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 18, 2015 – 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) (1): -3- matter

1. City of El Segundo vs. City of Los Angeles, et.al. LASC Case No. BS094279
2. Penuelas vs. City of El Segundo, LASC Case No. BC523072
3. O’Leary v. City of El Segundo WCB/EAMS Nos. ADJ8702179 and 918053

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code §54956.9(d) (2): -1- matter.

Initiation of litigation pursuant to Government Code §54956.9 (d) (4): -4- matters.

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

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

PUBLIC EMPLOYMENT (Gov’t Code § 54957) -0- matter
CONFERENCE WITH CITY'S LABOR NEGOTIATOR (Gov't Code §54957.6): -8-matters

1. **Employee Organizations:** Police Management Association; Police Officers Association; Police Support Services Employees Association; Fire Fighters Association; Supervisory and Professional Employees Association; City Employees Association; Executive Management Group (Unrepresented Group); Management/Confidential Group (Unrepresented Group)

   Agency Designated Representative: Steve Filarsky and City Manager

CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Gov't Code §54956.8): -0-matters
AGENDA
EL SEGUNDO CITY COUNCIL
COUNCIL CHAMBERS - 350 Main Street

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REGULAR MEETING OF THE EL SEGUNDO CITY COUNCIL
TUESDAY, AUGUST 18, 2015 - 7:00 P.M.

7:00 P.M. SESSION

CALL TO ORDER

INVOCATION – Pastor Lee Carlile, United Methodist Church

PLEDGE OF ALLEGIANCE – Council Member Jacobson
PRESENTATIONS

a) LA Sanitation – Hyperion Treatment Plant Outfall Maintenance

b) Scott Houston – West Basin Municipal Water District turf removal rebate program.

c) William Yarroll – Special Olympics World Games Los Angeles 2015

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)

C. UNFINISHED BUSINESS
1. [CONTINUED ITEM #C3 FROM AUGUST 4, 2015 CITY COUNCIL MEETING]  
Rescission of Brown Act Commitment - In Accordance with Government Code Section 54960.2 (e), consideration and possible action to rescind the commitment made by the City Council on November 5, 2013, not to hold further closed session meetings regarding real property negotiations with regard to ESCenterCal, LLC’s (“CenterCal”) proposal to enter into a Due Diligence and Ground Lease Agreement (“Agreement”) to lease the driving range portion of the Lakes Golf Course from the City for the purpose of developing a Top Golf facility.  
(Fiscal Impact: unknown – depends on whether legal proceedings are commenced.)

Recommendation – 1) Consideration and possible action to rescind the commitment made by the City Council on November 5, 2013, to not hold further closed session meetings regarding real property negotiations with regard to CenterCal’s proposal to enter into an Agreement to lease the driving range portion of the Lakes Golf Course from the City for the purpose of developing a Top Golf facility; 2) Delay consideration of this item to a future date and give notice of such delay to Ms. Geist in accordance with Government Code Section 54960.2; 3) Alternatively, discuss and take other action related to this item.

2. Consideration and possible action regarding receiving an update with respect to the City's negotiations with CenterCal and Top Golf regarding the draft Due Diligence Lease Agreement that provides for the leasing of the driving range at the Lake's Golf Course to CenterCal and Top Golf for purposes of operating a Top Golf facility and the reconstruction of the golf course.  
(Fiscal Impact: None)

Recommendation – 1) Consideration and possible action regarding receiving an update regarding the Agreement negotiations and provide feedback to City Manager and City Attorney as appropriate; 2) Alternatively, discuss and take other action related to this item.

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 3007105 through 3007332 on Register No. 21 in the total amount of $1,000,990.95 and Wire Transfers from 7/13/2015 through 8/09/2015 in the total amount of $2,708,616.62.
Recommendation – Approve Warrant Demand Register and authorize staff to release. Ratify Payroll and Employee Benefit checks; checks released early due to contracts or agreement; emergency disbursements and/or adjustments; and wire transfers.

Recommendation – Approval.

5. Consideration and possible action to authorize the Chief of Police to hire one Police Officer to backfill a vacancy created by filling a position with the “Taskforce for Regional Autotheft Prevention” (TRAP).
(Fiscal Impact: Net savings of approximate $76,000)
Recommendation – 1) Authorize the Chief of Police to hire one Police Officer to backfill the vacancy created by filling a position with the “Taskforce for Regional Autotheft Prevention” (TRAP); 2) Alternatively, discuss and take other action related to this item.

6. Consideration and possible action regarding the retirement and sale of police canine, “Arthur”, to his handler for a nominal fee.
(Fiscal Impact: None)
Recommendation – 1) Authorize the Mayor to approve the sale of police canine, “Arthur”, to his handler, Officer Chris Cameron, for the nominal fee of one dollar ($1.00); 2) Alternatively, discuss and take other action related to this item.

7. Consideration and possible action to approve a contract amendment to increase the contract amount by $30,000 for DownStream Services, Inc. for pump station on-call and emergency repair services in the 2014-15 Fiscal Year.
(Fiscal Impact: None)
Recommendation – 1) Authorize the City Manager to execute a contract amendment, in a form approved by the City Attorney, for an additional $30,000 with DownStream Services, Inc. for pump stations on-call repair services in the 2014-15 Fiscal Year; 2) Alternatively, discuss and take other possible action related to this item.
8. Consideration and possible action to award a standard Public Works Contract to the lowest responsible bidder, American Asphalt South, Inc., for the FY 14-15 Slurry Seal Project in the area bounded by the west City boundary, the north City boundary, Sheldon Street and Mariposa Avenue. Project No.: PW 15-02.
(Fiscal Impact: $500,000.00)
Recommendation – 1) Authorize the City Manager to execute a standard Public Works Contract, in a form as approved by the City Attorney, with American Asphalt South, Inc., in the amount of $420,104.80; 2) Authorize an additional $79,895.20 in contingency for unforeseen conditions; 3) Alternatively, discuss and take other action related to this item.

9. Consideration and possible regarding 1) Adoption of a Resolution authorizing the examination of prepaid mobile telephony services surcharge and local charge records; 2) authorize the City Manager to execute an agreement, in a form approved by the City Attorney, allowing the State Board of Equalization to collect and administer local user utility taxes (“UUT”) on the City’s behalf, and 3) take such additional, related, action that may be desirable.
(Fiscal Impact: None)
Recommendation – 1) Adopt the Resolution authorizing the examination of prepaid mobile telephony services and local charge records; 2) Authorize the City Manager to execute an agreement, in a form approved by the City Attorney, for the BOE to collect UUT as to telephony services; and 3) Alternatively, discuss and take other action related to this item.

10. Consideration and possible action regarding a thirty (30) day provisional appointment extension for the position of Interim Deputy City Clerk II in the City Clerk’s office.
(Fiscal Impact: None)
Recommendation – 1) Approve the thirty (30) day provisional appointment extension for the position of Interim Deputy City Clerk II; 2) Alternatively, discuss and take other action related to this item.

11. Consideration and possible action regarding approval of an amendment to the MuniTemps agreement number 4802 for temporary staffing in City Clerk’s Office / Deputy City Clerk I.
(Fiscal Impact: $16,000.00)
Recommendation – 1) Authorize City Manager to execute an agreement amendment, in a form approved by the City Attorney, with MuniTemps, for additional temporary staffing; 2) Alternatively, discuss and take other action related to this item.
12. Consideration and possible action to receive and file this report regarding emergency work to repair dwelling units at the Park Vista Senior Housing Facility due to water intrusion without the need for bidding in accordance with Public Contracts Code §§ 20168 and 22050 and El Segundo Municipal Code ("ESMC") §§ 1-7-12 and 1-7A-4.

(Fiscal Impact: $50,000.00)

Recommendation – 1) Receive and file this report regarding emergency work to repair dwelling units at the Park Vista Senior Housing Facility due to water intrusion without the need for bidding in accordance with Public Contracts Code §§ 20168 and 22050 and El Segundo Municipal Code ("ESMC") §§ 1-7-12 and 1-7A-4; 2) Alternatively, discuss and take other possible action related to this item.

F. NEW BUSINESS

G. REPORTS – CITY MANAGER

H. REPORTS – CITY ATTORNEY

I. REPORTS – CITY CLERK

J. REPORTS – CITY TREASURER

K. REPORTS – CITY COUNCIL MEMBERS

  Council Member Fellhauer –

  Council Member Atkinson –

  Council Member Dugan -

  Mayor Pro Tem Jacobson –

  Mayor Fuentes –
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.

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: 8·12·15

TIME: 3:15

NAME: [Signature]

10
PRESENTATION

LA Sanitation

Hyperion Treatment Plant Outfall Maintenance
PRESENTATION

Scott Houston

West Basin Municipal Water District turf removal rebate program.
3 Steps to Qualify:

**STEP 1**
Call WaterWise Consulting at 888-987-9473 for a free landscape evaluation. Evaluation includes turf measurements, drought-tolerant garden information, up to two free rain barrels, and details on how to apply for the turf removal rebate.

**STEP 2**
Register for the turf rebate at www.socalwatersmart.com or by calling 888-376-3314. $3 paid up to 3,000 square foot maximum. Project must be completed within 120 days after receiving approval confirmation.

**STEP 3**
Contact WaterWise Consulting to schedule verification of the completed garden project and rain barrel installation (if applicable).

Applications received prior to June 29, 2015 do not qualify. Funding is limited and is first-come, first-served. Funding can end at any time and is not guaranteed. Rebate is paid after installation is complete.

**Participating retail agencies:**
City of El Segundo, City of Inglewood, City of Lomita, City of Manhattan Beach, California American Water, California Water Service Co., Golden State Water Co., and Los Angeles County Waterworks District #29

**Sponsored, in part, by:**
EL SEGUNDO CITY COUNCIL
AGENDA ITEM STATEMENT

AGENDA DESCRIPTION:

Reascension of Brown Act Commitment - In Accordance with Government Code Section 54960.2 (e), consideration and possible action to rescind the commitment made by the City Council on November 5, 2013, to hold further closed session meetings regarding real property negotiations with regard to ESCenterCal, LLC’s (“CenterCal”) proposal to enter into a Due Diligence and Ground Lease Agreement (“Agreement”) to lease the driving range portion of the Lakes Golf Course from the City for the purpose of developing a Top Golf facility. (Fiscal Impact: unknown – depends on whether legal proceedings are commenced.)

RECOMMENDED COUNCIL ACTION:

1. Consideration and possible action to rescind the commitment made by the City Council on November 5, 2013, to hold further closed session meetings regarding real property negotiations with regard to CenterCal’s proposal to enter into an Agreement to lease the driving range portion of the Lakes Golf Course from the City for the purpose of developing a Top Golf facility; or
2. Delay consideration of this item to a future date and give notice of such delay to Ms. Geist in accordance with Government Code Section 54960.2; or
3. Alternatively, discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:

November 5, 2013, Staff Reports (with attachments); and,
Letter of May 8, 2015 to Ms. Geist

FISCAL IMPACT: $

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

PREPARED BY: Mark D. Hensley, City Attorney
APPROVED BY: Greg Carpenter, City Manager

BACKGROUND & DISCUSSION:

This item is being brought back for Council consideration based upon direction given by Council at its May 5, 2015, regular City Council meeting (Staff Report Attached). At that time, staff provided background information to Council including the fact that the City Council had approved the Agreement on November 5, 2013 and subsequently approved minor amendments to the Agreement as well as a reimbursement agreement on March 18, 2014. Staff reported that Center Cal had not signed and returned the Agreement and that the Council then subsequently withdrew the option for CenterCal to execute the Agreement. CenterCal on April 28, 2015 sent a new communication to the City proposing new terms. On May 5, 2015,
the City Council directed the City Attorney's office to notify Ms. Deborah Geist that the Council would consider rescinding its 2013 commitment not to hold closed sessions regarding this matter. At its May 5th meeting, the Council noted that it would need to consider whether a closed session was needed to discuss CenterCal's new terms and conditions.

Council was reminded that Ms. Geist would need to be provided 30 days written notice that the Council will be holding a public session meeting to consider rescinding its commitment to not have further closed session discussions regarding the Agreement (Staff Report Attached). The Council would then need to meet thirty or more days after the notice date and consider a public agenda item which, if passed by a majority of the members of the City Council, would rescind the prior commitment made by Council and the Council could then schedule a closed session meeting to discuss different lease payments or payment terms. If the Council does rescind the letter it would restore Ms. Geist's rights (as well as any other interested party's right, including the District Attorney's), if any, to commence a legal action for alleged Brown Act violations.

On May 8, 2015, a letter was transmitted to Ms. Geist (with a copy to the District Attorney's Office as required by the Brown Act), informing her that the Council on June 16, 2015 would be meeting to discuss the potential of rescinding it prior action regarding closed session negotiations relating to the Top Golf Agreement.

The November 5, 2013, staff report and attachments provide the details regarding Ms. Geist's allegations of Brown Act violations and the City's response to same. It did not appear that there were any Brown Act violations, but in order to avoid unnecessary legal actions, particularly since the City understood the negotiations were completed, the Council approved staff's recommendation to issue the commitment that it would not hold further closed session meetings regarding the Agreement. However, the action referenced, and the Brown Act provides that the Council may rescind such a commitment at a public meeting.
EL SEGUNDO CITY COUNCIL  
AGENDA STATEMENT  

MEETING DATE: November 5, 2013  
AGENDA HEADING: New Business

AGENDA DESCRIPTION:
Consideration and possible action to authorize the Mayor to execute a letter in response to a “cease and desist” letters received on October 1, 2013 and October 17, 2013 from Debra Geist alleging various violations of the Ralph M. Brown Act relating to City’s negotiations to lease out a portion of “the Lakes” golf course. (Fiscal Impact: None)

RECOMMENDED COUNCIL ACTION:
1. Receive and file the letters dated October 1, 2013 and October 15, 2013 alleging various violations of the Ralph M. Brown Act;
2. Authorize the Mayor to execute the draft response letter;
3. Take such additional, related, action that may be desirable.

ATTACHED SUPPORTING DOCUMENTS:
1. Letter dated October 15, 2013 (received October 17, 2013);

FISCAL IMPACT: N/A

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

ORIGINATED BY: Mark D. Hensley, City Attorney
Karl H. Berger, Assistant City Attorney

BACKGROUND AND DISCUSSION:
On October 1, 2013 and October 17, 2013, the City Clerk’s office received letters alleging that the City Council violated various provisions of the Ralph M. Brown Act when it considered the future of “the Lakes” municipal golf course (see attached Exhibit A – the letters are identical except for with respect to the dates set forth on the letters). These are referred to as the “October 2013 Letters.”

As the City Council is aware – and is quite public – the City was approached by two private companies in 2012 regarding a proposal for the Lakes municipal golf course. In general, the proposal is for Centercal, LLC to make various improvements to the golf course and the driving range; for Top Golf to operate the golf course; and for the City to receive a significant increase in rent over a period of potentially fifty years. The details of this deal is set forth in the due diligence and lease agreement that is being considered by the City Council as a separate agenda item for November 5, 2013.

Since first being approached by these companies, the City Council undertook a number of actions to not only negotiate potential deal points to implement a proposal (as set forth in the
draft lease agreement), but also to solicit public input and dialogue regarding the desirability of undertaking such an arrangement. Such activities include, without limitation:

- Public meetings by the City Council and Golf Course Subcommittee in August 2012 regarding the Lakes including a Powerpoint presentation regarding the proposal and direction from the City Council to seek public input.

