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
WEDNESDAY, JUNE 4, 2008 - 5:00 P.M.

Next Resolution # 4559
Next Ordinance # 1419

5:00 P.M. SESSION

CALL TO ORDER

ROLL CALL

PUBLIC COMMUNICATION – (Related to City Business Only – 5 minute limit per person, 30 minute limit total) Individuals who have received value of $50 or more to communicate to the City Council on behalf of another, and employees speaking on behalf of their employer, must so identify themselves prior to addressing the City Council. Failure to do so shall be a misdemeanor and punishable by a fine of $250.
SPECIAL ORDER OF BUSINESS:

1. Consideration and possible action to appoint Interim City Manager Jack Wayt as labor negotiator for terms and conditions of employment of unrepresented management/confidential employees (City employees who are not members of bargaining units).

2. Consideration and possible action to appoint Human Resources Director Bob Hyland and Finance Director Deborah Cullen as labor negotiator for terms and conditions of employment for the El Segundo Police Manager’s Association.

3. Consideration and possible action to appoint Richard Kreisler as labor negotiator for terms and conditions of employment for the El Segundo Police Officers’ Association and El Segundo Firefighter’s Association.

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(a)) – -1- matters

1. City of El Segundo vs. City of Los Angeles, et. al. LASC No. BS094279

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Government Code §54956.9(b): -0- potential case (no further public statement is required at this time); Initiation of litigation pursuant to Government Code §54956.9(c): -0- matter.

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

CONFERENCE WITH CITY’S LABOR NEGOTIATOR (Gov’t Code §54957.6): -4- matters
City Negotiators: Interim City Manager Jack Wayt; Human Resources Director Bob Hyland; Finance Director Deborah Cullen; Richard Kreisler. Employee Organizations: (1) Unrepresented management/confidential employees (City employees who are not members of bargaining units); (2) the El Segundo Police Officers’ Association; (3) El Segundo Firefighter’s Association; and (4) the El Segundo Police Manager’s Association.

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

SPECIAL MATTERS: -0- matter
AGENDA
EL SEGUNDO CITY COUNCIL
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REGULAR MEETING OF THE EL SEGUNDO CITY COUNCIL
WEDNESDAY, JUNE 4, 2008 - 7:00 P.M.

7:00 P.M. SESSION

CALL TO ORDER

INVOCATION –

PLEDGE OF ALLEGIANCE – Council Member Don Brann
PRESENTATIONS

a. Proclamation to proclaim June as Relay for Life month and designate June 7 and June 8 as Relay for Life days.

ROLL CALL

PUBLIC COMMUNICATIONS – (Related to City Business Only – 5 minute limit per person, 30 minute limit total) Individuals who have received value of $50 or more to communicate to the City Council on behalf of another, and employees speaking on behalf of their employer, must so identify themselves prior to addressing the City Council. Failure to 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.

A. PROCEDURAL MOTIONS

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

Recommendation – Approval.

B. SPECIAL ORDERS OF BUSINESS (PUBLIC HEARING)

1. Appeal by X-Factor, LP from a Planning Commission decision rendered on February 28, 2008 directing the Planning and Building Safety Director to record a Notice of Violation (in accordance with Government Code § 66499.36) against real property located at 711 S. Aviation Boulevard (APN 4138-009-015). X-Factor and the City mutually agreed to a public hearing date of June 4, 2008. (Fiscal Impact: None)

Recommendation – (1) Open the public hearing; 2) Take testimonial and documentary evidence; (3) Determine whether to affirm, reverse, or modify the Planning Commission decision of February 28, 2008 based upon the record and such additional evidence that may be submitted in accordance with ESMC § 15-25-4; (4) If the City Council proposes to reverse or modify the Planning Commission decision, it may request additional information from the Planning Commission in accordance with ESMC § 15-25-5 before taking such action; (5) Alternatively, discuss and take other action related to this item.

C. UNFINISHED BUSINESS
D. REPORTS OF COMMITTEES, COMMISSIONS AND BOARDS

2. Consideration and possible action regarding the announcement of the appointments of candidates to the following Committees, Commissions and Boards (CCBs): Recreation and Parks Commission and Senior Citizens Housing Corporation Board.

Recommendation – (1) Announce the appointments to the CCBs, if any, and the terms of office; (2) Announce the recruitment continues for positions on remaining CCBs: Environmental Committee, Planning Commission, Library Board of Trustees and interviews will be scheduled for June 17, 2008; (3) Alternatively, discuss and take other action related to this item.

E. CONSENT AGENDA

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

3. Warrant Numbers 2565908 to 2566150 on Register No. 16 in the total amount of $1,787,295.85 and Wire Transfers from 5/9/2008 through 5/22/2008 in the total amount of $1,634,544.95

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 regarding the approval of the examination plans for the Personnel Merit System job classification of Senior Building Inspector. (Fiscal Impact: None)

Recommendation – (1) Approve the examination plans; (2) Alternatively, discuss and take other action related to this item.

6. Consideration and possible action regarding: 1) the approval of a change order for additional painting at the Park Vista Senior Apartments, and 2) acceptance of all public works activities under Project No. PW 07-12, which includes painting at the Park Vista Senior Apartments (615 E. Holly Avenue), the Lakes Golf Course (400 S. Sepulveda Boulevard) and the El Segundo Police Department (348 Main Street). (Fiscal Impact: $14,300.00)

Recommendation – (1) Approve Change Order No. 2 in the amount of $14,300.00 for additional painting at the Park Vista Senior Apartments; (2) Accept all painting work under this contract as complete; (3) Authorize the City Clerk to file a Notice of Completion in the County Recorder’s Office; (4) Alternatively, discuss and take other action related to this item.
7. Consideration and possible action to waive the formal bidding process and approve a contract with Tyler Technologies for the purchase of Eden Utility Billing software and related support services for the Water Division of Public Works. (Fiscal Impact: $69,095)

Recommendation – (1) Pursuant to El Segundo Municipal Code Section 1-7-10, waive the formal bid process based on a sole source vendor for the purchase of Utility Billing Software and related support services for the Water Division; (2) Authorize the City Manager to execute a contract as approved by the City Attorney to purchase Eden Utility Billing Software and related support services from Tyler Technologies; (3) Alternatively, discuss and take other action related to this item.

8. Consideration and possible action to approve Amendment No. 2 to a Memorandum of Understanding (MOU) between the City of El Segundo and the Los Angeles County Metropolitan Transportation Authority (MTA). The Amendment would change the scope of work to allow resurfacing of the asphalt concrete pavement on Douglas Street between El Segundo Boulevard and Imperial Highway. Project No. PW 07-09. (Fiscal Impact: $478,785 – MTA Grant Revenue of $236,766 and Traffic Mitigation fees $242,019).

Recommendation – (1) Authorize the Interim City Manager to execute Amendment No. 2 in a form approved by the City Attorney; (2) Authorize the Interim City Manager to execute all documents needed to receive the MTA funds, amend the City’s budget as appropriate, and spend the money; (3) Alternatively, discuss and take other action related to this item

9. Consideration and possible action regarding a new Alcoholic Beverage Control (ABC) license for on-site sale and on-site consumption of alcohol (Type 41 – On-Sale Beer and Wine) at a new restaurant located at 700 Allied Way, Suite A, EA No 789 and AUP No. 08-01. Applicant: The Counter Restaurant c/o Fori and Paula Owurowa. (Fiscal Impact: None)

Recommendation – (1) Receive and file determination that the City Council does not object to issuance of a new Type 41 ABC license at 700 Allied Way, Suite A; (2) Alternatively, discuss and take other action related to this item.

10. Consideration and possible action regarding the approval of the release of retention to SEMA Corporation in connection with the Douglas Street Gap Closure Project - Public Works Project No. 05-06. (Retention Amount: approximately $1,038,067.68).

Recommendation – (1) Release the full retention currently held in an escrow account (approximately $1,038,067.68) to SEMA Corporation; and (2) Alternatively, discuss and take other action related to this item.

Recommendation: (1) Award bid in the amount of $39,668.25 to Media Control Systems for a Cable TV Bulletin and Automation System; (2) Authorize the Interim City Manager to execute a Professional Services Agreement with Media Control Systems, in a form approved by the City Attorney; (3) Alternatively, discuss and take other action related to this item.

CALL ITEMS FROM CONSENT AGENDA

F. NEW BUSINESS

G. REPORTS – CITY MANAGER

H. REPORTS – CITY ATTORNEY

I. REPORTS – CITY CLERK

12. Consideration and possible action regarding cancellation of the July 1, 2008 City Council Meeting.

Recommendation – (1) Approve cancellation of the July 1, 2008 City Council Meeting; (2) Alternatively, discuss and take other action related to this item.

