” in general appearance. (i.e. sliding window for sliding window, windows with grids for windows with grids, tinted glass for tinted glass, or doors with glass for doors with glass)

As part of discussions with LAWA in regards to the Letter Agreement for the grant the City received approval for in February, administrative costs associated with offering Owner Upgrades was questioned. Staff has, very conservatively, determined that the administrative acts related to offering “Owner Upgrades” would be as follows:

1. the conversation between the property owner and the City’s Design Coordinator regarding which door is to be specified
2. specifying the “Owner Upgrade” on the plans
3. adding a separate line item on the Bid Form for the “Owner Upgrade”
4. specifying the contractor’s price for the “Owner Upgrade” in the standard letter that notifies property owners of the contractor to whom a contract was awarded and the dates for the site evaluation and construction
5. processing the property owner’s response to the price for the “Owner Upgrade” (either cashing a check, or a Request for Change Order to delete the “Owner Upgrade” from the scope of work)

It is the experience of RSI staff that conversations with property owners are shorter in duration, and often less confrontational, if there is a way for them receiving improvements to their home that are more acceptable, aesthetically or otherwise, than improvements that are less acceptable to them. If a homeowner objects to products that meet the general “like for like” policy, there are some instances where an “Owner Upgrade” may be an option. As the conversation regarding the “Owner Upgrade” would be shorter in duration, staff recommends that no additional administrative costs be associated with this act. Similarly, it would be unduly burdensome to track the time of such conversations, or if such conversations even occurred at each home.

With regards to the other administrative acts, staff recommends that an administrative fee of no more than $25 be charged to property owners where one or more “Owner Upgrades” are specified on the plans for their home. This amount is approximately equivalent to a total of one-half hour of staff time at $50 per hour, as acts #2 - #5 listed are simply a modification to other administrative acts that are standard to the RSI Program.

In a situation where an Owner Upgrade is found to be necessary during construction, and is due to inadequate maintenance of the structure or to bring nonconforming structures up to building code standards (i.e. insufficient framing is discovered after a window or door is removed), only task #5 would apply and therefore an administrative fee of $10 would be charged to the property owner.
The collection of these fees, when applicable, should offset any concerns that outside entities, including auditors, would have concerning the administrative costs related to offering "Owner Upgrades."