- Meetings in September 2012 between City staff and various community organizations including the El Segundo Chamber of Commerce and Kiwanis Club.

- Multiple meetings before the City’s Recreation and Parks Commission in September and December 2012.


- Posting the Powerpoint® presentation, draft schematics, and other matters on the City’s website (elsegundo.org/news/displaynews.asp?NewsID=1149&TargetID=1).

- Posting all discolosable public communications regarding the Lakes matter on the City’s website (www.elsegundo.org/depts/cityclerk/documents.asp).

Moreover, these proposals were widely publicized in the media and on various social networks (e.g., Facebook). And, as a result, there was significant public participation in the process including regular public comment during City Council meetings.

The October 2013 Letters do not acknowledge the City Council’s effort to solicit public input regarding the Lakes or the widespread public interest in the subject. Rather, the October 2013 Letters allege that the City Council violated the Brown Act when it discussed the matter in closed session on several occasions in 2012 and 2013.

As you are aware, the California Legislature enacted the Ralph M. Brown Act (Government Code\(^1\) §§ 54950-54963) in 1953. The Legislature adopted the Brown Act to ensure that deliberations and actions of local public agencies are performed at meetings open to the public and free from any veil of secrecy.\(^2\) To further this overall goal, the Brown Act requires that the City’s meetings be properly noticed and generally open to the public.

There are certain exceptions to the general requirement that all meetings be held in public. These are referred to as “closed session” matters. One of these is the ability for the City Council to meet

“with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the local agency to grant authority to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.”\(^3\)

\(^1\) Further references to an unspecified code are to the Government Code.
\(^2\) § 54950.
\(^3\) § 54956.8 (emphasis added).
The October 2013 Letters makes various complaints regarding the City Council exercising its ability to discuss price and terms of leasing the Lakes during closed session. In summary, these allegations are: (1) failure to appoint real property negotiators in open session as required by the Brown Act; (2) incorrect agenda descriptions as to closed session items; and (3) discussing items in closed session beyond the scope of what the Brown Act allows.

The October 2013 Letters is the first step needed to file a lawsuit against the City for alleged violations of the Brown Act. In sum, the law requires a persons seeking to enforce the Brown Act to first send a “cease and desist” letter to a public agency within nine months of the alleged violations before filing a lawsuit. Upon receiving a “cease and desist” letter, the public agency has thirty days within which to consider the matter and, if it chooses, respond with “with an unconditional commitment to cease, desist from, and not repeat the past action that is alleged to violate” the Brown Act. Such a response must be approved by the legislative body in open session and be substantially in a form required by law. If the legislative body opts to undertake such a response, it removes the ability of a person to file a lawsuit.

As noted more completely in the draft letter attached to this staff report, several of the alleged violations occurred more than nine months ago and are therefore time-barred from litigation. Moreover, all of the closed session agenda descriptions correctly identified the City’s real property negotiators and described what was being discussed. Most importantly, however, the City Council has not yet committed to taking any action — the draft lease agreement properly contemplated during closed session is a separate agenda item for this meeting. And, as set forth in that draft agreement, there are multiple matters that must be resolved — in open session — before the City (or any other party) is obligated to undertake any real property transaction.

However, in order to avoid potentially unnecessary and costly litigation, it is recommended that the City Council authorize the Mayor to execute the draft letter attached to this staff report (Exhibit B). As may be read, the draft letter constitutes the City Council’s “unconditional commitment” not to undertake the actions identified by the October 2013 Letters. Under the Brown Act it is specifically recognized that sending this type of response is not an admission of guilt and it cannot be used against the City in any future legal proceedings. Given that this matter, as described above, has been a very public process and since the draft agreement is on the agenda for public consideration by the Council, it seems very prudent to simply agree, without admitting fault or that such occurred, to not undertake any further alleged action that violates the Brown Act. This will ensure that the City avoids the need to defend against a lawsuit alleging that the City Council violated the Brown Act.

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4 § 54960.2.
5 The City Council may also provide such a response after thirty days, and even during litigation, which would cause a lawsuit to be dismissed. However, the court could under such circumstances award attorneys fees and costs (§ 54960.2(b)).
6 § 54960.2(c).
7 Id.
8 Id.
THE AUGUST 18, 2015 CITY COUNCIL MEETING AGENDA ITEM #1
IS
CONTINUED ITEM #2 FROM JUNE 16TH, JULY 7TH, ITEM #1 FROM JULY 21ST AND ITEM #4 FROM AUGUST 4TH

Exhibit A
October 1, 2013 and October 15, 2013 Letters
RECEIVED /8-1-13
CITY CLERK'S OFFICE
October 1, 2013

Via Personal Delivery

Hon. Bill Fisher, Mayor
Mr. Carl Jacobson, Mayor Pro Tem
Ms. Suzanne Fuentes
Mr. Dave Atkinson
Ms. Marie Fellhauer

City Council
City of El Segundo
350 Main Street,
El Segundo, CA 90245

Re: Demand to Cease and Desist from Practices Violating the Ralph M. Brown Act

Mr. Fisher and Members of the El Segundo City Council:

This notice is to caution you that the El Segundo City Council (the "ESCC") has violated the Ralph M. Brown Act (California Government Code Sec. 54050 et seq.), which mandates open and publicized meetings of local government at which the public may be present and comment on relevant matters. ESCC is abusing the "safe harbor" provisions of Government Code Section 54956.8, which allow a limited exception to the general mandate of open meetings only "to grant authority to its negotiator regarding the price and terms of payment for... (a real property lease)." The specific violations are as follows:

1. Conducting Closed Sessions On The Proposed Lease of The Lakes Prior to a Public Hearing

On three separate occasions, June 19, 2012, June 25, 2012 and June 17, 2012, the ESCC conducted closed sessions for the stated purpose of discussions with Greg Carpenter, City Manager, concerning The Lakes, a municipal golf course owned by the City of El Segundo. Although the stated purpose of such meetings, as noted on the relevant Agendas, was "discussion with Real Property Negotiator", ESCC had not yet conducted a public session as required by Government Code Section 54956.8 as follows:

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies the real property...which the negotiations may concern and the person or persons with whom its negotiator may negotiate.

Additionally, the relevant Agendas fail to identify the persons or entities Mr. Carpenter would negotiate with. These meetings patently fall outside the "safe harbor" and are illegal.

2. Conducting Closed Sessions with Top Golf on Related Issues

On two separate occasions, February 5, 2013, February 19, 2013, the ESCC conducted closed sessions with Mr. Carpenter relating to Top Golf and Centercal Properties as "negotiating parties." However, the proposed lease is with Centercal only. The City of El Segundo will have no contractual activity with Top Golf, who will sublet from Centercal to operate a golf entertainment business at The Lakes. ESCC was not negotiating a real property lease with Top Golf but rather consulting with Top Golf regarding lease issues. The Brown Act mandates that ESCC conduct any such consultations in public meeting because the "safe harbor" provision pertains only to the proposed lessee on price and terms of payment. Consultations with other parties on "related issues" or "background issues" are outside the scope of the exception. See, Shapiro v. City Council of San Diego, 86 Cal. App. 4th 934 (2002).

3. Conducting Serial Closed Sessions on Matters Outside Payment and Terms of Payment

On eight separate occasions, February 5, 2013, February 19, 2013, May 7, 2013, August 6, 2013, August 20, 2013, September 3, 2013, September 17, 2013, and October 1, 2013, the ESCC conducted closed sessions with Mr. Carpenter relating to the lease with Centercal Properties as the negotiating party. The number of closed sessions alone is excessive and proves that the ESCC has trespassed beyond the "safe harbor" of price and terms of payment. This situation is analogous to Shapiro v. City Council of San Diego.
89 Cal. App. 4th 604 (2002), where the Court of Appeal held that the San Diego Council had violated the Brown Act in including discussion of a variety of "related issues" in a series of closed sessions held to consult with its agent in real property negotiations concerning a large redevelopment project to create a new baseball park. The Fourth District faulted the San Diego Council's expansive interpretation of the "safe harbor" as follows:

We believe the City Council's view that no detailed disclosures should be required before closed sessions may be held to discuss a complex overall real estate based transaction is inconsistent with the express statutory requirements of section 54946.8

The Fourth District stressed that the "safe harbor" must be narrowly and not expansively construed as follows:

If we were to accept the City's interpretation of the Brown Act in this respect, we would be turning the Brown Act on its head, by narrowly construing the open meeting requirements and broadly construing the statutory exceptions to it. That would be incorrect. We do not denigrate the important consideration of confidentiality in negotiations. However, we believe that in this case, the City Council is attempting to use the Brown Act as a shield against public disclosure of the City's consideration of important public policy issues, of the type that are inevitably raised whenever such a large public redevelopment real estate based transaction is contemplated. The important policy consideration of the Brown Act, however, must be enforced, even where particular transactions do not fit neatly within its statutory categories.

Id. at 824. Here, as in Shaprio, ESCC is using closed sessions to shield important development considerations from public view. The sheer number of closed sessions, in contrast to the open session on the proposed lease, proves that ESCC is shirking its duty to conduct open sessions on matters of public interest that will substantially impact The Lakes future. Indeed, ESCC has disclosed relatively nothing in open sessions regarding its relationship with Centercal, Centercal's relationship with Top Golf, proposed physical changes to the golf course, proposed physical changes to the driving range, price increases, public programs, changes to the liquor license and more. Members of the public are demanding to be heard on these issues but have been relegated to bystanders in a closed process zealously guarded by ESCC against its public responsibilities under the Brown Act.

4. Substantively Misleading Agenda Description

On August 21, 2012, the ESCC conducted a single public session on the proposed lease of The Lakes which generally describes the Agenda as a direction to staff as follows:

Consideration and possible action to direct staff to take steps necessary to seek input from various City Committees regarding a potential agreement with Centercal Properties, LLC for enhancing the driving range and dining facilities at The Lakes Golf Course which would be operated by Top Golf. The agreement would be negotiated by the City Manager and City Attorney and presented for review and potential approval by the City Council at a future date.

This description is inaccurate because it states that the ESCC was to direct staff regarding future action when, in fact, the ESCC contemplated and took immediate action to direct Mr. Carpenter to enter into negotiations with Centercal regarding a lease of The Lakes. While the Brown Act requirements for agenda item descriptions are quite lenient, this item just fails to describe the action taken by ESCC to immediately enter into a proposed lease. It's just wrong. The significance of the misdescription is magnified by the fact that this was the only open discussion on the proposed lease and therefore, it was imperative that the ESCC accurately convey notice to the public of what ESCC intended to do. Without such clear notice, those members of the public who might well have attended the meeting to address a proposed decision immediately to proceed with lease negotiations were misled into believing that there would be adequate opportunities to do so later, at meetings of either the "City Committees," the City Council or both. The ESCC failed its duties under the Brown Act and should be enjoined from proceeding further absent a material cure.
The El Segundo City Council has thirty days from receipt of this letter to provide me with an unconditional commitment to cease, desist from, and not repeat the practices noted above, compliant with Government Code Section 66880.2, subdivision (c). Its failure to do so will entitle me to file an action for declaratory judgment and injunctive relief and for attorney's fees and costs.

Respectfully,

Debra V. Gelst
(310) 489 7751
citgelst@verizon.net
October 15, 2013

Via U.S. Mail

Tracy Sherrill Weaver  
City Clerk  
City of El Segundo  
350 Main Street,  
El Segundo, CA 90245

Hon. Bill Fisher, Mayor  
Mr. Carl Jacobson, Mayor Pro Tem  
Ms. Suzanne Puentes  
Mr. Dave Atkinson  
Ms. Marie Fellhauer

Re: Demand to Cease and Desist from Practices Violating the Ralph M. Brown Act

Mr. Fisher and Members of the El Segundo City Council:

This notice is to caution you that the El Segundo City Council (the "ESCC") has violated the Ralph M. Brown Act (California Government Code Sec. 54950 et seq.), which mandates open and publicized meetings of local government at which the public may be present and comment on relevant matters. ESCC is abusing the "safe harbor" provisions of Government Code Section 54956.8, which allow a limited exception to the general mandate of open meetings only "to grant authority to its negotiator regarding the price and terms of payment for... (a real property lease)." The specific violations are as follows:

1. Conducting Closed Sessions On The Proposed Lease of The Lakes Prior to a Public Hearing

On three separate occasions, June 19, 2012, June 25, 2012 and July 17, 2012, the ESCC conducted closed sessions for the stated purpose of discussions with Greg Carpenter, City Manager, concerning the proposed lease of The Lakes, a municipal golf course owned by the City of El Segundo. Although the stated purpose of such meetings, as noted on the relevant Agendas, was "discussion with Real Property Negotiator," ESCC had not yet conducted a public session as required by Government Code Section 54956.8 as follows:

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies the real property... which the negotiations may concern and the person or persons with whom its negotiator may negotiate.

Additionally, the relevant Agendas fail to identify the persons or entities Mr. Carpenter would negotiate with. These meetings pertain to the ‘safe harbor’ provision only and are illegal.

2. Conducting Closed Sessions with Top Golf on Related issues

On two separate occasions, February 5, 2013, and February 19, 2013, the ESCC conducted closed sessions with Mr. Carpenter relating to Top Golf and Centenacal Properties as "negotiating parties." However, the proposed lease is with Centenacal only. The City of El Segundo will have no contractual privity with Top Golf, who will sublet from Centenacal to operate a golf entertainment business at The Lakes. ESCC was not negotiating a real property lease with Top Golf but rather consulting with Top Golf regarding lease issues. The Brown Act mandates that ESCC conduct any such consultations in public meeting because the "safe harbor" provision pertains only to the proposed leases on price and terms of payment. Consultations with other parties on "related issues" or "background issues" are outside the scope of the exception. See, Shipton v. City Council of San Diego, 98 Cal. App. 4th 954 (2002).

3. Conducting Serial Closed Sessions on Matters Outside Payment and Terms of Payment

On eight separate occasions, February 5, 2013, February 19, 2013, May 7, 2013, August 6, 2013, August 20, 2013, September 3, 2013, September 17, 2013, and October 1, 2013, the ESCC conducted closed
sessions with Mr. Carpenter relating to the lease with Centercal Properties as the negotiating party. The number of closed sessions alone is excessive and proves that the ESCC has trespassed beyond the "safe harbor" of price and terms of payment. This situation is analogous to Shapiro v. City Council of San Diego, 96 Cal. App. 4th 604 (2002), where the Court of Appeals held that the San Diego Council had violated the Brown Act in including discussion of a variety of "related issues" in a series of closed sessions held to consult with its agent in real property negotiations concerning a large redevelopment project to create a new baseball park. The Fourth District faulted the San Diego Council's expansive interpretation of the "safe harbor" as follows:

We believe the City Council's view that no detailed disclosures should be required before closed sessions may be held to discuss a complex overall real estate based transaction is inconsistent with the express statutory requirements of section 54954.8.