J. REPORTS – CITY TREASURER

K. REPORTS – CITY COUNCIL MEMBERS

Council Member Fisher –
Council Member Jacobson –

Council Member Brann –

Mayor Pro Tem Busch –

Mayor McDowell –

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MEMORIALS –

CLOSED SESSION

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

REPORT OF ACTION TAKEN IN CLOSED SESSION (if required)

ADJOURNMENT

POSTED:

DATE: May 28, 2008
TIME: 3:30 p.m.
NAME: [Signature]
Proclamation  
City of El Segundo, California

WHEREAS, Cancer is a group of diseases characterized by uncontrolled growth and spread of abnormal cells which, if not controlled, can result in premature death; and

WHEREAS, cancer is predicted to strike one out every three Americans sometime in our lifetime with an estimated 142,070 new cases of diagnosed cancer in California in 2008; and

WHEREAS, approximately 53,730 people will die of the disease- about 150 people each hour; and

WHEREAS, The American Cancer Society is the nation’s largest and most respected voluntary health organization since 1913 and has funded research which has contributed to every known method for detecting cancer and techniques for treating cancer: thereby increasing the cancer survival rates from 10% to over 50%; and

WHEREAS, The American Cancer Society is a voluntary community-based coalition of local citizens dedicated to eliminating cancer as a major health problem through financial support and education awareness; and

WHEREAS, the El Segundo RELAY FOR LIFE event financially benefits The American Cancer Society’s research and support programs, and educationally benefits our local citizens; and

WHEREAS, the El Segundo RELAY FOR LIFE is a community event that allows all participants an opportunity to network with businesses, associates, family, and friends, with the same goal of making a difference in the battle against cancer.

NOW, THEREFORE, on this 4th day of June, 2008, the Mayor and Members of the City Council of the City of El Segundo, California, hereby proclaim the month of June RELAY FOR LIFE month and designate June 7th 2008 and June 8th 2008 as RELAY FOR LIFE days throughout the City of El Segundo. We further urge all citizens to recognize and participate in this anti cancer campaign being held in our community to show support to those individuals living with cancer, and honor those individuals that have lost their lives to the dreaded disease of cancer.

Mayor Kelly McDonald

Mayor Pro Temp, Eric H. Stock
Council Member, Carl Jacobson

Council Member, Bill Fisha  Council Member, Don Brown

009
AGENDA DESCRIPTION:

Appeal by X-Factor, LP from a Planning Commission decision rendered on February 28, 2008 directing the Planning and Building Safety Director to record a Notice of Violation (in accordance with Government Code § 66499.36) against real property located at 711 S. Aviation Boulevard (APN No. 4138-009-015). X-Factor and the City mutually agreed to a public hearing date of June 4, 2008. (Fiscal Impact: None)

RECOMMENDED COUNCIL ACTION:

1) Open the public hearing;
2) Take testimonial and documentary evidence;
3) Determine whether to affirm, reverse, or modify the Planning Commission decision of February 28, 2008 based upon the record and such additional evidence that may be submitted in accordance with ESMC § 15-25-4;
4) If the City Council proposes to reverse or modify the Planning Commission decision, it may request additional information from the Planning Commission in accordance with ESMC § 15-25-5 before taking such action;
5) Alternatively, discuss and take other action related to this item.

BACKGROUND & DISCUSSION:
This is an appeal by X-Factor, LP from a Planning Commission decision dated February 28, (continued on next page)

ATTACHED SUPPORTING DOCUMENTS:
1. Planning Commission Staff Report dated December 13, 2007 and Attachments
2. Planning Commission Staff Report dated February 28, 2008 and Attachments
4. Planning Commission Resolution No. 2629
6. Appeal Application received March 7, 2008
7. E-mail from Robert P. Andreani, representative of X-Factor, L.P., dated May 19, 2008 requesting to postpone the appeal hearing
8. E-mail from Robert P. Andreani with attached letter entitled “Supplemental Memorandum” from Richard S. Hessenius, representatives of X-Factor, L.P., both dated May 27, 2008
9. Draft City Council Resolution

FISCAL IMPACT: None
Operating Budget: N/A
Amount Requested: N/A
Account Number: N/A
Project Phase: N/A
Appropriation Required: X No

ORIGINATED BY: [Signature]
DATE: 5-28-08

Gary Chicots, Director of Planning and Building Safety

REVIEWED BY: [Signature]
DATE: 5-28-08

Jack Wayt, Interim City Manager
2008 and memorialized in Resolution No. 2629 (attached). The Planning Commission determined that real property at 711 South Aviation Boulevard ("the Property") was illegally subdivided on or about September 26, 1967. In its March 7, 2008 appeal, X-Factor asserts that the Planning Commission's decision was incorrect for several reasons.

In its written appeal (see attached), X-Factor repeats arguments it made at the February 28, 2008 Planning Commission public hearing. Generally, X-Factor claims that:

- The property owned by X-Factor was subdivided before March 4, 1972 and, consequently, is not subject to state or local subdivision laws;
- X-Factor purchased its property after March 4, 1972; and
- X-Factor did not have actual or constructive notice of any subdivision violation.

As shown by its adoption of Resolution No. 2629, the Planning Commission found these arguments unpersuasive.

It is true that the Property was subdivided before March 4, 1972 (the statutory effective date for the Subdivision Map Act). However, El Segundo Municipal Code ("ESMC") § 34.2 was in effect on September 26, 1967 when the Properties were subdivided. ESMC § 34.2 required that a record of survey be recorded to divide lots in compliance with the zoning regulations and minimum lot size. The Planning Commission found that the Property did not comply with this requirement when it was subdivided.

While the fact that X-Factor purchased its real property after March 4, 1972 may be relevant with regard to private actions between X-Factor and its title company or previous owner(s), it is irrelevant as to the ESMC regulations affecting property subdivisions and the Subdivision Map Act ("Map Act"). Similarly, X-Factor’s actual knowledge of a subdivision violating the Map Act or ESMC is not relevant to this appeal.

As shown by its adoption of Resolution No. 2629, the Planning Commission believed that X-Factor had constructive knowledge of the 1967 subdivision. Constructive knowledge is defined as "knowledge that one using reasonable care or diligence should have, and therefore that is attributed by law to a given person." Here, Map No. 26557 was recorded with the Los Angeles County Recorder’s Office on August 28, 1961 (see attachment to Resolution No. 2629). It established legal lot lines for three parcels of property. The Map, however, was never changed even though the Property was divided without City approval in 1967 by a grant deed.

The documents reflecting these actions are recorded documents that are within the chain of title. Accordingly, it is reasonable to find that X-Factor knew or should have known about the 1967 subdivision.

While not strictly important for X-Factor’s appeal, the City Council should note that staff worked diligently with the owners of all affected properties to achieve compliance with the ESMC and Map Act. Specifically, both property owners were advised to obtain a Conditional Certificate of Compliance ("CCoC") in accordance with the Map Act. The owner of 701 South
Aviation (555 Aviation Boulevard, Ltd.) submitted all of the documents to obtain a CCoC; X-Factor has not.

Recommendation

Consequently, staff recommends that the City Council open a public hearing to consider the Planning Commission’s February 28, 2008 decision; if desirable, take testimonial and documentary evidence; determine whether to affirm, reverse, or modify the Planning Commission decision; and take such additional, related, action that may be desirable.

Note that the City received a “Supplemental Memorandum” from X-Factor on May 27, 2008. The 19 page memorandum is included with this staff report. ESMC § 15-25-3 states, in part, that the Planning and Building Safety Director must “transmit to the City Council the letter of appeal, the application, and all other papers constituting the record upon which the action of the Planning Commission was taken.” The Supplemental Memorandum was not part of X-Factor’s written appeal received on March 7, 2008. Accordingly, it is within the City Council’s discretion whether or not to admit the Supplemental Memorandum into the record at this point (see ESMC § 15-25-4: the City Council can reverse or modify the Planning Commission decision “on the basis of the record transmitted and such additional evidence as may be submitted...”).
I. Introduction

The real property identified as 711 S. Aviation Boulevard (APN No. 4138-009-015) and 701 S. Aviation Boulevard (APN No. 4138-009-016) was legally subdivided into three lots (lots 31, 32 and 35) by Tract Map No. 26557 recorded on August 28, 1961. A building permit was applied for on July 14, 1967 and issued on September 19, 1967 for a new office building and surface parking on the property located at 701 S. Aviation Boulevard (Lots 1, 2, 3, 4, 30, 31, 32, and 35 of Tract 26557). On or about September 26, 1967, the real property was divided into two parcels without approvals under the Subdivision Map Act (Government Code §§66410, et seq.) or the El Segundo Municipal Code ("ESMC"). El Segundo Municipal Code § 34.2 (effective in October 1962) defined a lot as “(1) A parcel of real property when shown as a delineated parcel of land with a number or other designation on a plat recorded in the office of the county recorder;” and “(2) A parcel of land containing not less than the prescribed minimum square footage required in the zone in which it is located, nor more than one acre, the dimensions or boundaries of which are defined by a record of survey recorded pursuant to law when recorded in the office of the county recorder and which abuts at least one public street or private easement determined by the commission to be adequate for purposes of access.
from a street..." Further, ESMC § 34.110 allowed the division of lots or parcels containing more than two times the minimum required lot area into a maximum of four lots with requirements for direct access to a public street or with approval by the planning commission and the city council for divided parcels with access by an easement. Consequently it appears that the subdivision violates Government Code § 66412.6 since no record of survey was recorded in compliance with the zoning regulations and minimum lot size for the reconfiguration of Lots 31, 32 and 35 of Tract 26557 into two lots on or about September 26, 1967. Notification by certified mail of this violation was provided to the property owners on October 15, 2007.

The owners may present evidence that there has been no violation at or before the public hearing. If however, after the owner has presented evidence, the Planning Commission determines that the property has in fact been illegally divided the Planning Commission must approve the recorded notice of violation with the County Recorder. The notice of violation, when recorded, constitutes actual notice to the existing property owners and constructive notice to all subsequent owners regarding such property.