The Fourth District stressed that the "safe harbor" must be narrowly and not expansively construed as follows:

If we were to accept the City's interpretation of the Brown Act in this respect, we would be turning the Brown Act on its head, by narrowly construing the open meeting requirements and broadly construing the statutory exceptions to it. That would be incorrect. We do not denigrate the important consideration of confidentiality in negotiations. However, we believe there is a need to strike a balance between the confidentiality requirement and the public's right to know. The Fourth District noted that a carefully crafted compromise is necessary.

id. at 924. Here, as in Shapiro, ESCC is using closed sessions to shield important development considerations from public view. The sheer number of closed sessions, in contrast to the single open session on the proposed lease, proves that ESCC is shirking its duty to conduct open sessions on matters of general public interest that will substantially impact The Lakes future. Indeed, ESCC has disclosed relatively nothing in open sessions regarding its relationship with Centercal, Centercal's relationship with Top Golf, proposed physical changes to the golf course, proposed physical changes to the driving range, price increases, public programs, changes to the liquor license and more. Members of the public are demanding to be heard on these issues but have been relegated to bystanders in a closed process zealously guarded by ESCC against its public responsibilities under the Brown Act.

4. Substantively Misleading Agenda Description

On August 21, 2012, the ESCC conducted a single public session on the proposed lease of The Lakes which generally describes the Agenda as a direction to staff as follows:

Consideration and possible action to direct staff to take steps necessary to seek input from various City Committees regarding a potential agreement with Centercal Properties, LLC for enhancing the driving range and dining facilities at The Lakes Golf Course which would be operated by Top Golf.

The agreement would be negotiated by the City Manager and City Attorney and presented for review and potential approval by the City Council at a future date.

This description is inaccurate because it states that the ESCC was to direct staff regarding future action when, in fact, the ESCC contemplated and took immediate action to direct Mr. Carpenter to enter into negotiations with Centercal regarding a lease of The Lakes. While the Brown Act requirements for agenda item descriptions are quite lenient, this item's description is not accurate. The ESCC should have provided a more detailed description of its role in the negotiations to ensure transparency and accountability.

Without such clear notice, those members of the public who might have attended the meeting to address a proposed decision immediately to proceed with lease negotiations were misled into believing that there would be adequate opportunities to do so later, at meetings of either of the "City Committees," the City Council or both. The ESCC failed its duties under the Brown Act and should be enjoined from proceeding further absent a material cure.
The El Segundo City Council has thirty days from receipt of this letter to provide me with an unconditional commitment to cease, desist from, and not repeat the practices noted above, compliant with Government Code Section 54960.2, subdivision (c). Its failure to do so will entitle me to file an action for declaratory judgment and injunctive relief and for attorney’s fees and costs.

Respectfully,

Debra V. Gelet
(310) 488 7761
citagelet@verizon.net
THE AUGUST 18, 2015 CITY COUNCIL MEETING AGENDA ITEM #1
IS CONTINUED ITEM #2 FROM JUNE 16TH, JULY 7TH, ITEM #1 FROM JULY 21ST AND ITEM #4 FROM AUGUST 4TH

Exhibit B
Draft Response Letter
October 30, 2013

Debra V. Gelst  
121 16th St  
Manhattan Beach, CA 90266  

Re: Letter dated October 15, 2013

Dear Ms. Gelst:

Thank you for your letter dated October 15, 2013 (received by the City on October 17, 2013). As you are aware, that letter (the “October 15th Letter”) alleges that the City Council violated the Ralph M. Brown Act and constitutes a “cease and desist” letter in accordance with Government Code § 54960.2.

Specifically, the October 15th letter accuses the City Council of violating the Brown Act on the following dates: June 19, 2012; June 25, 2012; July 17, 2012; August 21, 2012; February 5, 2013; February 19, 2013; May 7, 2013; August 6, 2013; August 20, 2013; September 3, 2013; September 17, 2013; and October 1, 2013. In sum, the October 15th letter alleges that the City Council’s actions relating to the municipal golf course known as “the Lakes” violated the Brown Act as follows: (1) failure to appoint real property negotiators in open session; (2) incorrect agenda descriptions as to closed session items; and (3) discussing items in closed session beyond the scope of statutory authority. In short, the City Council disagrees with the October 15th letter for several different reasons.

First, as to alleged violations occurring in 2012, these matters are time-barred pursuant to Government Code § 54960.2(a)(2). That section requires actions to be undertaken within nine months of the alleged violation.

Second, (as stated in the October 15th letter at p.2) the City Council (at the latest) did appoint real property negotiators in open session on August 21, 2012 pursuant to Agenda Item No. F9:

“Direct the City Manager and City Attorney to negotiate terms
of a [sic] agreement with Centercal Properties, LLC for a new TopGolf facility to be located at The Lakes in place of the existing driving range.”

Moreover, the City Manager was identified on every agenda as the property negotiator for these negotiations. The City Manager has general authority pursuant to El Segundo Municipal Code § 1-5A-7 to “exercise general supervision over all public buildings, public parks and all other public property which is under the control and jurisdiction of the city council.” The City Council believes this would include (at a minimum) initial negotiations regarding potentially leasing the Lakes. As previously noted, however, these matters are time barred in any event.

Third, as explained below, it is plain that the City Council’s considerations regarding the Lakes were (and are) quite public. Even a cursory glance at the City’s webpage, staff reports, and other public outreach documents demonstrate that the City Council sought (and continues to seek) public input regarding what should happen with the municipal golf course. Allegations, therefore, that the City Council was misleading or has somehow attempted to avoid transparency as to the Lakes matter cannot be reconciled with the City’s efforts at encouraging public discourse regarding this important matter.

As you know, the City Council is considering whether to lease a portion of the Lakes municipal golf course to a private company or companies. As part of this process, the City is engaged in an extensive public outreach program seeking public participation. Among other things, the City undertook the following actions:

- August 21, 2012: the City Council heard a presentation regarding the Lakes during open session and then directed the City Manager, or designee, to seek public input regarding a potential agreement with Centercal and Top Golf.
- August 29, 2012: the City Council’s Golf Course Subcommittee met in public to discuss the matter.
- September 13, 2012: City staff made a presentation to the El Segundo Chamber of Commerce.
- September 18, 2012: City staff met at the El Segundo Public Library with golf industry stakeholders.
- September 19, 2012: City staff made a presentation to the City’s Recreation and Parks Commission during its regular meeting.
- September 25, 2012: City staff made a presentation to the Kiwanis Club.
- October 3, 2012: City staff provided a progress update to the City Council’s Golf Course Subcommittee.
- October 4, 2012: City staff made a presentation at the Rotary Club meeting.

- October 11, 2012: a presentation regarding the matter was made to the City’s Planning Commission during its regular meeting.

- October 11, 2012: City staff made a presentation to the City’s Economic Development Advisory Council.

- November 18, 2012: the El Segundo Chamber of Commerce voted to endorse/support the Top Golf matter.

- December 5, 2012: the City Council’s Golf Course Subcommittee reviewed the matter.

- December 19, 2012: the Recreation and Parks Commission reviewed the findings and analysis.

- Between October and November 2012, City staff met with most business oriented hotels within the City of El Segundo.

- The City posted the Powerpoint® presentation, draft schematics, and other matters on the City’s website (elsegundo.org/news/displaynews.asp?NewsID=11498&TargetID=1).

- The City has posted and (continues to post) all disclosable public communications regarding the Lakes matter on the City’s website (www.elsegundo.org/depts/cityclerk/documents.asp).

Such proactive actions are in addition to the multiple opportunities taken by interested citizens to provide public comment to the City Council during its regular meetings. This matter is also being extensively scrutinized by media coverage (see e.g., www.easyreadernews.com/74699/residents-assail-topgolf; www.dailybreeze.com/20121105/local-golfers-balk-at-proposed-changes-to-the-lakes-in-el-segundo-course) and various social media outlets.

Based upon the foregoing, the City Council respectfully disagrees with the allegations set forth in the October 15th Letter as to purported violations of the Brown Act. Moreover, as you can see from the Due Diligence and Lease Agreement ("Agreement") that the Council will consider approving at its November 5, 2013 regular meeting, the alleged Brown Act violations set forth in the October 15th Letter are without merit. There are twelve specific conditions precedent that must be accomplished before a leasehold interest could be created. Accordingly, the City is not committed to entering into the draft Agreement since there are numerous issues that must be resolved in public meetings before the Planning Commission and City Council before any leasehold could be established. Such matters include review and potential approval of a conceptual plan for the golf course and the driving range improvements; review and potential approval of
a recommended action under the California Environmental Quality Act; review and potential approval of the land use entitlements that would be needed to allow for the uses contemplated by the draft Agreement; and many other items that identified in the draft Agreement.

However, in an abundance of caution, to avoid unnecessary litigation, and without admitting any violation of the Ralph M. Brown Act, the El Segundo City Council unconditionally commits that it will cease, desist from, and not repeat the actions challenged in the October 15th Letter and briefly described above.

Note that the El Segundo City Council may rescind this commitment only by a majority vote of its membership taken in open session at a regular meeting and noticed on its posted agenda as “Rescission of Brown Act Commitment.” You will be provided with written notice, sent by any means or media you provide in response to this message, to whatever address or addresses you specify, of any intention to consider rescinding this commitment at least 30 days before any such regular meeting. In the event that this commitment is rescinded, you will have the right to commence legal action pursuant to Government Code § 54960(a). That notice will be delivered to you by the same means as this commitment, or may be mailed to an address that you have designated in writing.

Very truly yours,

Bill Fisher,
Mayor
May 8, 2015

Debra V. Geist
121 16th St
Manhattan Beach, CA 90266

Re: Notice of Rescission per Government Code § 54960.2(e)

Dear Ms. Geist:

On November 5, 2013, the City Council committed to refrain from utilizing closed session to discuss real property negotiations concerning its municipal golf course known as “the Lakes.” The reasons for such commitments are set forth in the enclosed letter (the “Letter”).

As you know, on May 5, 2015, the City Council directed our office to provide you thirty day notice that the City Council would consider rescinding the commitment set forth in the Letter in accordance with Government Code § 54960.2(e). Accordingly, take notice that the City Council will consider a “Rescission of Brown Act Commitment” as a regular agenda item at its regular meeting held on June 16, 2015. Should the City Council decide to rescind its commitment in the Letter, you will have the right to commence legal action in accordance with the Ralph M. Brown Act.

Please note that the City reaffirms its position as set forth in the Letter: this matter is thoroughly transparent; allegations regarding Brown Act violations are without merit. Moreover, the public continues to have a vibrant dialogue regarding the City Council’s actions as to the Lakes.

Note that a copy of this letter is being provided to the Public Integrity Unit of the Los Angeles County District Attorney’s office in accordance with Government Code § 54960.2(e).

Very truly yours,

[Signature]

Kati H. Berger
Assistant City Attorney

c: District Attorney
City Council
City Manager

350 Main Street, El Segundo, California 90245-3813
Phone (310) 524-2300 Fax (310) 640-0489
October 30, 2013

Debra V. Geist
121 16th St
Manhattan Beach, CA 90266

Re: Letter dated October 15, 2013

Dear Ms. Geist:

Thank you for your letter dated October 15, 2013 (received by the City on October 17, 2013). As you are aware, that letter (the "October 15th Letter") alleges that the City Council violated the Ralph M. Brown Act and constitutes a "cease and desist" letter in accordance with Government Code § 54960.2.

Specifically, the October 15th letter accuses the City Council of violating the Brown Act on the following dates: June 19, 2012; June 25, 2012; July 17, 2012; August 21, 2012; February 5, 2013; February 19, 2013; May 7, 2013; August 6, 2013; August 20, 2013; September 3, 2013; September 17, 2013; and October 1, 2013. In sum, the October 15th letter alleges that the City Council's actions relating to the municipal golf course known as "the Lakes" violated the Brown Act as follows: (1) failure to appoint real property negotiators in open session; (2) incorrect agenda descriptions as to closed session items; and (3) discussing items in closed session beyond the scope of statutory authority. In short, the City Council disagrees with the October 15th letter for several different reasons.

First, as to alleged violations occurring in 2012, these matters are time-barred pursuant to Government Code § 54960.2(a)(2). That section requires actions to be undertaken within nine months of the alleged violation.

Second, (as stated in the October 15th letter at p.2) the City Council (at the latest) did appoint real property negotiators in open session on August 21, 2012 pursuant to Agenda Item No. F9:

"Direct the City Manager and City Attorney to negotiate terms

350 Main Street, El Segundo, California 90245-3813
Phone (310) 524-2300 Fax (310) 640-0489
of a [sic] agreement with Centercal Properties, LLC for a new TopGolf facility to be located at The Lakes in place of the existing driving range."

Moreover, the City Manager was identified on every agenda as the property negotiator for these negotiations. The City Manager has general authority pursuant to El Segundo Municipal Code § 1-5A-7 to "exercise general supervision over all public buildings, public parks and all other public property which is under the control and jurisdiction of the city council." The City Council believes this would include (at a minimum) initial negotiations regarding potentially leasing the Lakes. As previously noted, however, these matters are time barred in any event.

Third, as explained below, it is plain that the City Council’s considerations regarding the Lakes were (and are) quite public. Even a cursory glance at the City’s webpage, staff reports, and other public outreach documents demonstrate that the City Council sought (and continues to seek) public input regarding what should happen with the municipal golf course. Allegations, therefore, that the City Council was misleading or has somehow attempted to avoid transparency as to the Lakes matter cannot be reconciled with the City’s efforts at encouraging public discourse regarding this important matter.

As you know, the City Council is considering whether to lease a portion of the Lakes municipal golf course to a private company or companies. As part of this process, the City is engaged in an extensive public outreach program seeking public participation. Among other things, the City undertook the following actions:

- August 21, 2012: the City Council heard a presentation regarding the Lakes during open session and then directed the City Manager, or designee, to seek public input regarding a potential agreement with Centercal and Top Golf.

- August 29, 2012: the City Council’s Golf Course Subcommittee met in public to discuss the matter.

- September 13, 2012: City staff made a presentation to the El Segundo Chamber of Commerce.

- September 18, 2012: City staff met at the El Segundo Public Library with golf industry stakeholders.

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- September 25, 2012: City staff made a presentation to the Kiwanis Club.

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Between October and November 2012, City staff met with most business oriented hotels within the City of El Segundo.

The City posted the Powerpoint® presentation, draft schematics, and other matters on the City’s website (elsegundo.org/news/displaynews.asp?NewsID=1149&TargetID=1).

The City has posted and (continues to post) all disclosable public communications regarding the Lakes matter on the City’s website (www.elsegundo.org/depts/cityclerk/documents.asp).

Such proactive actions are in addition to the multiple opportunities taken by interested citizens to provide public comment to the City Council during its regular meetings. This matter is also being extensively scrutinized by media coverage (see e.g., www.easyreadernews.com/74699/residents-assail-topgolf/; www.dailybreeze.com/20121105/local-golfers-balk-at-proposed-changes-to-the-lakes-in-el-segundo-course) and various social media outlets.

Based upon the foregoing, the City Council respectfully disagrees with the allegations set forth in the October 15th Letter as to purported violations of the Brown Act. Moreover, as you can see from the Due Diligence and Lease Agreement ("Agreement") that the Council will consider approving at its November 5, 2013 regular meeting, the alleged Brown Act violations set forth in the October 15th Letter are without merit. There are twelve specific conditions precedent that must be accomplished before a leasehold interest could be created. Accordingly, the City is not committed to entering into the draft Agreement since there are numerous issues that must be resolved in public meetings before the Planning Commission and City Council before any leasehold could be established. Such matters include review and potential approval of a conceptual plan for the golf course and the driving range improvements; review and potential approval of
a recommended action under the California Environmental Quality Act; review and potential approval of the land use entitlements that would be needed to allow for the uses contemplated by the draft Agreement; and many other items that identified in the draft Agreement.