Related to the notice of violation, the City received two applications for off-site parking covenants and permanent off-site parking in excess of ten spaces to satisfy the El Segundo Municipal Code parking requirements for the office/manufacturing buildings located at 555 S. Aviation Boulevard and 701 S. Aviation Boulevard respectively. The requests for approval of off-site parking covenants are to provide parking for the existing 256,654 square-foot building at 555 S. Aviation Boulevard and the 323,136 square-foot building at 701 S. Aviation Boulevard. The two applications also included termination agreements for off-site parking covenants that were improperly recorded with signatures of the tenant rather than the property owner. The project is located in the Light Industrial (M-1) Zone. El Segundo Municipal Code §15-15-8 requires that the Planning Commission approve all off-site parking for ten or more parking spaces.

II. Recommendation

Staff recommends that the Planning Commission open the public hearing, take testimonial and documentary evidence, review the facts and findings related to Environmental Assessment EA No. 750, Miscellaneous No. 07-01; and, either direct the Planning and Building Safety Director to record a notice of violation in accordance with Government Code § 66499.36 or continue the matter to a date certain not to exceed two months to allow the property owners additional time to submit and process the necessary documents including a certificate of compliance. Additionally, staff recommends approving the termination of the existing off-site parking covenants, approving the proposed off-site parking covenants subject to verification of the adequacy of the number of parking spaces being provided by each respective property owner for the buildings at 555 S. Aviation Boulevard and 701 S. Aviation Boulevard, and providing authority to the Director of Planning and
Building Safety to adjust the number of off-site spaces allowed based upon the proposed remodeling and reconfiguration of uses within each respective building.

III. Background

On March 20, 2007, Tim Kelly of J.C. Chang and Associates submitted a Certificate of Compliance application, parking covenant requests, and a series of materials relating to these requests in an effort to resolve the illegal subdivision and parking compliance issues for the two properties and to be able to proceed with plans to remodel the building on behalf of their client, Xerox Corporation who is the tenant in both the 555 S. Aviation Boulevard building and the 711 S. Aviation Boulevard building. However, the parking covenants and the subdivision violation issues can only be resolved by the two affected property owners, X-Factor and 555 S. Aviation, Ltd. Since the City received the application materials, Planning staff has met and/or spoken with all affected parties (tenant, two property owners and their representatives) on multiple occasions in an effort to resolve this matter. Planning staff has determined that the parcels as deeded to separate property owners and currently configured can meet the subdivision requirements and the processing and approval of a Certificate of Compliance is feasible to make both parcels legally compliant with current ESMC requirements for subdivisions and development standards. The standards that have to be met include minimum lot size, minimum lot frontage, access to a public right-of-way, and compliance with all development standards including but not limited to setbacks, lot coverage, and parking for the existing facilities on site.

Parking Covenants

Off-site parking spaces in excess of ten spaces require approval of the Planning Commission. The proposed off-site parking agreements in combination with the on-site parking will ensure that the property is in compliance with the parking requirements of the ESMC.

The existing 256,654 square-foot building at 555 Aviation Boulevard was originally constructed beginning in 1966 and completed in 1968 as a combination manufacturing and office building. There are 85 parking spaces on-site where 325 spaces were required when the permit was issued on January 24, 1966. The number of spaces provided as stated on the building permit was 712 spaces including off-site parking at 701 S. Aviation Blvd. (Lot 35 of Tract 26557). The number of spaces required today will have to be verified with detailed floor plans submitted based upon the proposed uses as the tenant Xerox Corporation is requesting tenant improvements and the parking rates are broken down by use (e.g. 1 space for each 300 square feet of floor area used for offices, 1 space for each 500 square feet for the first 50,000 square feet of floor area and 1 space for each 1,000 square feet for the area in excess of 50,000 square feet for manufacturing and research and development uses, etc.). There is an existing covenant and
agreement (Instrument No. 01 0204706) for off-site parking for 501 spaces which was incorrectly recorded on February 7, 2001 with the tenant’s signature rather than the property owner allocating parking from 701 S. Aviation Boulevard and 711 S. Aviation Boulevard to 555 S. Aviation Boulevard. The existing covenant would be terminated and is proposed to be replaced with a new covenant that would allocate 396 parking spaces from 701 S. Aviation Boulevard to be used to meet parking requirements for the building at 555 S. Aviation Boulevard. The covenant and agreement will run with the leasehold interest of the tenant which is currently the Xerox Corporation. Currently, the tenant Xerox Corporation has submitted plans to the City to reconfigure the space within the existing building. The number of proposed on-site and off-site parking spaces will have to be verified for compliance with the minimum number required based upon the proposed reconfiguration of uses within the existing building.

Further, the existing 323,136 square-foot building at 701 S. Aviation Boulevard was originally constructed in 1967 as an office building for Scientific Data Systems. The number of parking spaces required on site for the office building was 802 spaces when the permit was applied for on July 14, 1967 and issued on September 19, 1967. The number of spaces provided as stated on the building permit was over 900 parking spaces. The number of spaces required today would have to be verified with detailed floor plans submitted based upon the proposed uses as the tenant Xerox Corporation is requesting tenant improvements and the parking rates are broken down by use (e.g. 1 space for each 300 square feet of floor area used for offices, 1 space for each 500 square feet for the first 50,000 square feet of floor area and 1 space for each 1,000 square feet for the area in excess of 50,000 square feet for manufacturing and research and development uses, etc.). There is an existing covenant and agreement (Instrument No. 01 204705) for off-site parking for 452 parking spaces which was incorrectly recorded on February 7, 2001 with the tenant’s signature rather than the property owner allocating parking from 855 S. Aviation Boulevard to 711 S. Aviation Boulevard.

The existing covenant would be terminated and is proposed to be replaced with a new covenant that would allocate 490 parking spaces from 855 S. Aviation Boulevard to be used to meet parking requirements for the building at 701 and 711 S. Aviation Boulevard. The covenant and agreement will run with the leasehold interest of the tenant which is currently the Xerox Corporation. Currently, the tenant Xerox Corporation has submitted plans to the City to reconfigure the space within the existing building. The number of proposed on-site and off-site parking spaces will have to be verified for compliance with the minimum number required based upon the proposed reconfiguration of uses within the existing building.

Subdivision Violation

The real property identified as 711 S. Aviation Boulevard (APN No. 4138-009-015) and 701 S. Aviation Boulevard (APN No. 4138-009-016) was legally subdivided into three lots (lots 31, 32 and 35) by Tract Map No. 26557 recorded on August 28,
1961. A building permit was applied for on July 14, 1967 and issued on September 19, 1967 for a new office building and surface parking on the property located at 701 S. Aviation Boulevard (Lots 1, 2, 3, 4, 30, 31, 32, and 35 of Tract 26557). On or about September 26, 1967, the real property was divided into two parcels without approvals under the Subdivision Map Act (Government Code §§66410, et seq.) or the El Segundo Municipal Code ("ESMC"). The two “parcels” that were granted by deed are 701 S. Aviation Boulevard (a portion on Lot 32 and a Portion of Lot 35 of Tract 26557; APN No. 4138-009-016) and 711 S. Aviation Boulevard (Lot 31, and a portion of Lot 32 and a portion of Lot 35 of Tract 26557; APN No. 4138-009-015).

El Segundo Municipal Code § 34.2 (effective in October 1962) defined a lot as “(1) A parcel of real property when shown as a delineated parcel of land with a number or other designation on a plat recorded in the office of the county recorder;” and “(2) A parcel of land containing not less than the prescribed minimum square footage required in the zone in which it is located, nor more than one acre, the dimensions or boundaries of which are defined by a record of survey recorded pursuant to law when recorded in the office of the county recorder and which abuts at least one public street or private easement determined by the commission to be adequate for purposes of access from a street...” Further, ESMC § 34.110 allowed the division of lots or parcels containing more than two times the minimum required lot area into a maximum of four lots with requirements for direct access to a public street or with approval by the planning commission and the city council for divided parcels with access by an easement. Consequently it appears that the subdivision violates Government Code § 66412.6 since no record of survey was recorded in compliance with the zoning regulations and minimum lot size for the reconfiguration of Lots 31, 32 and 35 of Tract 26557 into two lots on or about September 26, 1967.

Notification by certified mail of this violation was provided to the property owners on October 15, 2007. The letter also notified the property owners of the public hearing before the Planning Commission to be held on December 13, 2007 in compliance with Government Code § 66499.36 which requires that a hearing be held no sooner than 30 days and no later than 60 days from the date of the mailing of the notice of violation. No letters from the property owners contesting the violation were received within 15 days of the date of the notice. The City received a Certificate of Compliance dated August 13, 2007 and signed by 555 Aviation Boulevard, Ltd., one of the property owners who owns a portion of 701 S. Aviation Boulevard. No Certificate of Compliance has been received to date by X-Factor, the other property owner who owns a portion of 701 S. Aviation Boulevard.