However, in an abundance of caution, to avoid unnecessary litigation, and without admitting any violation of the Ralph M. Brown Act, the El Segundo City Council unconditionally commits that it will cease, desist from, and not repeat the actions challenged in the October 15th Letter and briefly described above.

Note that the El Segundo City Council may rescind this commitment only by a majority vote of its membership taken in open session at a regular meeting and noticed on its posted agenda as "Rescission of Brown Act Commitment." You will be provided with written notice, sent by any means or media you provide in response to this message, to whatever address or addresses you specify, of any intention to consider rescinding this commitment at least 30 days before any such regular meeting. In the event that this commitment is rescinded, you will have the right to commence legal action pursuant to Government Code § 54960(a). That notice will be delivered to you by the same means as this commitment, or may be mailed to an address that you have designated in writing.

Very truly yours,

Bill Fisher,
Mayor

350 Main Street, El Segundo, California 90245-3813
Phone (310)524-2300 Fax (310) 640-0489
2. Consideration and possible action regarding receiving an update with respect to the City's negotiations with CenterCal and Top Golf regarding the draft Due Diligence Lease Agreement that provides for the leasing of the driving range at the Lake's Golf Course to CenterCal and Top Golf for purposes of operating a Top Golf facility and the reconstruction of the golf course.

(Fiscal Impact: None)

Recommendation – 1) Consideration and possible action regarding receiving an update regarding the Agreement negotiations and provide feedback to City Manager and City Attorney as appropriate; 2) Alternatively, discuss and take other action related to this item.
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**STATE OF CALIFORNIA**  
**COUNTY OF LOS ANGELES**

Information on actual expenditures is available in the Director of Finance's office in the City of El Segundo.

I certify as to the accuracy of the Demands and the availability of fund for payment thereof.

For Approval: Regular checks held for City council authorization to release.

**CODES:**

- **R** = Computer generated checks for all non-emergency/urgent payments for materials, supplies and services in support of City Operations
- **A** = Payroll and Employee Benefit checks
- **B-F** = Computer generated Early Release disbursements and/or adjustments approved by the City Manager. Such as: payments for utility services, petty cash and employee travel expense reimbursements, various refunds, contract employee services consistent with current contractual agreements, instances where prompt payment discounts can be obtained or late payment penalties can be avoided or when a situation arises that the City Manager approves.
- **H** = Handwritten Early Release disbursements and/or adjustments approved by the City Manager.

**FINANCE DIRECTOR**

**CITY MANAGER**

**DATE:** 8-07-15  
**DATE:** 8-10-15
## CITY OF EL SEGUNDO
### PAYMENTS BY WIRE TRANSFER
#### 7/13/15 THROUGH 8/9/15

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<th>Payee</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/16/2015</td>
<td>State of CA EFT</td>
<td>EFT Child support payment</td>
</tr>
<tr>
<td>7/17/2015</td>
<td>Cal Pers</td>
<td>EFT Retirement Misc</td>
</tr>
<tr>
<td>7/17/2015</td>
<td>Cal Pers</td>
<td>EFT Retirement Safety</td>
</tr>
<tr>
<td>7/17/2015</td>
<td>Cal Pers</td>
<td>EFT Retirement Safety-Police</td>
</tr>
<tr>
<td>7/17/2015</td>
<td>Cal Pers</td>
<td>EFT Retirement Misc</td>
</tr>
<tr>
<td>7/17/2015</td>
<td>Manufacturers &amp; Traders</td>
<td>457 payment Vantagepoint</td>
</tr>
<tr>
<td>7/17/2015</td>
<td>Manufacturers &amp; Traders</td>
<td>IRA payment Vantagepoint</td>
</tr>
<tr>
<td>7/17/2015</td>
<td>US Bank - Trust Acct</td>
<td>PARS payment</td>
</tr>
<tr>
<td>7/17/2015</td>
<td>South Bay Credit Union</td>
<td>Payroll credit union deduction pmt</td>
</tr>
<tr>
<td>7/17/2015</td>
<td>Nationwide NRS EFT</td>
<td>EFT 457 payment</td>
</tr>
<tr>
<td>7/20/2015</td>
<td>IRS</td>
<td>Federal 941 Deposit</td>
</tr>
<tr>
<td>7/20/2015</td>
<td>Employment Development</td>
<td>State SDI payment</td>
</tr>
<tr>
<td>7/20/2015</td>
<td>Employment Development</td>
<td>State PIT Withholding</td>
</tr>
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<td>7/24/2015</td>
<td>Health Comp</td>
<td>Weekly claims</td>
</tr>
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<td>7/27/2015</td>
<td>Unum</td>
<td>Long Term Care Premium</td>
</tr>
<tr>
<td>7/29/2015</td>
<td>Cal Pers</td>
<td>EFT Retirement Misc - Retro Pay Adj</td>
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<td>7/29/2015</td>
<td>Cal Pers</td>
<td>EFT Retirement Misc - Retro Pay Adj</td>
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<td>7/30/2015</td>
<td>CA Infrastructure Bank</td>
<td>Semi Annual Infrastructure payment</td>
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<td>7/31/2015</td>
<td>Health Comp</td>
<td>Weekly claims</td>
</tr>
<tr>
<td>7/31/2015</td>
<td>Manufacturers &amp; Traders</td>
<td>457 payment Vantagepoint</td>
</tr>
<tr>
<td>7/31/2015</td>
<td>Manufacturers &amp; Traders</td>
<td>IRA payment Vantagepoint</td>
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<td>US Bank - Trust Acct</td>
<td>PARS payment</td>
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<td>7/31/2015</td>
<td>South Bay Credit Union</td>
<td>Payroll credit union deduction pmt</td>
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<td>7/31/2015</td>
<td>State of CA EFT</td>
<td>EFT Child support payment</td>
</tr>
<tr>
<td>8/3/2015</td>
<td>IRS</td>
<td>Federal 941 Deposit</td>
</tr>
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<td>8/3/2015</td>
<td>Employment Development</td>
<td>State SDI payment</td>
</tr>
<tr>
<td>8/3/2015</td>
<td>Employment Development</td>
<td>State PIT Withholding</td>
</tr>
<tr>
<td>8/3/2015</td>
<td>Nationwide NRS EFT</td>
<td>EFT 457 payment</td>
</tr>
<tr>
<td>8/4/2015</td>
<td>Cal Pers</td>
<td>EFT Retirement Misc</td>
</tr>
<tr>
<td>8/4/2015</td>
<td>Cal Pers</td>
<td>EFT Retirement Safety</td>
</tr>
<tr>
<td>8/4/2015</td>
<td>Cal Pers</td>
<td>EFT Retirement Safety-Police</td>
</tr>
<tr>
<td>8/4/2015</td>
<td>Cal Pers</td>
<td>EFT Retirement Misc</td>
</tr>
<tr>
<td>8/5/2015</td>
<td>Cal Pers</td>
<td>EFT Health Payment</td>
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<td>8/7/2015</td>
<td>Health Comp</td>
<td>Weekly claims</td>
</tr>
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<td>7/23/2015</td>
<td>Lane Donovan Golf Pte</td>
<td>Payroll Transfer</td>
</tr>
<tr>
<td>8/6/2015</td>
<td>Lane Donovan Golf Pte</td>
<td>Payroll Transfer</td>
</tr>
<tr>
<td>7/11/15-7/17/15</td>
<td>Workers Comp Activity</td>
<td>SCRMMA checks issued</td>
</tr>
<tr>
<td>7/18/15-7/24/15</td>
<td>Workers Comp Activity</td>
<td>SCRMMA checks issued</td>
</tr>
<tr>
<td>7/25/15-7/31/15</td>
<td>Workers Comp Activity</td>
<td>SCRMMA checks issued</td>
</tr>
<tr>
<td>8/1/15-8/7/15</td>
<td>Workers Comp Activity</td>
<td>SCRMMA checks issued</td>
</tr>
<tr>
<td>7/13/15-7/19/15</td>
<td>Liability Trust - Claims</td>
<td>Claim checks issued</td>
</tr>
<tr>
<td>7/20/15-8/2/15</td>
<td>Liability Trust - Claims</td>
<td>Claim checks issued</td>
</tr>
<tr>
<td>8/3/15-8/9/15</td>
<td>Liability Trust - Claims</td>
<td>Claim checks issued</td>
</tr>
</tbody>
</table>

**DATE OF RATIFICATION: 8/10/15**

**TOTAL PAYMENTS BY WIRE:**

2,708,616.62

Certified as to the accuracy of the wire transfers by:

Deputy City Treasurer II  
Date: 8-10-15

Director of Finance  
Date: 8-10-15

City Manager  
Date: 8-10-15

Information on actual expenditures is available in the City Treasurer’s Office of the City of El Segundo.

P:C:City Treasurer\Wire Transfers\Wire Transfers 10-01-14 to 9-30-15
SPECIAL MEETING OF THE EL SEGUNDO CITY COUNCIL
MONDAY, AUGUST 3, 2015
El Segundo Public Library
111 W. Mariposa Avenue, El Segundo, CA 90245
6:00 p.m.
(Strategic Planning Workshop)

6:00 P.M. SESSION

CALL TO ORDER – Mayor Fuentes at 6:00 PM

PLEDGE OF ALLEGIANCE – Council Member Fellhauer

ROLL CALL

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

PUBLIC COMMUNICATIONS – (Related to City Business Only) – 5 minute limit per person, 30 minute limit total)
Lisa Abate, resident, spoke concerning monetary cuts to the Police and Fire Departments in the coming fiscal year (2015-2016).
Henry Stuart, resident, spoke concerning monetary cuts to the Police and Fire Departments in the coming fiscal year (2015-2016).

SPECIAL ORDERS OF BUSINESS:

1. Consideration and possible action regarding a strategic planning workshop resulting in City Council receiving and filing of staff's analysis and recommendations for the Fiscal Year 2015-2016 Preliminary Budget. Staff will present a brief overview challenges/limitations, goals and potential strategies associated with preparation and planning of the fiscal year budget including, without limitation, the following matters:

   Greg Carpenter, City Manager, introduced and gave an overview of the Agenda items.
   
a. Third Quarter Financial Update presented by Misty Cheng, Acting Finance Director.


c. Fiscal Year 2015-2016 Budget Assumptions presented by Misty Cheng, Acting Finance Director.
d. Staff Requests for Fiscal Year 2015-2016
   
i. Departments needs for Fiscal Year 2015-2016
   1. Personnel
   2. Supplies
   3. Services
   4. Equipment

Presentations by individual departments – Chief Mitch Tavera, Police Department; Larry Klingaman, IT Department; Chief Kevin Smith, Fire Department; Mona Shilling, City Clerk’s Office: Misty Cheng, Finance Department; Stephanie Katsouleas, Public Works Department; Kimberly Christensen, Planning and Building Safety; Debra Brighton, Public Library and Meredith Petit, Recreation and Parks Department.

Council discussed and asked questions during the presentations.

FY 2015-2016 Updated Fund Balance with all Department Requests presented by Misty Cheng, Acting Finance Director.

Mayor Fuentes recessed the meeting at 7:48 PM

Mayor Fuentes reconvened the meeting at 8:01 PM

Items #1f and #1e switched order of discussion.

f. Capital assets

   i. Update on infrastructure projects funded in Fiscal Year 2014-2015 and infrastructure projects plan for 2015-2016 presented by Stephanie Katsouleas, Public Works Director.

Council discussion

e. Revenue initiative presented by Greg Carpenter, City Manager, concerning Transient Occupancy Tax (TOT).

Council discussion

Mark Hensley, City Attorney, answered questions pertaining to placing the item on the ballot in the upcoming April 2016 election.

g. Budget Calendar: Setting of dates for additional budget workshops and meetings.

The next Strategic Planning Session will take place on Monday, August 31, 2015 at 6:00 PM in the Library.

2. Council may raise other issues relating to any and all City revenues and expenditures, including but not limited to land use developments, fiscal policies, capital projects and potential budget reduction items for consideration as part of staff’s preparation of the FY 2015-2016 Preliminary Budget.
Council reviewed the requests by departments and made recommendations for the next Strategic Planning Session. See attached worksheet for Council’s recommendations to be placed on the preliminary FY 2015-16 budget.

Greg Carpenter, City Manager, asked Council to confirm direction concerning the transfer to the Economic Uncertainty Fund - $750,000.00, Facility Maintenance - $350,000.00 and Equipment Replacement - $200,000.00. Mr. Carpenter stated staff will prioritize the request list from the departments per Council’s direction and develop options and solutions for the next meeting on August 31, 2015.