The owners may present evidence that there has been no violation at or before the public hearing. If however, after the owner has presented evidence, the Planning Commission determines that the property has in fact been illegally divided, the Planning Commission should direct that the Director record the notice of violation with the County Recorder. The notice of violation, when recorded, constitutes actual and constructive notice of the violation to all successors in interest in such property.
Pursuant to §66499.36 of the California Government Code (Subdivision Map Act) the property owners had to respond in writing with any objection within 15-days of receipt of the City’s letter dated October 15, 2007 which served as notice of the violation. The letters informed the property owners that a Certificate of Compliance must be filed to remedy the violation. No building permits or other permits relating to construction activity, no business licenses or certificates of occupancy will be issued until the violation is remedied pursuant to all the requirements of the California Government Code and the El Segundo Municipal Code.

Further, the City received a letter on December 5, 2007, from Robert Andreani, the attorney representing X-Factor, who is requesting a six month continuance to allow additional time to resolve this matter.

IV. Conclusion

Planning staff recommends that the Planning Commission open the public hearing, take testimonial and documentary evidence, review the facts and findings related to Environmental Assessment EA No. 750, Miscellaneous No. 07-01; and, either direct the Planning and Building Safety Director to record a notice of violation in accordance with Government Code § 66499.36 or continue the matter to a date certain not to exceed two months to allow the property owners additional time to submit and process the necessary documents including a certificate of compliance and a survey, while ensuring diligent progress to resolve the subdivision violation.

The Certificate of Compliance application is incomplete as one of the property owners, X-Factor, L.P. has not signed the Certificate of Compliance submitted to the City. Additional items are still outstanding as well to complete the processing of the Certificate of Compliances, parking covenants and termination agreements that include filing fees by X-Factor, L.P., a letter of authorization from X-Factor, L.P. allowing Xerox Corporation or their representative J.C. Chang and Associates to act on their behalf regarding the processing of the applications for 701 S. Aviation Boulevard, Exhibit A to the termination agreement for 701 S. Aviation Boulevard (X-Factor, L.P.), both new parking covenants must be signed by the property owners, and legal documentation showing authorization for Larry Worcheil to act on behalf of 555 Aviation Boulevard, LTD. and Behrouz Soroudi to act on behalf of X-Factor, L.P. A lot line adjustment would be required once the Certificate of Compliance is complete for processing to legalize the parcels.

Additionally, staff recommends approving the termination of the existing off-site parking covenants, approving the proposed off-site parking covenants subject to verification of the adequacy of the number of parking spaces being provided by each respective property owner for the buildings at 555 S. Aviation Boulevard and 701 S. Aviation Boulevard, and providing authority to the Director of Planning and
Building Safety to adjust the number of off-site spaces allowed based upon the proposed remodeling and reconfiguration of uses within each respective building.

V. Exhibits

A. ESMC §§ 34.2 and 34.110
B. Government Code §§ 66412.6 and 66499.30 through 66499.36
C. Letters of Notification Regarding Subdivision Violation dated October 15, 2007 to 555 Aviation Boulevard, LTD. and X-Factor, L.P.
D. Incomplete Letters dated November 21, 2007 to X-Factor, L.P. and 555 Aviation Boulevard, LTD. regarding processing of Certificates of Compliance and Parking Covenants
E. Site Plan and Parking Plan of Properties Involved
F. Assessor Maps of Properties Involved
G. Original Building Permits for 555 S. Aviation Boulevard and 711 S. Aviation Boulevard
H. Chart of Ownership History
I. Grant Deeds for 701/711 S. Aviation Boulevard and 555 S. Aviation Boulevard
J. Parking Covenant dated December 20, 2000 and recorded February 7, 2001 (Instrument No. 01 0204706) using off-site parking at 701 S. Aviation Boulevard for 555 S. Aviation Boulevard
K. Parking Covenant dated December 20, 2000 and recorded February 7, 2001 (Instrument No. 01 0204705) using off-site parking at 855 S. Aviation Boulevard for 711 S. Aviation Boulevard
L. Prior Parking Covenant dated July 26, 1989 and recorded October 12, 1989 using off-site parking for use by both 701 S. Aviation Boulevard and 555 S. Aviation Boulevard
M. Two Termination Agreements for Parking Covenants by Larry Worchell, Managing Partner of 555 Aviation Boulevard, LTD. dated August 13, 2007, and by Behrouz Soroudi, Secretary of X-Factor, L.P. dated October 22, 2007
N. New Parking Covenant dated May 29, 2007, for 396 off-site parking spaces at 701 S. Aviation Boulevard (APN 4138-009-016) to be used for 555 S. Aviation Boulevard
O. New Parking Covenant dated October 2, 2007, for 490 off-site parking spaces at 855 S. Aviation Boulevard (APN 4138-009-009) to be used for 711 S. Aviation Boulevard
P. Certificate of Compliance signed by Larry Worchell, Managing Partner of 555 Aviation Boulevard, LTD. dated August 13, 2007
Q. Letter of Authorization from Larry Worchell dated May 31, 2007 for Xerox Corporation or their representatives to act on behalf of Larry Worchell
R. Letter requesting 6-month continuance from Robert Andreani, representative of X-Factor, L.P. dated December 5, 2007

Prepared By: Kimberly Christensen, AICP, Planning Manager
Kimberly Christensen, AICP, Planning Manager
Department of Planning & Building Safety

Gary Chicots, Director
Planning and Building Safety Department
RESOLUTION NO. 2629

A RESOLUTION DIRECTING THE PLANNING AND BUILDING SAFETY DIRECTOR TO RECORD A NOTICE OF VIOLATION REGARDING REAL PROPERTY LOCATED AT 701 S. AVIATION BOULEVARD (A PORTION OF LOT 32 AND A PORTION OF LOT 35 OF TRACT 26557; APN NO. 4138-009-016) AND 711 S. AVIATION BOULEVARD (LOT 31, A PORTION OF LOT 32 AND A PORTION OF LOT 35 OF TRACT 26557; APN NO. 4138-009-015) IN ACCORDANCE WITH GOVERNMENT CODE §§ 66410, ET SEQ.

The Planning Commission of the City of El Segundo does resolve as follows:

SECTION 1: Findings. Based upon testimonial and documentary evidence presented during a public hearing held on December 13, 2007, the Planning Commission finds as follows:

A. On or about March 20, 2007, the City received an application relating to real property located at 701 South Aviation Boulevard (a portion on Lot 32 and a portion of Lot 35 of Tract 26557; APN No. 4138-009-016) and 711 South Aviation Boulevard (Lot 31, and a portion of Lot 32 and a portion of Lot 35 of Tract 26557; APN No. 4138-009-015). This Resolution generally and collectively refers to this real property as the "Property."

B. During the course of reviewing the application for completeness, City staff researched the land use history of the Property including, without limitation, how the Property was subdivided.

C. By Map No. 26557, recorded August 28, 1961, the Property was legally subdivided into three lots. A graphical depiction of Map No. 26557, showing the three legal Lots 31, 32 and 35, is attached as Exhibit "A," and incorporated by reference (the "Map").

D. The Property is improved with a 256,654 square-foot office and industrial building which was constructed in accordance with a building permit issued on September 19, 1967.

E. By grant deed recorded on or about September 26, 1967, the Property was divided into two parcels ("1967 Subdivision"). This division is identified on the Map as the "Deed Line."

F. El Segundo Municipal Code § 34.2, in effect at the time of the 1967 Subdivision (the "Old ESMC"), defined a lot as:

1. "A parcel of real property when shown as a delineated parcel of land with a number or other designation on a plat recorded in the office of the county recorder;" and
2. "A parcel of land containing not less than the prescribed minimum square footage required in the zone in which it is located, nor more than one acre, the dimensions or boundaries of which are defined by a record of survey recorded pursuant to law when recorded in the office of the county recorder and which abuts at least one public street or private easement determined by the commission to be adequate for purposes of access from a street."

G. Old ESMC § 34.110 allowed subdivision of lots or parcels containing more than two times the minimum required lot area into a maximum of four lots with requirements for direct access to a public street or with approval by the planning commission and the city council for divided parcels with access by an easement.

H. There are no records evidencing that the 1967 Subdivision was approved by the City in accordance with applicable law.

I. There are no records evidencing that the 1967 Subdivision was properly surveyed, complied with the Old ESMC, or otherwise met the requirements of applicable law as to zoning, minimum lot size, or subdivisions.

J. On October 15, 2007, the City provided notice in accordance with Government Code § 66499.36 to the Property's owners regarding the City's intent to record a notice of violation ("NOV") against the Property. Among other things, the letter notified the Property's owners that the Planning Commission would consider this matter at a public hearing on December 13, 2007.

K. By letter dated December 5, 2007, one of the Property's owners requested a 60-day extension to resolve the apparent subdivision violation.

SECTION 2: Violation of Government Code §66412.6. The Planning Commission finds that the Property violates Government Code §§ 66410, et seq., specifically Government Code § 66412.6, and the ESMC for the following reasons:

A. The Property was improperly subdivided from three parcels into two parcels by grant deed recorded on or about September 26, 1967. No record of survey was recorded in compliance with the City's local regulations including, without limitation, the Old ESMC §§ 34.2 and 34.110, to allow a subdivision of Lots 31, 32 and 35 on the Map.

B. The City did not approve a lot line adjustment, certificate of compliance or conditional certificate of compliance for creating any lot on the Property before March 4, 1972 other than the subdivision approved by the Map.

SECTION 3: Recording of NOV; Release. The Planning and Building Safety Director, or designee, is directed to record a NOV against the Property in accordance with this
Resolution and Government Code § 66499.36. The NOV constitutes actual notice to the current owner and constructive notice of the violation to all subsequent owners for the Property. Should the City issue a certificate of compliance regarding the Property, approve a lot line adjustment, or grant additional approvals in accordance with the Subdivision Map Act and other applicable law affecting the Property, then the Planning and Building Safety Director, or designee, is authorized to release the NOV.

SECTION 4: This Resolution will remain effective unless superseded by a subsequent resolution.

SECTION 5: The Commission Secretary is directed to mail a copy of this Resolution to the Property’s owners and to any other person requesting a copy.

SECTION 6: This Resolution may be appealed within ten (10) calendar days after its adoption. All appeals must be in writing and filed with the City Clerk within this time period. Failure to file a timely written appeal will constitute a waiver of any right of appeal.

SECTION 7: Except as provided in Section 7, this Resolution is the Commission’s final decision and will become effective immediately upon adoption.

PASSED, APPROVED AND ADOPTED this 13th day of December 2007.

Cheryl Frick, Chairperson
City of El Segundo Planning Commission

ATTEST:

Gary Chicots, Secretary

Fellhauer  -
Fuentes  -
Rotolo  -
Wagner  -
Frick  -

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

By: Karl H. Berger, Assistant City Attorney
ZONING REGULATIONS
OF THE
CITY OF EL SEGUNDO
CALIFORNIA

Reprinted from
EL SEGUNDO CITY CODE

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1963
§ 34.2  ZONING  § 34.2

**, Kitchen.** "Kitchen" means any room or portion of room used or intended or designed to be used for cooking or the preparation of food.

**, Lodginghouse.** "Lodginghouse" means the same as boardinghouse, except no meals shall be provided.

**, Lot.** "Lot" means: (1) A parcel of real property when shown as a delineated parcel of land with a number or other designation on a plat recorded in the office of the county recorder;

(2) A parcel of land containing not less than the prescribed minimum square footage required in the zone in which it is located, nor more than one acre, the dimensions or boundaries of which are defined by a record of survey recorded pursuant to law when recorded in the office of the county recorder and which abuts at least one public street or private easement determined by the commission to be adequate for purposes of access from a street; and provided further, that before building improvements are erected upon such lot the private easement right of way, if established subsequent to February 22, 1947, shall be improved to a standard not less than that defined by the city's specifications for a local street, and shall be inspected and approved by the street superintendent; or,

(3) A parcel of real property not delineated as in (1) or (2) above and containing not less than the prescribed minimum square footage required in the zone in which it is located, nor more than one acre, and which abuts at least one public street or a private easement determined by the commission to be adequate for purposes of access from a street; and provided further, that before building improvements are erected upon such lot the private easement right of way, if established subsequent to February 22, 1947, shall be improved to a standard not less than that defined by the city's specifications for a local street, and shall be inspected and approved by the street superintendent.

**, Lot area.** "Lot area" means the total horizontal area within the boundary lines of a lot.

**, Lot, corner.** "Corner lot" means a lot situated at the intersection of two or more streets, which streets have an angle of intersection of not more than one hundred and twenty-eight degrees. (Plate 1)

**, Lot depth.** "Lot depth" means the horizontal length of a straight line drawn from the midpoint of the lot front line and at right angles to such line, connecting with a line intersecting the midpoint of the lot rear line and parallel to the lot front line. In the case of a lot having a curved front line the lot front line, for purposes of this section, shall be deemed to be a line tangent to the curve and parallel to a straight
Sec. 34.109. Substandard lots.

When a lot has less than the minimum required area or width as set forth in any of the zones contained herein or in a precise plan and was of record on February 22, 1947, such lot shall be deemed to have complied with the minimum required lot area or width as set forth in any such zone or precise plan. The lot area per dwelling unit, however, shall remain as specified in the applicable area district, except that in no instance shall this provision prevent the erection of a single-family dwelling on any substandard lot. (Ord. No. 507, 7/57, § 1522.)

Sec. 34.110. Division of lots or parcels containing more than minimum required lot area.

(a) When a lot contains substantially two or more times the minimum lot area required for the zone in which it is located and the owner desires to use each unit of area equivalent to the minimum lot area as a separate building site so long as not more than four such units result, and if no dedication of streets, alleys or public ways are involved and the resultant division does not create a key lot which did not already exist, such units may be divided in accordance with sections 34.17, 34.26 or 34.35 of this chapter. When such units are thus defined, then all of the provisions of this chapter governing the use of a lot in the zone in which such property is located shall apply to each resulting unit.

(b) When a lot, in area as described in paragraph (a) above, division of which created a key lot, or where no direct access to an existing public dedicated street is possible, then such division shall be done in accordance with section 28.48 of this Code and shall be approved by the planning commission and the city council as to adequacy and shall be recorded as permanent easement in the office of the county recorder. Where, because of size, shape or topography, access is provided by means of an extension of a lot, such extension having less than the prescribed minimum lot width fronting upon a public street, it shall be considered as conforming to the lot width requirements of this chapter; provided, the width of the main portion of the lot shall have not less than the required minimum lot width.

(c) When a lot is divided in accordance with (b) of this section and any of the lots so formed have access to a dedicated street only through an easement of an extension of the lot or lots, the use shall be restricted to a single dwelling unit on each lot formed which
66412.2. Exempts construction, financing and leasing of specified dwelling units

This division shall not apply to the construction, financing, or leasing of dwelling units pursuant to Section 65852.1 or second units pursuant to Section 65852.2, but this division shall be applicable to the sale or transfer, but not leasing, of those units.

[Added, Chapter 1013, Statutes of 1983]

66412.3. Local agency to consider housing needs of region

In carrying out the provisions of this division, each local agency shall consider the effect of ordinances and actions adopted pursuant to this division on the housing needs of the region in which the local jurisdiction is situated and balance these needs against the public service needs of its residents and available fiscal and environmental resources.

[Amended, Chapter 1013, Statutes of 1983]

66412.5. Act not applicable to small, removable commercial buildings

When so provided by local ordinance, this division shall be inapplicable to subdivisions of four parcels or less for construction of removable commercial buildings having a floor area of less than 100 square feet.

[Added, Chapter 412, Statutes of 1977]

66412.6. Lawful parcels created before 3/4/72

(a) For purposes of this division or of a local ordinance enacted pursuant thereto, any parcel created prior to March 4, 1972, shall be conclusively presumed to have been lawfully created if the parcel resulted from a division of land in which fewer than five parcels were created and if at the time of the creation of the parcel, there was no local ordinance in effect which regulated divisions of land creating fewer than five parcels.

(b) For purposes of this division or of a local ordinance enacted pursuant thereto, any parcel created prior to March 4, 1972, shall be conclusively presumed to have been lawfully created if any subsequent purchaser acquired that parcel for valuable consideration without actual or constructive knowledge of a violation of this division or the local ordinance. Owners of parcels or units of land affected by the provisions of this subdivision shall be required to obtain a certificate of compliance or a conditional certificate of compliance pursuant to Section 66499.35 prior to obtaining a permit or other grant of approval for development of the parcel or unit of land. For purposes of determining whether the parcel or unit of land complies with the provisions of this division and of local ordinances enacted pursuant thereto, as required pursuant to subdivision (a) of Section 66499.35, the presumption declared in this subdivision shall not be operative.

(c) This section shall become operative January 1, 1995.

[Added, Chapter 500, Statutes of 1993]

66412.7. Date of establishment for subdivisions

A subdivision shall be deemed established for purposes of subdivision (d) of Section 66499.30 and any other provision of this division on the date of recordation of the final map or parcel map, except that in the case of (1) maps filed for approval prior to March 4, 1972, and subsequently approved by the local agency or (2) subdivisions exempted from map requirements by a certificate of exception (or the equivalent) applied for prior
Chapter 7. Enforcement and Judicial Review

Article 1. Prohibition and Penalty

66499.30. No sale or lease until final maps are in full compliance

(a) No person shall sell, lease, or finance any parcel or parcels of real property or commence construction of any building for sale, lease or financing thereon, except for model homes, or allow occupancy thereof, for which a final map is required by this division or local ordinance, until the final map thereof in full compliance with this division and any local ordinance has been filed for record by the recorder of the county in which any portion of the subdivision is located.

(b) No person shall sell, lease or finance any parcel or parcels of real property or commence construction of any building for sale, lease or financing thereon, except for model homes, or allow occupancy thereof, for which a parcel map is required by this division or local ordinance, until the parcel map thereof in full compliance with this division and any local ordinance has been filed for record by the recorder of the county in which any portion of the subdivision is located.

(c) Conveyances of any part of a division of real property for which a final or parcel map is required by this division or local ordinance shall not be made by parcel or block number, initial or other designation, unless and until the final or parcel map has been filed for record by the recorder of the county in which any portion of the subdivision is located.

(d) Subdivisions (a), (b), and (c) do not apply to any parcel or parcels of a subdivision offered for sale or lease, contracted for sale or lease, or sold or leased in compliance with or exempt from any law (including a local ordinance), regulating the design and improvement of subdivisions in effect at the time the subdivision was established.

(e) Nothing contained in subdivisions (a) and (b) shall be deemed to prohibit an offer or contract to sell, lease, or finance real property or to construct improvements thereon where the sale, lease, or financing, or the commencement of construction, is expressly conditioned upon the approval and filing of a final subdivision map or parcel map, as required under this division.