ADJOURNMENT at 9:16 PM

______________________________
Tracy Weaver, City Clerk
<table>
<thead>
<tr>
<th>Departments/Categories</th>
<th>Cost</th>
<th>Budgeted</th>
<th>Additional Appropriation</th>
<th>Approved</th>
</tr>
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<tbody>
<tr>
<td><strong>Police</strong></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Personnel</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3 Police Officers</td>
<td>440,800</td>
<td>-</td>
<td>440,800</td>
<td>4 Yes</td>
</tr>
<tr>
<td>1 Promotion Officer to Sergeant</td>
<td>247,500</td>
<td>209,400</td>
<td>38,100</td>
<td>3 Yes/1 No - Jacobson</td>
</tr>
<tr>
<td>Services</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Document imaging/scanning</td>
<td>100,000</td>
<td>-</td>
<td>100,000</td>
<td>3 Yes/1 Maybe - Jacobson</td>
</tr>
<tr>
<td><strong>Fire</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Personnel</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Restore Senior Management Analyst</td>
<td>142,700</td>
<td>137,100</td>
<td>5,600</td>
<td>4 Yes</td>
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<tr>
<td>Supplies</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 SGI GE Spot Free Systems</td>
<td>7,400</td>
<td>-</td>
<td>7,400</td>
<td>2 Yes/2 Maybe - Fuentes/Felthauer</td>
</tr>
<tr>
<td>Telesse Automated Scheduler</td>
<td>54,000</td>
<td>-</td>
<td>54,000</td>
<td>3 Yes/1 No - Atkinson</td>
</tr>
<tr>
<td>Lexipol Digital Fire Policy Manual</td>
<td>41,400</td>
<td>-</td>
<td>41,400</td>
<td>2 Yes/1 No - Atkinson/1 Maybe - Jacobson</td>
</tr>
<tr>
<td>Equipment</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 ECG Monitors</td>
<td>61,000</td>
<td>22,000</td>
<td>39,000</td>
<td>3 Yes @ 2/1 Yes @ 1 - Jacobson</td>
</tr>
<tr>
<td>15 Firefighting Turnouts</td>
<td>51,000</td>
<td>-</td>
<td>51,000</td>
<td>4 Yes</td>
</tr>
<tr>
<td>2 Fire Engines</td>
<td>1,271,200</td>
<td>739,400</td>
<td>531,800</td>
<td>3 Yes @ 1 Fire Engine and 1 Rescue Ambulance; 1 Yes @ 2 each; requested staff to come back with option to lease</td>
</tr>
<tr>
<td>2 Rescue Ambulances</td>
<td>524,000</td>
<td>256,700</td>
<td>267,300</td>
<td>Refer above</td>
</tr>
<tr>
<td><strong>City Clerk</strong></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Personnel</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Part-time employee</td>
<td>56,000</td>
<td>-</td>
<td>56,000</td>
<td>4 Yes @ 20 hour/No Benefits</td>
</tr>
<tr>
<td><strong>Finance</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Personnel</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>License Permit Specialist II</td>
<td>79,700</td>
<td>41,500</td>
<td>38,200</td>
<td>3 Yes/1 No - Jacobson</td>
</tr>
<tr>
<td>Budget/Payroll Supervisor</td>
<td>148,340</td>
<td>148,340</td>
<td>-</td>
<td>4 Yes</td>
</tr>
<tr>
<td>Administrative Specialist</td>
<td>91,400</td>
<td>69,200</td>
<td>22,200</td>
<td>4 No</td>
</tr>
<tr>
<td><strong>Public Works</strong></td>
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<td></td>
</tr>
<tr>
<td>Personnel</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3 Street Maintenance Worker II</td>
<td>224,900</td>
<td>-</td>
<td>224,900</td>
<td></td>
</tr>
<tr>
<td>Supplies</td>
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</tr>
<tr>
<td>Operating Supplies</td>
<td>10,000</td>
<td>-</td>
<td>10,000</td>
<td>Tied to 3 Street Maintenance Worker Personnel Item</td>
</tr>
<tr>
<td>Small Tools &amp; Equipment</td>
<td>500</td>
<td>-</td>
<td>500</td>
<td>Tied to 3 Street Maintenance Worker Personnel Item</td>
</tr>
<tr>
<td>Services</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Laundry &amp; Cleaning</td>
<td>2,000</td>
<td>-</td>
<td>2,000</td>
<td>Tied to 3 Street Maintenance Worker Personnel Item</td>
</tr>
<tr>
<td><strong>Planning &amp; Building Safety</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Personnel</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Building Inspector I</td>
<td>108,100</td>
<td>108,100</td>
<td>-</td>
<td>4 Yes</td>
</tr>
<tr>
<td>License Permit Specialist I</td>
<td>78,900</td>
<td>78,900</td>
<td>-</td>
<td>4 Yes</td>
</tr>
<tr>
<td>RS1 Construction Supervisor</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>4 Yes</td>
</tr>
<tr>
<td><strong>Library</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Personnel</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Library Assistant</td>
<td>76,500</td>
<td>-</td>
<td>76,500</td>
<td>2 Yes/1 No - Atkinson/1 Maybe - Felthauer</td>
</tr>
<tr>
<td><strong>Recreation and Parks</strong></td>
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<td></td>
</tr>
<tr>
<td>Personnel</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Part-time Personnel</td>
<td>1,200,500</td>
<td>1,150,500</td>
<td>50,000</td>
<td>2 Yes/2 Maybe - Fuentes/Jacobson</td>
</tr>
<tr>
<td>Part-time Personnel for Cable</td>
<td>75,600</td>
<td>68,000</td>
<td>7,600</td>
<td>4 Yes</td>
</tr>
<tr>
<td>Reclass Administrative Specialist</td>
<td>102,100</td>
<td>98,100</td>
<td>4,000</td>
<td>4 Yes</td>
</tr>
<tr>
<td>Supplies</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Upgrade audio equipment and web-cam</td>
<td>4,000</td>
<td>-</td>
<td>4,000</td>
<td>4 Yes</td>
</tr>
<tr>
<td>Services</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tree Maintenance Contract</td>
<td>175,000</td>
<td>100,000</td>
<td>75,000</td>
<td>4 Yes</td>
</tr>
<tr>
<td>Centennial &amp; Rose Parade</td>
<td>30,000</td>
<td>-</td>
<td>30,000</td>
<td>4 Yes</td>
</tr>
<tr>
<td>Repairs &amp; Maintenance</td>
<td>200,000</td>
<td>10,000</td>
<td>190,000</td>
<td>2 Yes/2 No - Jacobson/Atkinson; requested staff to provide priority list of repairs</td>
</tr>
<tr>
<td><strong>Equipment</strong></td>
<td></td>
<td></td>
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<tr>
<td>Campus El Segundo Turf Replacement</td>
<td>250,000</td>
<td>100,000</td>
<td>150,000</td>
<td>3 Yes/1 No - Atkinson</td>
</tr>
<tr>
<td>Truck</td>
<td>40,000</td>
<td>-</td>
<td>40,000</td>
<td>3 Yes/1 No - Jacobson</td>
</tr>
<tr>
<td><strong>Total General Fund</strong></td>
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<td></td>
<td>5,894,540</td>
<td>3,337,240</td>
<td>2,557,300</td>
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</tbody>
</table>
SPECIAL MEETING OF THE EL SEGUNDO CITY COUNCIL  
TUESDAY, AUGUST 4, 2015 – 4:30 P.M.  
Committees Commissions and Boards - Interview of Candidates  
(Possibly will continue and run simultaneously with the regular scheduled 5pm City Council Meeting)  

CALL TO ORDER  

ROLL CALL  

PUBLIC COMMUNICATIONS - (Related to City Business Only - 5 minute limit per person, 30 minute limit total).  

SPECIAL MATTERS:  -1- matter  

1. Consideration and possible action to interview candidates for the Planning Commission, Recreation and Parks Commission, Library Board of Trustees  
(Fiscal Impact: None)  

Council consensus to appoint Carol Wingate to the Planning Commission to a full term expiring June 30, 2019; Lee Davis to the Recreation and Parks Commission to a full term expiring May 30, 2019; and David Jonta to the Library Board of Trustees to a full term expiring June 30, 2019.  

ADJOURNMENT at 5:50 PM  

_________________________  
Tracy Weaver, City Clerk
REGULAR MEETING OF THE EL SEGUNDO CITY COUNCIL
TUESDAY, AUGUST 4, 2015 – 5:00 PM

5:00 P.M. SESSION

CALL TO ORDER – Mayor Fuentes at 5:00 PM

ROLL CALL

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

PUBLIC COMMUNICATION – (Related to City Business Only – 5 minute limit per person, 30 minute limit total)

SPECIAL ORDER OF BUSINESS:

Mayor Fuentes announced that Council would continue to interview for the Committees, Commissions and Boards. Once interviews are commenced, Council would be meeting in closed session pursuant to the items listed on the Agenda.

CLOSED SESSION:

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

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Gov’t Code §54956.9(d) (1): -3- matter

1. City of El Segundo vs. City of Los Angeles, et.al. LASC Case No. BS094279
2. Penuelas vs. City of El Segundo, LASC Case No. BC523072
3. O’Leary v. City of El Segundo WCB/EAMS Nos. ADJ8702179 and 918053

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code §54956.9(d) (2): -1- matter.

Initiation of litigation pursuant to Government Code §54956.9 (d) (4): -4- matters.
DISCUSSION OF PERSONNEL MATTERS (Gov't Code §54957): -0- matter

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

PUBLIC EMPLOYMENT (Gov't Code § 54957) -0- matter

CONFERENCE WITH CITY'S LABOR NEGOTIATOR (Gov't Code §54957.6): -8- matters

1. Employee Organizations: Police Management Association; Police Officers Association; Police Support Services Employees Association; Fire Fighters Association; Supervisory and Professional Employees Association; City Employees Association; Executive Management Group (Unrepresented Group); Management/Confidential Group (Unrepresented Group)

   Agency Designated Representative: Steve Filarsky and City Manager

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

Adjourned at 6:55 PM
REGULAR MEETING OF THE EL SEGUNDO CITY COUNCIL
TUESDAY, AUGUST 4, 2015 - 7:00 P.M.

7:00 P.M. SESSION

CALL TO ORDER – Mayor Fuentes at 7:01 PM

INVOCATION – Father Roberts, St. Anthony Catholic Church

PLEDGE OF ALLEGIANCE – Council Member Fellhauer

PRESENTATIONS

a. Commendation presented by Mayor Fuentes to United States Air Force Staff Sergeant Chris Soegono for his selfless efforts and heroic action that saved the life of a victim in immediate need of medical assistance.

ROLL CALL

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

PUBLIC COMMUNICATIONS – (Related to City Business Only – 5 minute limit per person, 30 minute limit total)
Melissa Kaminska, resident, not in favor of making salary cuts to the Fire and Police Departments.
Cathy Adkins, resident, not in favor of making salary cuts to the Fire and Police Departments.
Cameron Brown, resident, supports item C5, pertaining to the installation of a bike lane on Rosecrans Avenue, between Sepulveda Blvd and Highland Avenue.
Mark Kericho, resident, not in favor of making salary cuts to the Fire and Police Departments.
Henry Stuart, resident, not in favor of making salary cuts to the Fire and Police Departments.
Mike Don, El Segundo Business owner, supports item C5, pertaining to the installation of a bike lane on Rosecrans Avenue, between Sepulveda Blvd and Highland Avenue.
Donna Scaltrito, resident, not in favor of making salary cuts to the Fire and Police Departments.
Vince Giangrande, resident, not in favor of making salary cuts to the Fire and Police Departments.
Andy Powell, President El Segundo Fire Fighter Association and a member of the El Segundo Coalition of Labor Association, spoke concerning the ongoing labor negotiations.
Brandon Browning, President El Segundo Police Officers Association, spoke concerning the ongoing labor negotiations.
Marc Rener, resident, commented on the recent campaign by the members of the El Segundo Coalition of Labor Association, ES Fire Fighter Association and the ES Police Officer Association.
Jeff Gerny, Vice President El Segundo Fire Fighter Association and El Segundo native, spoke concerning the ongoing labor negotiations.
Mrs. Wilson, resident, praised the 4th of July Event and especially thanked the Recreation and Parks Department for a job well done.

CITY COUNCIL COMMENTS – (Related to Public Communications)

Mayor Fuentes stated that negotiation offers and counteroffers would be posted to the City’s Website by close of business day on Wednesday, August 5, 2015.

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 Atkinson to read all ordinances and resolutions on the Agenda by title only. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

B. SPECIAL ORDERS OF BUSINESS (PUBLIC HEARING)

1. Consideration and possible action to conduct a Public Hearing regarding operating and capital outlay requests of $100,000 from 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)

Mayor Fuentes stated this was the time and place for a Public Hearing regarding operating and capital outlay requests of $100,000 from existing Citizens Option for Public Safety (COPS) Supplemental Law Enforcement Services Fund (SLESF) account by the Chief of Police.

City Clerk Weaver stated that proper notice had been given in a timely manner and that written communication had not been received in the City Clerk’s office.

Greg Carpenter, City Manager, introduced the item.

Mitch Ta Vera, Chief of Police, gave a presentation.
Mayor Fuentes opened the Public Hearing.

Marc Rener, resident, spoke in support of the item.

Mayor Fuentes closed the Public Hearing

Mark Hensley, City Attorney, read by title only:

RESOLUTION NO. 4925

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

MOTION by Mayor Pro Tem Jacobson, SECONDED by Council Member Fellhauer to adopt Resolution No. 4925. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

2. 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)

Mayor Fuentes stated this was the time and place for a Public Hearing regarding the annual Congestion Management Program (CMP) and adopting the annual CMP Local Development Report, in accordance with California Government Code § 65089.

City Clerk Weaver stated that proper notice had been given in a timely manner and that written communication had not been received in the City Clerk’s office.

Greg Carpenter, City Manager, introduced the item.

Kimberly Christensen, AICP, Planning Manager, gave a presentation.

Mayor Fuentes opened the Public Hearing.

Mayor Fuentes closed the Public Hearing.

Mark Hensley, City Attorney, read by title only:

RESOLUTION NO. 4926

A RESOLUTION FINDING THE CITY OF EL SEGUNDO, CALIFORNIA TO BE IN CONFORMANCE WITH THE CONGESTION MANAGEMENT PROGRAM (CMP) AND ADOPTING THE CMP LOCAL DEVELOPMENT REPORT IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE § 65089.
MOTION by Council Member Fellhauer, SECONDED by Council Member Atkinson to adopt Resolution No. 4926 and adopt the annual CMP Local Development Report. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

C. UNFINISHED BUSINESS

OPENED ITEMS C3 AND C4 CONSECTIVELY

3. [CONTINUED ITEM #C1 FROM JULY 21, 2015 CITY COUNCIL MEETING] Rescission of Brown Act Commitment - In Accordance with Government Code Section 54960.2 (e), consideration and possible action to rescind the commitment made by the City Council on November 5, 2013, not to hold further closed session meetings regarding real property negotiations with regard to ESCenterCal, LLC’s (“CenterCal”) proposal to enter into a Due Diligence and Ground Lease Agreement (“Agreement”) to lease the driving range portion of the Lakes Golf Course from the City for the purpose of developing a Top Golf facility. (Fiscal Impact: unknown – depends on whether legal proceedings are commenced.)

Council consensus to continue item C3 to the regular meeting on August 18, 2015. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

4. Consideration and possible action regarding receiving an update with respect to the City’s negotiations with CenterCal and Top Golf regarding the draft Due Diligence Lease Agreement that provides for the leasing of the driving range at the Lake’s Golf Course to CenterCal and Top Golf for purposes of operating a Top Golf facility and the reconstruction of the golf course. (Fiscal Impact: None)

Mark Hensley, City Attorney, presented the Council an update on the Due Diligence and Ground Lease Agreement for item C4. The item will be brought back to the August 18, 2015 City Council Meeting.

Council Discussion

Mark Hensley, City Attorney, answered and clarified questions from Council.

5. Consideration and possible action to: 1) approve installation of a Class II bike lane on Rosecrans Ave. between Sepulveda Blvd. and Highland Ave, 2) enter into a Cooperative Agreement No. 4891 with Manhattan Beach for construction of the new bike path and 3) approve an Easement Agreement No. 4892 with Chevron for use of its property for the bike path. (Fiscal Impact: None.)

Greg Carpenter, City Manager, introduced the item.
Stephanie Katsouleas, Public Works Director, gave a presentation and answered questions.

MOTION by Council Member Fellhauer, SECONDED by Council Member Atkinson to approve the installation of a Class II bike lane on Rosecrans Ave. between Sepulveda Blvd. and Highland Ave, authorize the City Manager to sign an Cooperative Agreement with the City of Manhattan Beach, in a form approved by the City Attorney, for construction of the new bike path and authorize the City Manager to sign an Easement Agreement, in a form approved by the City Attorney, with Chevron for use of its property for the bike path. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

D. REPORTS OF COMMITTEES, COMMISSIONS AND BOARDS

6. Consideration and possible action to announce the appointments to the Planning Commission, Recreation and Parks Commission, Library Board of Trustees. (Fiscal Impact: None)

Mayor Fuentes announced the appointment of Carol Wingate to the Planning Commission for a full term expiring June 30, 2019, the appointment of Lee Davis to the Recreation and Parks Commission for a full term expiring May 30, 2019, and appointment of David Jonta to the Library Board of Trustees for a full term expiring June 30, 2018.

E. CONSENT AGENDA

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

7. Approve Warrant Numbers 3006896 through 3007104 on Register No. 20 in the total amount of $726,219.12 and Wire Transfers from 7/6/2015 through 7/12/2015 in the total amount of $2,848,535.29. Authorized 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.