(f) Nothing in subdivisions (a) to (e), inclusive, shall in any way modify or affect the provisions of Section 11018.2 of the Business and Professions Code.

(g) For purposes of this section, the limitation period for commencing an action, either civil or criminal, against the subdivider or an owner of record at the time of a violation of this division or of a local ordinance enacted pursuant to this division, shall be tolled for any time period during which there is no constructive notice of the transaction constituting the violation, because the owner of record, at the time of the violation or at any time thereafter, failed to record a deed, lease, or financing document with the county recorder.

[Amended, Chapter 799, Statutes of 1987]
66499.31. Violations, penalties

Each violation of this division by a person who is the subdivider or an owner of record, at the time of the violation, of property involved in the violation shall be punishable by imprisonment in the county jail not exceeding one year or in the state prison, by a fine not exceeding ten thousand dollars ($10,000), or by both that fine and imprisonment. Every other violation of this division is a misdemeanor.

[Repealed and Added, Chapter 799, Statutes of 1987]

Article 2. Remedies

66499.32. Conveyance voidable by grantee

(a) Any deed of conveyance, sale or contract to sell real property which has been divided, or which has resulted from a division, in violation of the provisions of this division, or of the provisions of local ordinances enacted pursuant to this division, is voidable at the sole option of the grantee, buyer or person contracting to purchase, his heirs, personal representative, or trustee in insolvency or bankruptcy within one year after the date of discovery of the violation of the provisions of this division or of local ordinances enacted pursuant to the provisions of this division, but the deed of conveyance, sale or contract to sell is binding upon any successor in interest of the grantee, buyer or person contracting to purchase, other than those above enumerated, and upon the grantor, vendor, or person contracting to sell, or his assignee, heir or devisee.

(b) Any grantee, or his successor in interest, of real property which has been divided, or which has resulted from a division, in violation of the provisions of this division or of local ordinances enacted pursuant thereto, may, within one year of the date of discovery of such violation, bring an action in the superior court to recover any damages he has suffered by reason of such division of property. The action may be brought against the person who divided the property in violation of the provisions of this division or of local ordinances enacted pursuant thereto and against any successors in interest who have actual or constructive knowledge of such division of property.

The provisions of this section shall not apply to the conveyance of any parcel of real property identified in a certificate of compliance filed pursuant to Section 66499.35 or identified in a recorded final map or parcel map, from and after the date of recording.

The provisions of this section shall not limit or affect in any way the rights of a grantee or his successor in interest under any other provision of law.

[Amended, Chapter 24, Statutes of 1975]

66499.33. Other legal action not barred

This division does not bar any legal, equitable or summary remedy to which any aggrieved local agency or other public agency, or any person, firm, or corporation may otherwise be entitled, and any such local agency or other public agency, or such person, firm, or corporation may file a suit in the superior court of the county in which any real property attempted to be subdivided or sold, leased, or financed in violation of this division or local ordinance enacted pursuant thereto is located, to restrain or enjoin any
attempted or proposed subdivision or sale, lease, or financing in violation of this division or local ordinance enacted pursuant thereto.

[Amended, Chapter 87, Statutes of 1982]

66499.34. Local agency withholding of permits and approval; certificates of compliance

No local agency shall issue any permit or grant any approval necessary to develop any real property which has been divided, or which has resulted from a division, in violation of the provisions of this division or of the provisions of local ordinances enacted pursuant to this division if it finds that development of such real property is contrary to the public health or the public safety. The authority to deny such a permit or such approval shall apply whether the applicant therefor was the owner of record at the time of such violation or whether the applicant therefor is either the current owner of record or a vendee of the current owner of record pursuant to a contract of sale of the real property with, or without, actual or constructive knowledge of the violation at the time of the acquisition of his or her interest in such real property.

If a city or a county issues a permit or grants approval for the development of any such real property, it may impose only those conditions that would have been applicable to the division of the property at the time the applicant acquired his or her interest in such real property, and which has been established at such time by this division or local ordinance enacted pursuant thereto, except that where the applicant was the owner of record at the time of the initial violation of the provisions of this division or of local ordinances enacted pursuant thereto who, by a grant of the real property created a parcel or parcels in violation of this division or local ordinances enacted pursuant thereto, and such person is the current owner of record of one or more of the parcels which were created as a result of the grant in violation of the division or local ordinances enacted pursuant thereto, then the local agency may impose such conditions as would be applicable to a current division of the property, and except that if a conditional certificate of compliance has been filed for record under the provisions of subdivision (b) of Section 66499.35, only such conditions stipulated in that certificate shall be applicable.

The issuance of a permit or grant of approval for development of real property, or with respect to improvements that have been completed prior to the time a permit or grant of approval for development was required by local ordinances in effect at the time of the improvement, or with respect to improvements that have been completed in reliance upon a permit or grant of approval for development, shall constitute "real property which has been approved for development," for the purposes of subdivision (c) of Section 66499.35, and upon request by the person owning the real property or a vendee of such person pursuant to a contract of sale, the local agency shall issue a certificate of compliance for the affected real property.

[Amended, Chapter 864, Statutes of 1984]

66499.35. Certificate of compliance states compliance with Map Act; conditional certificates of compliance; recorded maps constitute a certificate of compliance; certificate inclusions

(a) Any person owning real property or a vendee of that person pursuant to a contract of sale of the real property may request, and a local agency shall determine, whether the real property complies with the provisions of this division and of local
ordinances enacted pursuant to this division. If a local agency determines that the real property complies, the city or the county shall cause a certificate of compliance to be filed for record with the recorder of the county in which the real property is located. The certificate of compliance shall identify the real property and shall state that the division of the real property complies with applicable provisions of this division and of local ordinances enacted pursuant to this division. The local agency may impose a reasonable fee to cover the cost of issuing and recording the certificate of compliance.

(b) If a local agency determines that the real property does not comply with the provisions of this division or of local ordinances enacted pursuant to this division, it shall issue a conditional certificate of compliance. A local agency may, as a condition to granting a conditional certificate of compliance, impose any conditions that would have been applicable to the division of the property at the time the applicant acquired his or her interest therein, and that had been established at that time by this division or local ordinance enacted pursuant to this division, except that where the applicant was the owner of record at the time of the initial violation of the provisions of this division or of the local ordinances who by a grant of the real property created a parcel or parcels in violation of this division or local ordinances enacted pursuant to this division, and the person is the current owner of record of one or more of the parcels which were created as a result of the grant in violation of this division or those local ordinances, then the local agency may impose any conditions that would be applicable to a current division of the property. Upon making the determination and establishing the conditions, the city or county shall cause a conditional certificate of compliance to be filed for record with the recorder of the county in which the real property is located. The certificate shall serve as notice to the property owner or vendee who has applied for the certificate pursuant to this section, a grantee of the property owner, or any subsequent transferee or assignee of the property that the fulfillment and implementation of these conditions shall be required prior to subsequent issuance of a permit or other grant of approval for development of the property.

Compliance with these conditions shall not be required until the time that a permit or other grant of approval for development of the property is issued by the local agency.

(c) A certificate of compliance shall be issued for any real property that has been approved for development pursuant to Section 66499.34.

(d) A recorded final map, parcel map, official map, or an approved certificate of exception shall constitute a certificate of compliance with respect to the parcels of real property described therein.

(e) An official map prepared pursuant to subdivision (b) of Section 66499.52 shall constitute a certificate of compliance with respect to the parcels of real property described therein and may be filed for record, whether or not the parcels are contiguous, so long as the parcels are within the same section or, with the approval of the city engineer or county surveyor, within contiguous sections of land.

(f) (1) Each certificate of compliance or conditional certificate of compliance shall include information the local agency deems necessary, including, but not limited to, all of the following:
(A) Name or names of owners of the parcel.

(B) Assessor parcel number or numbers of the parcel.

(C) The number of parcels for which the certificate of compliance or conditional certificate of compliance is being issued and recorded.

(D) Legal description of the parcel or parcels for which the certificate of compliance or conditional certificate of compliance is being issued and recorded.

(E) A notice stating as follows:

This certificate relates only to issues of compliance or noncompliance with the Subdivision Map Act and local ordinances enacted pursuant thereto. The parcel described herein may be sold, leased, or financed without further compliance with the Subdivision Map Act or any local ordinance enacted pursuant thereto. Development of the parcel may require issuance of a permit or permits, or other grant or grants of approval.

(F) Any conditions to be fulfilled and implemented prior to subsequent issuance of a permit or other grant of approval for development of the property, as specified in the conditional certificate of compliance.

(2) Local agencies may process applications for certificates of compliance or conditional certificates of compliance concurrently and may record a single certificate of compliance or a single conditional certificate of compliance for multiple parcels. Where a single certificate of compliance or conditional certificate of compliance is certifying multiple parcels, each as to compliance with the provisions of this division and with local ordinances enacted pursuant thereto, the single certificate of compliance or conditional certificate of compliance shall clearly identify, and distinguish between, the descriptions of each parcel.