10. Waive the bidding process per El Segundo City Code §1-7-10 and authorize the Fire Department to purchase and enter into Agreement No. 4888 with the electronic patient care reporting (ePCR) software from Digital EMS Solutions, Inc. (Fiscal Impact: $20,650)

11. PULLED BY STAFF

12. Receive and file this report regarding emergency work to repair dwelling units at the Park Vista Senior Housing Facility due to water intrusion without the need for bidding in accordance with Public Contracts Code §§ 20168 and 22050 and El Segundo Municipal Code ("ESMC") §§ 1-7-12 and 1-7A-4. (Fiscal Impact: $50,000.00)

13. Authorize the City Manager to enter into a Professional Services Agreement No. 4893, in a form approved by the City Attorney, with Isaac Sports Group to provide consulting services related to the design, development, and construction of the new Aquatics Center at Wiseburn High School and plan for the future renovation of the Urho Saari Swim Stadium. (Fiscal Impact: Not to exceed $50,000 over the course of FY14/15, FY15/16, FY16/17 & FY17/18)

14. Adopt Resolution No. 4928 amending the bylaws of the Senior Citizen Housing Board Corporation to reduce the authorized number of Directors from seven to five. (Fiscal Impact: None)

15. PULLED BY COUNCIL MEMBER ATKINSON

MOTION by Council Member Fellhauer, SECONDED by Council Member Dugan to approve Consent Agenda items 7, 8, 9, 10, 12, 13, and 14. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

PULLED ITEMS:

11. Consideration and possible action to 1) award a standard Public Works Contract to the lowest responsible bidder, CLS Constructors, or the 2014-2015 Curb, Gutter, Sidewalk, and other Concrete Improvements Project, 2) amend the Maintenance Agreement with West Coast Arborist for tree removal and replacement at locations associated with the Project, 3) authorize additional work up to the budgeted amount. Project No. PW 14-16. (Fiscal Impact: $500,000.00)
Mark Hensley, City Attorney, suggested rejecting all bids concerning this item due to irregularities.

Council Discussion
MOTION by Mayor Pro Tem Jacobson, SECONDED by Council Member Fellhauer to reject all bids and return to the bidding process. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

15. Consideration and possible action to adopt Ordinance No. 1510, updating the El Segundo Municipal Code amending Title 13 of the El Segundo Municipal Code by adding Chapter 18 to provide an expedited, streamlined permitting process for small residential rooftop solar systems. (Fiscal Impact: None)

Council Discussion

MOTION by Council Member Fellhauer, SECONDED by Council Member Dugan to waive second reading and adopt Ordinance No. 1510, updating the El Segundo Municipal Code amending Title 13 of the El Segundo Municipal Code by adding Chapter 18 to provide an expedited, streamlined permitting process for small residential rooftop solar systems. MOTION PASSED BY VOICE VOTE. 4/1 YES: DUGAN, FELLHAUER, FUENTES, JACOBSON NO’s: ATKINSON

F. NEW BUSINESS

G. REPORTS – CITY MANAGER - None

H. REPORTS – CITY ATTORNEY - None

I. REPORTS – CITY CLERK – None

J. REPORTS – CITY TREASURER – Not Present

K. REPORTS – CITY COUNCIL MEMBERS

Council Member Fellhauer – Asked Council for a consensus to use the City’s logo on an upcoming event for the Independent Cities Association (ICA). Council Member Fellhauer is the incoming President for the ICA. Council agreed to the use of the logo.

Council Member Atkinson - None

Council Member Dugan – Attended a Los Angeles Airport modernization overview presentation.

Mayor Pro Tem Jacobson – Attended The Point grand opening on Thursday, July 30, 2015.

Mayor Fuentes – Attended The Point grand opening on Thursday, July 30, 2015. Commented on the ease of working with our City during the building process. The Champion of Business award was given to Federal Realty and The Point. Mentioned
the Special Olympics World Games and El Segundo as a Host Town. Lastly, mentioned the need for a Public Safety Manager.

PUBLIC COMMUNICATIONS – (Related to City Business Only – 5 minute limit per person, 30 minute limit total)

Marc Rener, resident, commented on the recent campaign by the members of the El Segundo Coalition of Labor Association, ES Fire Fighter Association and the ES Police Officer Association.
Mike Robbins, resident, commented on the recent campaign by the members of the El Segundo Coalition of Labor Association, ES Fire Fighter Association and the ES Police Officer Association.

MEMORIALS – None

ADJOURNMENT at 8:37 PM

Tracy Weaver, City Clerk
EL SEGUNDO CITY COUNCIL

AGENDA STATEMENT

AGENDA DESCRIPTION:

Consideration and possible action to authorize the Chief of Police to hire one Police Officer to backfill a vacancy created by filling a position with the “Taskforce for Regional Autotheft Prevention” (TRAP). (Fiscal Impact: Net savings of approximately $76,000)

RECOMMENDED COUNCIL ACTION:

1. Authorize the Chief of Police to hire one Police Officer to backfill a vacancy created by filling a position with the “Taskforce for Regional Autotheft Prevention” (TRAP);

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

ATTACHED SUPPORTING DOCUMENTS: None

FISCAL IMPACT:

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

ORIGINATED BY: Jaime Bermudez, Lieutenant
REVIEWED BY: Mitch Tavera, Chief of Police
APPROVED BY: Greg Carpenter, City Manager

BACKGROUND AND DISCUSSION:

On July 28, 1992, the Los Angeles County Board of Supervisors implemented by Resolution, Vehicle Code Section 9250.14 (SB 2139) in Los Angeles County, to impose an additional one dollar vehicle registration fee on vehicles registered in the County. The revenue generated is designated for use in the deterrence, investigation and prosecution of vehicle theft in Los Angeles County. The Sheriff, as the Regional Coordinator in this effort, has developed a consolidated vehicle theft curtailment program to integrate resources against vehicle theft. The name of this program is “Taskforce for Regional Autotheft Prevention” (TRAP).

The mission of TRAP is to promote a coordinated effort and encourage maximum cooperation between all law enforcement and prosecutorial agencies in Los Angeles County to deter and reduce vehicle thefts, to increase the recovery rate of stolen vehicles, to identify trends and patterns in vehicle theft, to provide training and expertise to participating agencies countywide, and to coordinate a deterrence program in collaboration with private sector agencies.
The Police Department has previously participated as a member agency of the Taskforce between 1993 and 2011, until reduced state funding caused a decrease of personnel on the regional teams countywide.

ANALYSIS:

The Taskforce generally consists of six regional teams, assigned throughout the County. One team, specifically assigned to the South region is made up of Officers from South Bay Police agencies and the California Highway Patrol.

Presently, the Taskforce has two investigator vacancies, with additional openings anticipated in the near future in order to expand the Taskforce. While the program director is currently establishing a list of interested agencies, El Segundo Police was invited to join the Taskforce. The position requires previous investigative experience. The term of assignment for investigators is generally at least three years.

The Police Department currently lacks an investigator specifically assigned to the auto theft desk. Membership in the Taskforce would allow the Department use of specially trained investigators as well as additional resources to combat auto theft crimes. Added benefits include access to surveillance and analytical teams, access to specially equipped GPS vehicles and tracking equipment, as well as enhanced training for Department personnel.

The County reimburses participating agencies for all salary, benefits and overtime costs of the assigned Officer, to include a police vehicle and maintenance. Based on the requirements for the position, the selected candidate will be a current or previously assigned investigator with several years work experience. The vacancy created by filling this position will be backfilled with a newer Police Officer, at a lower pay step, resulting in estimated net savings of $76,000.

RECOMMENDATION:

Staff recommends that City Council authorize the Chief of Police to hire one Police Officer to backfill a vacancy created by filling a position with the "Taskforce for Regional Autotheft Prevention" (TRAP).
AGENDA DESCRIPTION:
Consideration and possible action regarding the retirement and sale of police canine, "Arthur," to his handler for a nominal fee.

RECOMMENDED COUNCIL ACTION:
(1) Authorize the Mayor to approve the sale of police canine, "Arthur," to his handler, Officer Chris Cameron, for the nominal fee of one dollar ($1.00)
(2) Alternatively, discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
Hold Harmless Agreement

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

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

BACKGROUND AND DISCUSSION:

On July 11, 2015, Officer Chris Cameron was reassigned from his position as a police dog handler after eight years of dedicated canine service. Officer Cameron’s police dog, Arthur, a 9 1/2 year-old Czechoslovakian Malinois, has been his canine partner since August of 2007. During that term, Arthur and Officer Cameron were responsible for 110 suspect searches resulting in 24 suspect finds, surrenders and apprehensions. Further, Arthur conducted 292 narcotic and article searches which resulted in the seizure of over $10,200,000 in illicit narcotic cash and proceeds. Additionally, Arthur conducted 37 neighborhood, school and citizen demonstrations during his tenure.

Staff recommends that Arthur be permitted to retire from police canine service as he is no longer fit for police duty.

El Segundo Police Department General Orders Manual (GOM) Volume 400, Section 690.15 allows a canine handler to purchase their police service dog for a nominal fee if the dog is considered unfit for duty by the Chief of Police.
Officer Cameron will sign a hold harmless agreement releasing the City and the Department from liability as outlined in the Department GOM.

Although the El Segundo Police Canine Unit is losing an outstanding service dog team in Officer Cameron and K-9 Arthur, the new team of Officer Alex Leavitt and his K-9 partner Roxy recently completed the initial training requirements and are excited to continue in this beneficial and successful program.
CITY OF EL SEGUNDO
CONTRACT #

HOLD HARMLESS
AGREEMENT
FOR
SALE OF POLICE K-9

THIS AGREEMENT, is made and entered into this _____ Day of ____________, ____,
by and between the CITY OF EL SEGUNDO POLICE DEPARTMENT, hereinafter called
"DEPARTMENT," and POLICE OFFICER, CHRIS CAMERON, hereinafter called "CAMERON."

WHEREAS, K-9 Police Service Dog ARTHUR has been the property of the El Segundo
Police Department and has been employed in law enforcement activities; and

WHEREAS, Officer Chris Cameron has been the Officer assigned to supervise ARTHUR.
ARTHUR currently resides with CAMERON;

NOW, THEREFORE, DEPARTMENT wishes to sell and CAMERON wishes to buy
ARTHUR according to the terms and conditions set forth herein;

1. **Compensation:** CAMERON shall pay DEPARTMENT the sum of one dollar
($1.00) to be due upon execution of this agreement.

2. **Indemnification and Release:** CAMERON, as consideration for transfer of
ownership of ARTHUR to him hereby agrees to hold harmless, indemnify and release DEPARTMENT
and the City of El Segundo, their agents, employees, officers and assigns, from any and all liability which
may arise in any way from the actions of ARTHUR after the date of execution of this agreement,
including, but not limited to attorneys fees.

3. **Health of K-9:** CAMERON agrees to accept ARTHUR in his present condition
with no warranty, from DEPARTMENT or the City of El Segundo concerning the health or condition of the
animal. CAMERON expressly releases DEPARTMENT and the City of El Segundo, their agents,
employees, officers or assigns, from any and all liability for future medical treatment to or health problems
of ARTHUR.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and
year first above written.

"CAMERON"
CHRIS CAMERON
POLICE OFFICER

By: ________________________

"DEPARTMENT"
THE CITY OF EL SEGUNDO POLICE DEPARTMENT

By: ________________________
Chief of Police

APPROVED AS TO FORM:

By: ________________________
EL SEGUNDO CITY COUNCIL

AGENDA STATEMENT

MEETING DATE: August 18, 2015
AGENDA HEADING: Consent Agenda

AGENDA DESCRIPTION:
Consideration and possible action to approve a contract amendment to increase the contract amount by $30,000 for DownStream Services, Inc. for pump station on-call and emergency repair services in the 2014-15 Fiscal Year. (Fiscal Impact: None.)

RECOMMENDED COUNCIL ACTION:
1. Authorize the City Manager to execute a contract amendment, in a form approved by the City Attorney, for an additional $30,000 with DownStream Services, Inc. for pump stations on-call repair services in the 2014-15 Fiscal Year.
2. Alternatively, discuss and take other possible action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
None

FISCAL IMPACT: Budget Adjustment Required

Amount Budgeted: $90,000 annually for five (5) years
Additional Appropriation: No
Account Number(s): $30,000 from 502-400-4301-6206 (Sewer Enterprises Fund: Contract Services)

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

BACKGROUND AND DISCUSSION:
The Wastewater Division has nine (9) sewer and three (3) storm water pump stations, which require routine maintenance and servicing to ensure smooth operations. The City secures vendor services for this routine maintenance as well as for unexpected and emergency repairs. The Water Division also has one booster pump station that requires service in the event of unexpected or emergency repairs.

In September 17, 2013, City Council awarded a five-year Public Works Maintenance and On-Call Repairs Contract to DownStream Services, Inc., in an amount not-to-exceed $90,000 annually for maintenance and on-call repair services for sewer and storm water pump stations, and the Water Division’s booster pump station. The FY 2014/15 DownStream contract amount is currently exhausted due to the large number of repairs already addressed this year. The primary pump at pump station #9 (Kansas/El Segundo Blvd.) has malfunctioned and is currently running on its backup pump; thus, it is in need of immediate repair. To keep the pump station functioning as designed and to avoid additional risk, staff is requesting authorization to amend...
the DownStream Service, Inc.'s contract for an additional $30,000 to complete this repair. There is sufficient funding available in the Sewer Enterprise Fund budgeted in the Contract Services account to cover the additional cost. Any on-call funds not utilized annually will be disencumbered and available to the Water and Sewer Enterprise Fund accordingly.
EL SEGUNDO CITY COUNCIL
AGENDA STATEMENT

MEETING DATE: August 18, 2015
AGENDA HEADING: Consent Agenda

AGENDA DESCRIPTION:

Consideration and possible action to award a standard Public Works Contract to the lowest responsible bidder, American Asphalt South, Inc., for the FY 14-15 Slurry Seal Project in the area bounded by the west City boundary, the north City boundary, Sheldon Street and Mariposa Avenue. Project No.: PW 15-027
(Fiscal Impact: $500,000.00)

RECOMMENDED COUNCIL ACTION:

1. Authorize the City Manager to execute a standard Public Works Contract, in a form as approved by the City Attorney, with American Asphalt South, Inc., in the amount of $420,104.80.
2. Authorize an additional $79,895.20 in contingency for unforeseen conditions.
3. Alternatively, discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:

Location Map

FISCAL IMPACT: Budget Adjustment Required

Amount Budgeted: $400,000.00
Additional Appropriation: Yes. $100,000.00
Account Number(s): 106-400-8206-8943 (Gas Tax)

ORIGINATED BY: Cheryl Ebert, Senior Civil Engineer
REVIEWED BY: Stephanie Katsouleas, Public Works Director
APPROVED BY: Greg Carpenter, City Manager

BACKGROUND AND DISCUSSION:

The Public Works Department administers a slurry sealing program as a preventative measure to extend the life of pavement Citywide. The slurry sealing process consists of the application of a thin asphalt slurry layer on existing asphalt pavement to prevent water intrusion.