[Amended, Chapter 1109, Statutes of 2002]

66499.36. Local agency shall file notice of intention to record notice of violation

Whenever a local agency has knowledge that real property has been divided in violation of the provisions of this division or of local ordinances enacted pursuant to this division, it shall cause to be mailed by certified mail to the then current owner of record of the property a notice of intention to record a notice of violation, describing the real property in detail, naming the owners thereof, and stating that an opportunity will be given to the owner to present evidence. The notice shall specify a time, date, and place for a meeting at which the owner may present evidence to the legislative body or advisory agency why the notice should not be recorded. The notice shall also contain a description of the violations and an explanation as to why the subject parcel is not lawful under subdivision (a) or (b) of Section 66412.6.

The meeting shall take place no sooner than 30 days and no later than 60 days from date of mailing. If, within 15 days of receipt of the notice, the owner of the real property fails to inform the local agency of his or her objection to recording the notice of violation, the legislative body or advisory agency shall record the notice of violation with the county recorder. If, after the owner has presented evidence, it is determined that there has been no violation, the local agency shall mail a clearance letter to the then
current owner of record. If, however, after the owner has presented evidence, the legislative body or advisory agency determines that the property has in fact been illegally divided, the legislative body or advisory agency shall record the notice of violation with the county recorder. The notice of violation, when recorded, shall be deemed to be constructive notice of the violation to all successors in interest in such property. The county recorder shall index the names of the fee owners in the general index.

[Amended, Chapter 864, Statutes of 1984]

Article 3. Judicial Review

66499.37. Action against local agency must be within 90 days

Any action or proceeding to attack, review, set aside, void or annul the decision of an advisory agency, appeal board or legislative body concerning a subdivision, or of any of the proceedings, acts or determinations taken, done or made prior to such decision, or to determine the reasonableness, legality or validity of any condition attached thereto, shall not be maintained by any person unless such action or proceeding is commenced and service of summons effected within 90 days after the date of such decision. Thereafter all persons are barred from any such action or proceeding or any defense of invalidity or unreasonableness of such decision or of such proceedings, acts or determinations. Any such proceeding shall take precedence over all matters of the calendar of the court except criminal, probate, eminent domain and forcible entry and unlawful detainer proceedings.

[Amended, Chapter 1152, Statutes of 1980]

Division 3. Official Maps

66499.50. Application of division

This division applies to all counties and, whether incorporated or not, to all cities, towns and villages in the state.

66499.51. Governing bodies where division applies

As used in this division:

(a) "City council or board of supervisors" includes the proper corresponding governing board and authority in each place where the division applies.

(b) "City engineer" and "county surveyor" includes the like or corresponding officer, subject to the direction of the corresponding governing board and authority in each place where the division applies.

(c) If there is no city engineer or county surveyor subject to such direction, the corresponding board and authority may employ competent engineers and surveyors to the extent necessary for the carrying out of the purposes of this division in the places subject to its jurisdiction, and the persons so appointed shall have the same authority and shall perform the same duties as are given to and enjoined upon city engineers and county surveyors, respectively, in like cases. The services of engineers and surveyors so employed shall be contracted for, examined, passed
City of El Segundo
Planning & Building Safety Department

October 15, 2007

555 Aviation Boulevard LTD
4221 Wilshire Blvd., Suite 430
Los Angeles, CA 90010

Sent by U.S. Certified Mail

SUBJECT: NOTICE OF VIOLATION: INTENTION TO RECORD A NOTICE OF VIOLATION IN ACCORDANCE WITH GOVERNMENT CODE § 66499.36

Property Address: 701 S. Aviation Boulevard
(APN: 4138-009-016)


Dear Property Owner:

The City of El Segundo became aware of a condition regarding the real property located at 701 S. Aviation Boulevard (APN: 4138-009-016) and 711 S. Aviation Boulevard (APN: 4138-009-015). The above-mentioned property was subdivided into three lots (lots 31, 32 and 35 of Tract Map No. 26557 which was recorded on August 28, 1961). Based upon the City of El Segundo's records, it appears that the property was subsequently divided into two parcels on or about September 26, 1967 without appropriate approvals under the Subdivision Map Act or the El Segundo Municipal Code ("ESMC"). That subdivision violates Government Code § 66412.6. This letter constitutes notice in accordance with Government Code § 66499.36 that the City of El Segundo intends to record a notice of violation against the real property identified above.

You or your representative may present evidence to the Planning Commission regarding why a notice of violation should not be recorded during the public hearing on Thursday, December 13, 2007 at 7:00 pm in City Council Chamber at 350 Main Street, El Segundo, CA 90245. Decisions of the Planning Commission may be appealed to the City Council.

350 Main Street, El Segundo, California 90245-3813
Phone (310) 524-2380 FAX (310)322-4167
Pursuant to §66499.36 of the California Government Code (Subdivision Map Act) you must respond in writing with any objection within 15-days of receipt of this letter which serves as your notice. A Certificate of Compliance must be filed to remedy the violation. No building permits or other permits relating to construction activity, no business licenses or certificates of occupancy will be issued until the violation is remedied pursuant to all the requirements of the California Government Code and the El Segundo Municipal Code.

If you would like to schedule a meeting to discuss this matter please contact my assistant Mary Lewis at (310) 524-2338.

Sincerely,

[Signature]

Gary Chicotte, Director
Planning and Building Safety Department

Certified Mail No. 7002 2410 0003 4827 2552

CC: Kimberly Christensen, Planning Manager
City of El Segundo
Planning & Building Safety Department

October 15, 2007

X Factor
9595 Wilshire Boulevard, Suite 501
Beverly Hills, CA 90212

SUBJECT: NOTICE OF VIOLATION: INTENTION TO RECORD A NOTICE OF VIOLATION IN ACCORDANCE WITH GOVERNMENT CODE § 66499.36
Property Address: 711 S. Aviation Boulevard
(APN: 4138-009-015)
Code Compliance Number:
2007-0111 (APN: 4138-009-016)
2007-0112 (APN: 4138-009-015)

Dear Property Owner:

The City of El Segundo became aware of a condition regarding the real property located at 701 S. Aviation Boulevard (APN: 4138-009-016) and 711 S. Aviation Boulevard (APN: 4138-009-015). The above-mentioned property was subdivided into three lots (lots 31, 32 and 35 of Tract Map No. 26557 which was recorded on August 28, 1961). Based upon the City of El Segundo’s records, it appears that the property was subsequently divided into two parcels on or about September 26, 1967 without appropriate approvals under the Subdivision Map Act or the El Segundo Municipal Code (“ESMC”). That subdivision violates Government Code § 66412.6. This letter constitutes notice in accordance with Government Code § 66499.36 that the City of El Segundo intends to record a notice of violation against the real property identified above.

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350 Main Street, El Segundo, California 90245-3813
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If you would like to schedule a meeting to discuss this matter please contact my assistant Mary Lewis at (310) 524-2338.

Sincerely,

Gary Chicots, Director
Planning and Building Safety Department

Certified Mail No. 7002 2410 0003 4827 2569

CC: Kimberly Christensen, Planning Manager
November 21, 2007

555 Aviation Boulevard LTD
4221 Wilshire Blvd., Suite 430
Los Angeles, CA 90010

Sent by U.S. Certified Mail

SUBJECT: NOTICE OF VIOLATION: INTENTION TO RECORD A NOTICE OF VIOLATION IN ACCORDANCE WITH GOVERNMENT CODE § 66499.36

Property Address: 701 S. Aviation Boulevard
(APN: 4138-009-015)

Code Compliance Number:
2007-0111 (APN: 4138-009-016)
2007-0112 (APN: 4138-009-015)

Dear Property Owner:

In response to the City's October 15, 2007, notice of violation the Planning and Building Safety Department received materials purportedly submitted on your behalf by the Xerox Corporation's legal counsel which consisted of a termination agreement for the existing off-street parking covenant and agreement (Instrument No. 01-0204705) and a new off-street parking covenant. Please be advised that the submission of these materials is insufficient to address the matter of the illegal subdivision or process the request for an off-street parking covenant.

The following additional information is required:

1. A letter of authorization from the property owner allowing Xerox and/or representatives of Xerox to handle the processing of the application requests.

2. Please submit a parking covenant fee of $155. This fee was previously submitted but was not processed since a signed application was not concurrently submitted.
Be advised that the off-street parking agreement will be reviewed by the Planning Commission on December 13, 2007 if all the necessary documents are submitted by both affected property owners by 5 p.m. on Friday, November 30, 2007. Note also that the City will proceed with the hearing of the illegal subdivision unless the requested materials are submitted by the deadline above. If you have any questions regarding this matter, please contact Kimberly Christensen, Planning Manager at (310) 524-2340.

Sincerely,

Gary Chicots, Director
Planning and Building Safety Department

Certified Mail No. 7000 1530 0002 8353 7318

CC: Kimberly Christensen, AICP Planning Manager
    X-Factor
    Cynthia Wolcott
November 21, 2007

555 Aviation Boulevard LTD
4221 Wilshire Blvd., Suite 430
Los Angeles, CA 90010

Sent by U.S. Certified Mail

SUBJECT: NOTICE OF VIOLATION: INTENTION TO RECORD A NOTICE OF VIOLATION IN ACCORDANCE WITH GOVERNMENT CODE § 66499.36

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www.elsegundo.org

350 Main Street, El Segundo, California 90245-3813
Phone (310) 524-2380 FAX (310)322-4167
Be advised that the off-street parking agreement will be reviewed by the Planning Commission on December 13, 2007 if all the necessary documents are submitted by both affected property owners by 5 p.m. on Friday, November 30, 2007. Note also that the City will proceed with the hearing of the illegal subdivision unless the requested materials are submitted by the deadline above. If you have any questions regarding this matter, please contact Kimberly Christensen, Planning Manager at (310) 524-2340.