On Tuesday, March 17, 2015, the City Council adopted the plans and specifications for Project No. PW 15-02, for the FY 2014/15 Furnishing and Application of Slurry Seal on Various Streets Project, and authorized staff to advertise the project for receipt of construction bids. The location of streets to be slurry sealed include the areas bound by the west City boundary, Imperial Ave., Sheldon Street, and Mariposa Avenue (northwest quadrant).
On June 30, 2015, the City Clerk received and opened four (4) bids as follows:

1. American Asphalt South, Inc. $371,868.80 or Alternate Bid $420,104.80
2. Pavement Coatings, Co. $376,270.98 or Alternate Bid $438,013.06
3. Roy Allan, Inc. $375,085.01 or Alternate Bid $431,914.90
4. All American Asphalt $425,673.39 or Alternate Bid $443,551.00

Staff reviewed the bid package submitted by the apparent lowest bidder, American Asphalt South, Inc. This same contractor carried out the previous slurry project for the City and performed satisfactorily.

Please note that the base bid called for Slurry Seal Type I application while the alternate bid called for Slurry Seal Type II application. Slurry seal Type II application is most commonly used in moderate traffic areas, including residential streets, and has a thicker aggregate material which provides for a rougher surface and improved skid resistance of vehicles. Staff included both options to ensure that the City had the option to choose either based on the bids received and budget available. Staff recommends that Type II be used at the slightly higher cost because 1) the bid is close to the estimated budget, 2) Type II is more desirable in neighborhoods and 3) our slurry schedule is on the longer seven (7) year cycle. Funds are available from the Gas Tax monies to cover the increase.

Therefore, staff recommends that City Council 1) award the standard public works contract to American Asphalt South, Inc. in the amount of $420,104.80 and authorize additional contingency of $79,895.20 for unforeseen issues, and 2) authorize an additional appropriation of $100,000 from the Gas Tax fund balance to cover the cost of the project.
AGENDA DESCRIPTION:
Consideration and possible action regarding 1) Adoption of a Resolution authorizing the examination of prepaid mobile telephony services surcharge and local charge records; 2) authorize the City Manager to execute an Agreement, in a form approved by the City Attorney, allowing the State Board of Equalization to collect and administer local user utility taxes ("UUT") on the City’s behalf; and 3) take such additional, related, action that may be desirable.

RECOMMENDED COUNCIL ACTION:
1. Adopt the Resolution authorizing the examination of prepaid mobile telephony services and local charge records;
2. Authorize the City Manager to execute an agreement, in a form approved by the City Attorney, for the BOE to collect UUT as to telephony services; and
3. Alternatively discuss and take other action related to this item

ATTACHED SUPPORTING DOCUMENTS:
1. Resolution Authorizing the Examination of Prepaid Mobile Telephony Services Surcharge and Local Charge Records
2. Agreement for State Collection and Administration of Local Charges

FISCAL IMPACT:
Total Fiscal Impact:
Amount Budgeted: None
Additional Appropriation: None
Account Number(s): 001-300-0000-3214

ORIGINATED BY: Steve Jones, Business Services Manager
REVIEWED BY: Misty Cheng, Director of Finance
APPROVED BY: Greg Carpenter, City Manager

BACKGROUND AND DISCUSSION
A city’s utility users tax (UUT) is traditionally collected by the wireless service providers who include the charge on their customers’ monthly invoices. Customers who purchase prepaid wireless services generally avoid paying any UUT because of complications arising from collecting UUT under such prepaid agreement. With prepaid wireless services, there is no contract, no monthly invoices, and the prepaid wireless services are usually sold by retailers, not service providers themselves. It is estimated that approximately 70% of all prepaid wireless services are sold by retailers. Since these types of transactions bypass El Segundo’s UUT, the City is experiencing a loss of revenue estimated to be $33,000 to $44,000 annually. Additionally, traditional phone plan users are treated disparately and the burden of the UUT is not equally shared among all telephone users.
Beginning January 1, 2016, a new law (AB 1717) will take effect and solve the collection problem by requiring California retailers and online sellers to collect the local UUT at the same time it collects sales tax on its other retail products based on the point of sale (for retail stores in El Segundo). Under this new law, all local jurisdictions must contract with the California State Board of Equalization (BOE) in order to receive revenue from local utility user taxes (UUT) and any other local charges imposed on consumers of prepaid mobile services. This will be the only method for local jurisdictions to collect taxes and surcharges imposed upon prepaid mobile telephone services sold in their jurisdiction.

To ensure the uninterrupted collection of these local revenues, local jurisdictions must contract with the BOE by September 1, 2015. If a local jurisdiction does not contract with the BOE, any local charges imposed upon prepaid mobile telephony services (MTS) will not be collected by the retailers and the local jurisdiction will not receive local charge revenue from prepaid MTS once the new law is effective on January 1, 2016.

Current law imposes a variety of surcharges on phone services, including prepaid mobile phone services. Currently, phone carriers are generally responsible for collecting and paying these surcharges to the various agencies. The new law replaces all current charges imposed upon prepaid mobile phone services with a new prepaid MTS surcharge. The prepaid MTS surcharge will be paid by purchasers of prepaid wireless services in California and be collected at the time of purchase.
RESOLUTION NO._______

A Resolution Authorizing the Examination of Prepaid Mobile Telephony Services Surcharge and Local Charge Records

WHEREAS, pursuant to El Segundo Municipal Code Chapter 3-7 and the Local Prepaid Mobile Telephony Services Collection Act, the City of El Segundo, hereinafter called Local Jurisdiction, entered into a contract with the State Board of Equalization, hereafter referred to as the Board, to perform all functions incident to the administration and collection of the prepaid mobile telephony services surcharge and local charges (Rev. & Tax. Code, § 42101.5); and

WHEREAS, the Local Jurisdiction deems it desirable and necessary for authorized representatives of the Local Jurisdiction to examine confidential prepaid mobile telephony services surcharge and local charge records pertaining to the prepaid mobile telephony services surcharge and local charges collected by the Board for the Local Jurisdiction pursuant to that contract;

WHEREAS, the Board will make available to the Local Jurisdiction any information that is reasonably available to the Board regarding the proper collection and remittance of a local charge of the Local Jurisdiction by a seller, including a direct seller, subject to the confidentiality requirements of Sections 7284.6, 7284.7 and 19542 of the Revenue and Taxation Code; and

WHEREAS, Sections 42110 and 42103 of the Revenue and Taxation Code sets forth certain requirements and conditions for the disclosure of Board of Equalization records and establishes criminal penalties for the unlawful disclosure of information contained in or derived from the prepaid mobile telephony services surcharge and local charge records of the Board;

NOW, THEREFORE IT IS RESOLVED AND ORDERED AS FOLLOWS:

Section 1. That the Director of Finance, Business Services Manager, Fiscal Services Manager, or other officer or employee of the Local Jurisdiction designated in writing by the City Manager to the Board is hereby appointed to represent the Local Jurisdiction with authority to examine prepaid mobile telephony services surcharge and local charge records of the Board pertaining to prepaid mobile telephony services surcharge and local charges collected for the Local Jurisdiction by the Board pursuant to the contract between the Local Jurisdiction and the Board. The information obtained by examination of Board records shall be used only for purposes related to the collection of the Local Jurisdiction’s prepaid mobile telephony services surcharge and local charges by the Board pursuant to the contract.

Section 2. That the Director of Finance, Business Services Manager, Fiscal Services Manager, or other officer or employee of the Local Jurisdiction designated in writing by the City Manager to the Board is hereby appointed to represent the Local Jurisdiction with authority to examine those prepaid mobile telephony services surcharge and local charge records of the Board for purposes related to the following governmental functions of the Local Jurisdiction:
   a) Budgeting
   b) Business licensing
   c) Enforcement of Utility User Tax Ordinance
The information obtained by examination of Board records shall be used only for those governmental functions of the Local Jurisdiction listed above.

Section 3. That the City Manager, or designee (currently MuniServices, LLC) is hereby designated to examine the prepaid mobile telephony services surcharge and local charges records of the Board of Equalization pertaining to prepaid mobile telephony services surcharge and local charges collected for the Local Jurisdiction by the Board. The person or entity designated by this section meets all of the following conditions (Rev. & Tax. Code, § 42110, subd. (b)(2)):

a) has an existing contract with the Local Jurisdiction that authorizes the person to examine the prepaid mobile telephony services surcharge and local charge records;

b) is required by that contract with the Local Jurisdiction to disclose information contained in or derived from, those records only to an officer or employee of the Local Jurisdiction authorized by the resolution to examine the information;

c) is prohibited by that contract from performing consulting services for a seller during the term of that contract;

d) is prohibited by that contract from retaining information contained in, or derived from, those prepaid mobile telephony services surcharge and local charge records, after that contract has expired.

The contract between the Local Jurisdiction and its designee (currently MuniServices, LLC) that is authorized to request information from the Board shall be subject to the following limitations (Rev. & Tax. Code, § 42103, subd. (g)):

a) Local Jurisdiction’s designee (currently MuniServices, LLC) shall, to the same extent as the Board, be subject to Section 55381, relating to unlawful disclosures.

b) The contract between the Local Jurisdiction and its designee (currently MuniServices, LLC) shall not provide, in whole or in part, in any manner a contingent fee arrangement as payment for services rendered.

Section 4. The City Manager and the City Attorney are authorized to execute all document needed to implement the intent of this Resolution and facilitate the collection of Local Jurisdiction’s surcharge and local charges by the Board.

BE IT FURTHER RESOLVED THAT the information obtained by examination of the Board records shall only be used for purposes related to the collection of the Local Jurisdiction’s prepaid mobile telephony services surcharge and local charges by the Board pursuant to the contract between the Local Jurisdiction and Board, or for purposes related to other governmental functions of the Local Jurisdiction, as identified above in section 2.

Introduced, approved and adopted this ____________ day of ____________, 20__.
AGREEMENT FOR STATE COLLECTION AND ADMINISTRATION OF LOCAL CHARGES

This Agreement is for the purpose of implementing the Local Prepaid Mobile Telephony Services Collection Act (Part 21.1, commencing with Section 42100) of Division 2 of the Revenue and Taxation Code, hereinafter referred to as the Local Charge Act. The City of El Segundo and the State Board of Equalization, hereinafter called the Board, do agree as follows:

ARTICLE I
DEFINITIONS

Unless the context requires otherwise, wherever the following terms appear in this Agreement they shall be interpreted to mean the following:

A. "Administrative Expenses" means all expenses incurred by the Board in the administration and collection of the local charges, including preparation and wind down costs which are reimbursable to the Board from the revenues collected by the Board on behalf of the local jurisdiction.

B. "Contingent Fee" includes, but is not limited to, a fee that is based on a percentage of the tax liability reported on a return, a fee that is based on a percentage of the taxes owed, or a fee that depends on the specific tax result attained.

C. "Direct Seller" means a prepaid Mobile Telephony Service (MTS) provider or service supplier, as defined in section 41007, that makes a sale of prepaid mobile telephony services directly to a prepaid consumer for any purpose other than resale in the regular course of business. A direct seller includes, but is not limited to, a telephone corporation, a person that provides an interconnected Voice over Internet Protocol (VoIP) service, and a retailer as described in section 42004(b)(1).

D. "Local Charges" means a utility user tax imposed on the consumption of prepaid mobile telephony services, as described in section 42102, and charges for access to communication services or to local "911" emergency telephone systems imposed by a local jurisdiction, as described in section 42102.5.

E. "Local Jurisdiction" or "local agency" means a city, county, or city and county, which includes a charter city, county, or city and county of this State, which has adopted an ordinance imposing a local charge of the kind described in Part 21.1 of Division 2 of the Revenue and Taxation Code and has entered into a contract with the Board to perform all functions incident to the collection of the local charges.

F. "Ordinance" means an ordinance of a local jurisdiction imposing a local charge, including any local enactment relating to the filing of a refund or a claim arising under the ordinance, attached hereto, as amended from time to time.
G. "Quarterly local charges" means the total amount of local charges transmitted by the Board to a local jurisdiction for a calendar quarter, as set forth in section 42106(a)(1).

H. "Refund" means the amount of local charges deducted by the Board from a local jurisdiction's quarterly local charges in order to pay that jurisdiction's share of a local charge refund due to one taxpayer.

I. "Section" – all section references are to the Revenue and Taxation Code.

J. "Seller" means a person that sells prepaid mobile telephony service to a person in a retail transaction.

ARTICLE II
BOARD ADMINISTRATION AND COLLECTION OF LOCAL CHARGES

A. Administration. The Board and the local jurisdiction agree that the Board shall perform functions incident to the collection of the local charges from sellers that are not direct sellers.

B. Collection. The Board shall collect the local charges in the same manner as it collects the prepaid MTS Surcharge in the Prepaid Mobile Telephony Services Surcharge Collection Act, subject to specified limitations in the Local Charge Act for which the local jurisdiction is responsible, as set forth in Article III of this Agreement.

C. Audits. The Board’s audit duties shall be limited to verification that the seller that is not a direct seller complied with the Local Charge Act.

D. Other applicable laws. The Board and the local jurisdiction agree that all provisions of law applicable to the administration and operation of the Local Charge Act, Prepaid Mobile Telephony Services Surcharge Collection Act, and the Fee Collection Procedures Law (FCPL) shall be applicable to the collection of local charges. References in the FCPL to feepayer include a person required to pay the local charge, including the seller. All future amendments to applicable laws are automatically incorporated into this Agreement.

E. Deposit of Local Charges. All local charges collected by the Board shall be deposited in the Local Charges for Prepaid Mobile Telephony Services Fund in the State Treasury to be held in trust for the local taxing jurisdiction. Local charges shall consist of all taxes, charges, interest, penalties, and other amounts collected and paid to the Board, less payments for refunds and reimbursement to the Board for expenses incurred in the administration and collection of the local charges, including preparation and wind down costs.

F. Allocation of Expenses. The Board shall allocate the total combined annual expenses incurred for administration and collection pursuant to the Prepaid Mobile Telephony Services Surcharge Collection Act and the Local Charge Act on a pro rata basis
according to revenues collected for: (1) the emergency telephone users surcharge portion of the prepaid MTS surcharge, (2) the Public Utilities Commission surcharges portion of the prepaid MTS surcharge, and (3) local charges. The Board shall charge a local jurisdiction its pro rata share of the Board’s cost of collection and administration.

G. Transmittal of money. All local charges collected by the Board shall be transmitted to the local jurisdiction once in each calendar quarter. Transmittals may be made by mail or by deposit to the account of the local jurisdiction in a bank designated by that jurisdiction. The Board shall furnish a statement quarterly indicating the amounts paid and withheld for expenses of the Board.

H. Rules. The Board shall prescribe and adopt such rules and regulations as in its judgment are necessary or desirable for the administration and collection of local charges and the distribution of the local charges collected.

I. Security. The Board agrees that any security which it hereafter requires to be furnished under the FCPL section 55022 will be upon such terms that it also will be available for the payment of the claims of the local jurisdiction for local taxes owing to it as its interest appears. The Board shall not be required to change the terms of any security now held by it, and the local jurisdiction shall not participate in any security now held by the Board.

J. Records of the Board.

1. Information obtained by the local jurisdiction from the examination of the Board’s records shall be used by the local jurisdiction only for purposes related to the collection of the prepaid mobile telephony services surcharge and local charges by the Board pursuant to this Agreement.

2. When requested by resolution of the legislative body of a local jurisdiction, the Board shall permit any duly authorized officer or employee or other person designated by that resolution to examine any information for its own jurisdiction that is reasonably available to the Board regarding the proper collection and remittance of a local charge of the local jurisdiction by a seller, including a direct seller, subject to the confidentiality requirements of sections 7284.6, 7284.7 and 19542. (sections 42110(b), 42103(e).).

3. The resolution of the local jurisdiction shall certify that any person designated by the resolution, other than an officer and an employee, meets all of the following conditions:

a. Has an existing contract with the local jurisdiction that authorizes the person to examine the prepaid MTS surcharge and local charge records.

b. Is required by that contract with the local jurisdiction to disclose information contained in or derived from, those records only to an officer or employee of the local jurisdiction authorized by the resolution to examine the information.
c. Is prohibited by that contract from performing consulting services for a seller during the term of that contract.

d. Is prohibited by that contract from retaining information contained in, or derived from, those prepaid MTS surcharge and local charge records, after that contract has expired.

4. Any third party contract between the local jurisdiction and an entity or person authorized by the local jurisdiction to request information from the Board shall be subject to the following limitations:

a. Any third party shall, to the same extent as the Board, be subject to Section 55381, relating to unlawful disclosures.

b. A third party contract shall not provide, in whole or in part, in any manner a contingent fee arrangement as payment for services rendered.

5. Information obtained by examination of Board records shall be used only for purposes related to the collection of the prepaid MTS surcharge and local charges by the board pursuant to the contract, or for purposes related to other governmental functions of the local jurisdiction set forth in the resolution.

6. If the Board believes that any information obtained from the Board's records related to the collection of the prepaid MTS surcharge and local charges has been disclosed to any person not authorized or designated by the resolution of the local jurisdiction, or has been used for purposes not permitted by section 42110(b), the board may impose conditions on access to its local charge records that the board considers reasonable, in order to protect the confidentiality of those records. (section 42110(c).)

7. The costs incurred by the Board in complying with a request for information shall be deducted by the Board from those revenues collected by the Board on behalf of the local jurisdiction making the request, as authorized by section 42110(b)(1).

ARTICLE III
LOCAL JURISDICTION
ADMINISTRATION AND RESPONSIBILITIES

A. The local jurisdictions shall be solely responsible for all of the following:

1. Defending any claim regarding the validity of the ordinance in its application to prepaid mobile telephony service. The claim shall be processed in accordance with the provisions of the local ordinance that allows the claim to be filed.

2. Interpreting any provision of the ordinance, except to the extent specifically superseded by section 42105 of the Local Charge Act. The claim shall be processed in accordance with the provisions of the local enactment that allows the claim to be filed.
3. Responding to specified consumer claims for refund involving: (1) rebutting the presumed location of the retail transaction; (2) a consumer claim of exemption from the local charge under the ordinance; or (3) any action or claim challenging the validity of a local tax ordinance, in whole or part. The claim shall be processed in accordance with the provisions of the local enactment that allows the claim to be filed.

4. Refunding the taxes in the event a local jurisdiction or local government is ordered to refund the tax under the local ordinance.

5. Reallocating local charges as a result of correcting errors relating to the location of the point of sale of a seller or the known address of a consumer, for up to two past quarters from the date of knowledge.

6. Collecting local charges on prepaid mobile telephony service and access to communication services or access to local 911 emergency telephone systems imposed on direct sellers.

7. Enforcement, including audits, of the collection and remittance of local charges by direct sellers pursuant to the ordinance.

8. The local jurisdiction shall be the sole necessary party defendant on whose behalf the local charge is collected in any action seeking to enjoin collection of a local charge by a seller, in any action seeking declaratory relief concerning a local charge, in any action seeking a refund of a local charge, or in any action seeking to otherwise invalidate a local charge. There shall be no recovery from the State for the imposition of any unconstitutional or otherwise invalid local charge that is collected under the Local Act.

9. Entering into an agreement with the Board to perform the functions incident to the collection of the local charges imposed on sellers that are not direct sellers.

10. Submitting an executed Certification to the Board, certifying that:

(a) the local jurisdiction’s ordinance applies the local charge to prepaid mobile telephony services;

(b) the amount of the rate charged for access to local 911 emergency telephone systems or access to communications services complies with the requirements of section 42102.5; and/or applies the tiered rate for the utility user tax, as identified in section 42102.

(c) The local jurisdiction shall further certify that it agrees to indemnify and to hold harmless the Board, its officers, agents, and employees for any and all liability for damages that may result from the Board’s collection pursuant to this Agreement.

11. Submitting signed documents to the Board to include agreement(s), certification, copy of ordinance(s), and resolution(s).
12. Providing payment to the Board of the local jurisdiction’s pro rata share of the Board’s cost of collection and administration as established pursuant to subdivision (e) of section 42020.

ARTICLE IV
LOCAL CHARGES

A. Local Charges – Timeliness – This part shall remain in effect until proposed California Code of Regulations, title 18, section 2460 is adopted by the Board and approved by the Office of Administrative Law.

1. Ordinances in effect as of September 1, 2015.
On or after January 1, 2016, a local charge imposed by a local jurisdiction on prepaid mobile telephony services shall be collected from the prepaid consumer by a seller at the same time and in the same manner as the prepaid MTS surcharge is collected under Part 21 (commencing with section 42001) provided that, on or before September 1, 2015, the local jurisdiction enters into a contract with the Board pursuant to section 42101.5. Thereafter, all subsequently enacted local charges, increases to local charges, or other changes thereto, shall become operative pursuant to paragraphs (2), (3), and (4).

2. New charges. When a local jurisdiction adopts a new local charge after September 1, 2015, the local jurisdiction shall enter into a contract with the Board, pursuant to section 42101.5, on or before December 1st, with collection of the local charge to commence April 1st of the next calendar year.

3. Increases in local charges. When a local jurisdiction increases an existing local charge after September 1, 2015, the local jurisdiction shall provide the Board written notice of the increase, on or before December 1st, with collection of the local charge to commence April 1st of the next calendar year.

4. Inaccurate rate posted on the Board’s website. When a local jurisdiction notifies the Board in writing that the rate posted on the Board’s Internet Web site (posted rate) for a local charge imposed by that local jurisdiction is inaccurate, including scenarios where the local charge was reduced or eliminated, the recalculated rate applicable to the local jurisdiction shall become operative on the first day of the calendar quarter commencing more than 60 days from the date the Board receives the local jurisdiction’s written notification that the posted rate is inaccurate.

A. Local Charges – Timeliness – This part shall take effect and supersede the above “Local Charges – Timeliness section when California Code of Regulations, title 18, section 2460 is adopted by the Board and approved by the Office of Administrative Law.
1. **Ordinances in effect as of September 1, 2015.** On or after January 1, 2016, a local charge imposed by a local jurisdiction on prepaid mobile telephony services shall be collected from the prepaid consumer by a seller at the same time and in the same manner as the prepaid MTS surcharge is collected under Part 21 (commencing with section 42001) provided that, on or before September 1, 2015, the local jurisdiction enters into a contract with the Board pursuant to section 42101.5.

In the event a local jurisdiction does not enter into a contract with the Board by September 1, 2015, the local jurisdiction may enter into a contract with the Board, pursuant to section 42101.5, on or before December 1st, with collection of the local charge to commence April 1st of the next calendar year. Thereafter, all subsequently enacted local charges, increases to local charges, or other changes thereto, shall become operative pursuant to paragraphs (2), (3), (4) and (5) of this subdivision.

2. **New charges.** When a local jurisdiction adopts a new local charge after September 1, 2015, the local jurisdiction shall enter into a contract with the Board, pursuant to section 42101.5, on or before December 1st, with collection of the local charge to commence April 1st of the next calendar year.

3. **Increases in local charges.** When a local jurisdiction increases an existing local charge after September 1, 2015, the local jurisdiction shall provide the Board written notice of the increase, on or before December 1st, with collection of the local charge to commence April 1st of the next calendar year.

4. **Advance written notification.** When a local charge is about to expire or decrease in rate, the local jurisdiction imposing the local charge shall notify the Board in writing of the upcoming change, not less than 110 days prior to the date the local charge is scheduled to expire or decrease. The change shall become operative on the first day of the calendar quarter commencing after the specified date of expiration or decrease in rate.

If advance written notice is provided less than 110 days prior to the specified date of expiration or decrease in rate, the change shall become operative on the first day of the calendar quarter commencing more than 60 days after the specified date of expiration or decrease.

5. **Inaccurate Rate Posted on the Board’s Web site.** When a local jurisdiction notifies the Board in writing that the rate posted on the Board’s Internet Web site (posted rate) for a local charge imposed by that local jurisdiction is inaccurate, including scenarios where the local charge was reduced or eliminated and the local jurisdiction failed to provide advance written notice pursuant to paragraph 4 of this subdivision, the recalculated rate applicable to the local jurisdiction shall become operative on the first day of the calendar quarter commencing more than 60 days from the date the Board receives the local jurisdiction’s written notification that the posted rate is inaccurate. The local jurisdiction shall promptly notify the Board in writing of any such discrepancies with the posted rate that are known or discovered by the local jurisdiction.
ARTICLE V
COMPENSATION

The local jurisdiction agrees to pay the Board its pro rata share of the Board’s cost of collection and administration of the local charges, as established pursuant to section 42020, subdivision (e). Such amounts shall be deducted from the local charges collected by the Board for the local jurisdiction.

ARTICLE VI
MISCELLANEOUS PROVISIONS

A. Communications. Communications and notices may be sent by first-class United States Mail. A notification is complete when deposited in the mail. Communications and notices to be sent to the Board shall be addressed to:

State Board of Equalization
P.O. Box 942879 MIC: 27
Sacramento, California 94279-0001

Attention: Supervisor,
Local Revenue Allocation Unit Communications

and notices to be sent to the local jurisdiction shall be addressed to:

City of El Segundo
350 Main Street
El Segundo, California 90245

Attention: Director of Finance

B. Term. The date of this Agreement is the date on which it is approved by the Department of General Services. The Agreement shall take effect on the first day of the calendar quarter next succeeding the date of such approval, but in no case before the operative date of the local jurisdiction’s ordinance, nor on a day other than the first day of a calendar quarter. This Agreement shall be renewed automatically from year to year until January 1, 2020, when the Local Charge Act is repealed, unless a statute enacted prior to that date extends that date. In such event, this Agreement will continue to renew automatically from year to year to the date authorized by statute.
STATE BOARD OF EQUALIZATION

By ____________________
Administrator,
Return Analysis and Allocation Section

CITY OF EL SEGUNDO

By ____________________
   Greg Carpenter, City Manager
AGENDA DESCRIPTION:

Consideration and possible action regarding a thirty (30) day provisional appointment extension for the position of Interim Deputy City Clerk II in the City Clerk’s office.
(Fiscal Impact: $)

RECOMMENDED COUNCIL ACTION:

1. Approve the thirty (30) day provisional appointment extension for the position of Interim Deputy City Clerk II;
2. Alternatively, discuss and take other actions related to this item.

ATTACHED SUPPORTING DOCUMENTS:

El Segundo City Code Section 1-6-13

FISCAL IMPACT: $

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

ORIGINATED BY: Tracy Weaver, City Clerk
REVIEWED BY: Tracy Weaver, City Clerk
APPROVED BY: Greg Carpenter, City Manager

BACKGROUND AND DISCUSSION:

The City Clerk’s office is requesting a 30 day extension for the interim position of Deputy City Clerk II. Mona Shilling has been acting Deputy City Clerk II since January 2015 due to the retirement of Cathy Domann, who held the position for over 13 years. The position requires the Deputy City Clerk II to be a Certified Municipal Clerk, a designation Ms. Shilling is expected to receive in the latter part of September 2015. In order to allow Ms. Shilling to be eligible to compete in the selection process for Deputy City Clerk II, the Clerk’s office is requesting an extension for the position of Interim Deputy City Clerk II.

In accordance with El Segundo City Code (ESCC) Section 1-6-13(c), no person shall be employed by the City under provisional appointment for more than six (6) months in any fiscal year. The Code further states the provisional appointment may be extended for not more than thirty (30) days with Council approval. Staff is requesting a thirty (30) day extension through August 4, 2015. It is the Clerk’s Office intent to request additional thirty (30) day extensions through the remainder of the fiscal year to comply with ESCC Section 1-6-13(c).
AGENDA DESCRIPTION:

Consideration and possible action regarding approval of an amendment to the MuniTemps agreement number 4802 for temporary staffing in City Clerk’s Office / Deputy City Clerk I. (Fiscal Impact $16,000.00)

RECOMMENDED COUNCIL ACTION:

1. Authorize City Manager to execute an agreement amendment, in a form approved by the City Attorney, with MuniTemps, for additional temporary staffing.
2. Alternatively, discuss and take other possible action related to this item.

ATTACHED SUPPORTING DOCUMENTS:

None

FISCAL IMPACT: None

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ORIGINATED BY: Mona Shilling, Deputy City Clerk II (Acting)
REVIEWED BY: Tracy Weaver, City Clerk
APPROVED BY: Greg Carpenter, City Manager

BACKGROUND AND DISCUSSION:
The Deputy City Clerk II position is currently vacant. The Deputy City Clerk I is currently acting in this position. In order to address the vacancy, the City Manager approved a five year on-call agreement for staffing services with MuniTemps to provide staffing services for the City Clerk’s Office in the amount not to exceed $25,000 total. Since that time, MuniTemps has provided satisfactory customer service consistent with their agreement terms and conditions. It is anticipated the current amount ($25,000) will be expended before the end of the FY 2014/2015. Because any amendment to the agreement will cause the contract amount to exceed $25,000, City Council approval is required.

At this time, staff is requesting the City Council approve a first amendment to the agreement for an additional amount of $16,000.00, in a form approved by the City Attorney, for MuniTemps Inc. to continue to provide temporary staffing services to the City Clerk’s Office.
EL SEGUNDO CITY COUNCIL
AGENDA STATEMENT

MEETING DATE: August 18, 2015
AGENDA HEADING: Consent Agenda

AGENDA DESCRIPTION:

Consideration and possible action to receive and file this report regarding emergency work to repair dwelling units at the Park Vista Senior Housing Facility due to water intrusion without the need for bidding in accordance with Public Contracts Code §§ 20168 and 22050 and El Segundo Municipal Code (“ESMC”)§ 1-7-12 and 1-7A-4. (Fiscal Impact: $50,000.00)

RECOMMENDED COUNCIL ACTION:

(1) Receive and file this report regarding emergency work to repair dwelling units at the Park Vista Senior Housing Facility due to water intrusion without the need for bidding in accordance with Public Contracts Code §§ 20168 and 22050 and El Segundo Municipal Code (“ESMC”)§ 1-7-12 and 1-7A-4.

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

ATTACHED SUPPORTING DOCUMENTS:

None

FISCAL IMPACT: Included in Adopted Budget

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ORIGINATED BY: Stephanie Katsouleas, Director of Public Works

REVIEWED BY: Gregg Kovacevich, Assistant City Attorney

APPROVED BY: Greg Carpenter, City Manager

BACKGROUND AND DISCUSSION:

Following the Park Vista Board’s approval on July 22, 2015 to move forward with the repairs, staff began executing contract documents. The work will include installing six (6) new drains and applying new elastomeric deck coating on the balconies of three (3) units for an estimated $37,000 plus contingency. The work is expected to be completed before the onset of the rainy season this fall.

Public Contracts Code § 22050 (c) requires that the City Council receive updates at every regularly scheduled meeting until the emergency repair is completed. Therefore, staff recommends that City Council receive and file this report on the status of the emergency repair to address the water intrusion issues at Park Vista Senior Housing Facility.