Sincerely,

[Signature]

Gary Chicots, Director
Planning and Building Safety Department

Certified Mail No. 7000 1530 0002 8353 7318
CC: Kimberly Christensen, AICP Planning Manager
    X-Factor
    Cynthia Wolcott
**Application for Building Permit**

**City/County:**

**Department:** Building Safety

**Permit Information:**

- **Applicant:**
- **Address:** 721 S. Aviation Blvd.
- **Telephone:** 26557
- **TRACT:** 2.3.4.30.31.32.35

**Description:**

- **Type:** 3-story, type 1 construction
- **Material:** Steel frame, w/ concrete floors

**Architectural Office:**

- **Name:** Scientific Systems
- **Telephone:** 415-17th St.
- **Phone:** 1-4747

**Contractor:**

- **Name:** Craig Ellwood
- **Telephone:** 434-6614

**Plumbing:**

- **Name:** R.M. Beck
- **Telephone:** 653-4410

**Electrical:**

- **Name:** B.C. Smith
- **Telephone:** 922-2751

**Sanitary:**

- **Name:** T.C. Hart
- **Telephone:** 822-5852

**Fire Protection:**

- **Name:** J.E. Jones
- **Telephone:** 672-9502

**Insurance:**

- **Name:** J.R. Brown
- **Telephone:** 652-2412

**Valuation:**

- **Total:** $4,500,000

**Parking:**

- **Spaces Provided:** 500

**Notice:**

Walls or fences cannot encroach on public property.

**City Engineer's Information:**

**Location of Front Property Line:**

**Remarks:**

Signed by J.E. Jones.

**Approvals:**

<table>
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<tr>
<th>Floor Joists</th>
<th>Excavation</th>
<th>Framing</th>
<th>Roof</th>
<th>Lath, Exterior</th>
<th>Lath, Interior</th>
<th>Drywall</th>
<th>Steel</th>
<th>Wall</th>
<th>Bond Beam</th>
<th>Panels</th>
<th>Retaining Wall</th>
<th>Masonry</th>
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</table>

**Signature:** J.E. Jones

**Date:** 7/14/67

**Validation:**

**Certificate of Occupancy:** 12/31/67

**Permit to Construct:** 8/1/67
APPLICATION FOR BUILDING PERMIT
City of El Segundo
DEPT. OF BUILDING & SAFETY

DEPT. USE ONLY

APPL. RECORDED BY: MG DATE: 7-14-67
PC NO.: 723 PLOT PLAN ONLY:
NO. OF PLANS: 2

VALUATION: $4,500,000
Plan Check Fee: $2,070 M.L. 6-14-67
Building Permit Fee: $4,140 M.L. 9-19-67
TOTAL: 6,210

TYPE CONST: G-1

GROUP: F-2

ZONE: M-2

USE ZONE: FRONT SETBACK: 107'
SIDE SET BACKS: LOT SIZE FROM MAP

SPRINKLERED: YES NO
WET STANDBY: YES NO

PARKING: Spaces Req'd: 802
Spaces Provided: 900 +

CITY ENGINEERING INFORMATION

Location of Front Property Line

NOTICE:
WALLS OR FENCES CANNOT E. CROACH ON PUBLIC PROPERTY.

UPPROVALS DATE INSPECTOR

EXCAVATION
FLOOR JOISTS
FRAMING
ROOF
LATH EXTERIOR
LATH INTERIOR
DRYWALL
STEEL
WALL
BOND BEAM PANELS
RETAINING WALL
MASONRY
FINISH

CERTIFICATION
I, hereby certify that I have read and examined this application and
know the same to be true and correct. All provisions of the laws and
ordinances governing this type of work will be complied with, and
the work will be completed in a workmanlike manner. No person shall
be allowed to perform any work under this permit in violation of the laws and
ordinances of the State of California. I further certify that I am properly licensed as
required by Section 7031.5 of the State Business & Professions Code
for the work hereby described.

SIGNATURE OF CONTRACTOR OR AUTHORIZED AGENT

SIGNATURE OF OWNER (OF OWNER BUILDER)

DATE: 7-14-67

VALIDATION JUL-14-67 3:25.12 31 051

JUL-14-67 3:25.12 31 051

EA-750/CC 07-01
# Application for Building Permit

**City of Los Angeles**  
**Dept of Building Safety**

**DEPARTMENT:**

- **APPL NO.:** 503  
- **DATE:** 12-9-63

**VALUATION:** $700,000  
**BUILDING PERMIT:** 1963-12-90000  
**TOTAL:** $765,000

---

**Use:** Manufacturing & Office  
**Lot:** 26557  
**TRACT:** 19-1-1

**Material:**  
- **Open web joists**  
- **Tight-up**

**Builder:**  
- **Mackintosh & Mackintosh**  
- **Office & Scientific Data Systems**  
- **Contact:** Clair L. Peck Constr. Co., 514 Shatto Place, Los Angeles, CA 90015, Phone: 213-359-3171, State License No. 34398, State Business License No. 182753

**Building:** Unlimited area per floor  
**Structure:** Must maintain 50 feet on all sides

---

**Inspection Record**

<table>
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<tr>
<th>APPROVALS</th>
<th>DATE</th>
<th>INSPECTOR</th>
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<tbody>
<tr>
<td>EXCAVATION</td>
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<td>FINAL</td>
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**Signed:**  
- **Signature:** [Signature]

**Signature of Owner (If owner builder):**  
- **Date:** 12-6-63

---

**Remarks:**  
- Building unlimited area per floor. Structure must maintain 50 feet on all sides.

**Stated:**  
- **Location:** 26557

**Comments:**

- [Comments]

---

**Form:**  
- **Name:** C-100765

---

**Remarks:**  
- [Remarks]

---

**Form:**  
- **Name:** C-100765

---

**Address:**  
- **261321 B11**
<table>
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<tr>
<th>DATE</th>
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<th>LOT 31</th>
<th>LOTS 32 AND 35</th>
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<td>Utah C &amp; M</td>
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<td>C. L. Peck</td>
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<td>12/30/66B</td>
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<td>UCB Trust</td>
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<td>Peck-Norman</td>
<td>Northerly of 70' Line</td>
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<td>12/07/93</td>
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<td>benenson capital</td>
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<tr>
<td>8/21/03</td>
<td>X-Factor</td>
<td>X-Factor</td>
<td>555 aviation blvd</td>
</tr>
</tbody>
</table>

A Acquired from Standard Oil in 1960; Utah Construction & Mining Co. recorded Tract Map No. 26557 on August 28, 1961 creating 35 Lots
B Also included Lots 10, 11, 12, and 13 but not Lot 30
C Lot line created which divides ownership of Lots 32 and 35
When Recorded Mail to:

X-Factor, L.P.
1801 Avenue of the Stars
Suite 421
Los Angeles, Ca. 90067

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED

The undersigned declares that the documentary transfer tax is as set forth on a separate declaration.
Grant Deed

Order No.
Escrow No.
Loan No.

WHEN RECORDED MAIL TO,
AND MAIL TAX STATEMENTS TO:

X-Factor, L.P.
1801 Avenue of the Stars
Suite 421
Los Angeles, CA 90067

________________________
Signature of Declarant or Agent determining
tax--Firm Name

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

TIAA REALTY, INC., a Delaware corporation,

hereby GRANT(S) to

X-FACTOR, L.P., a California limited partnership,

As to an undivided 44.07% interest in and to the real property in the City of El Segundo,
County of Los Angeles, State of California, described as follows:

See Exhibit "A" attached hereto and incorporated herein.

03 2427639
THE REAL PROPERTY CONVEYED HEREIN BY GRANTOR TO GRANTEE IS
CONVEYED AND ACCEPTED SUBJECT TO:

1. NONDELINQUENT REAL PROPERTY TAXES, GENERAL AND SPECIAL
   TAXES/BONDS AND ASSESSMENTS.

2. ALL COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS, RIGHTS,
   RIGHTS OF WAY OF RECORD, AND/OR APPARENT.

3. RIGHTS OF PARTIES IN POSSESSION UNDER LEASE DATED DECEMBER 20,
   1968 BETWEEN PECK-NORMAN, A JOINT VENTURE COMPOSED OF C.L.
   PECK, JR. AND ROBERT S. NORMAN, AND SCIENTIFIC DATA SYSTEMS, INC.,
   A DELAWARE CORPORATION, AS AMENDED BY AGREEMENT BETWEEN
   TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA, A NEW
   YORK CORPORATION, AND XEROX CORPORATION, A NEW YORK

4. STATE OF FACTS SHOWN ON THE SURVEY OF DMR TEAM, INC., DATED

Dated: August 14, 2003

TIAA REALTY, INC.

By: [Signature]

Its: ASS'T SECRETARY
STATE OF NEW YORK  )
COUNTY OF NEW YORK  ) S.S.

On August 5th, 2003 before me, JENNIFER PITTELL, Notary Public, (here
insert name and title of the officer), personally appeared JONATHAN P. CURTIS, tenant
personally known to me (or proved to me on the
basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the
within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the
instrument the person(s), or the entity upon behalf of which the person(s) acted, executed
the instrument.

WITNESS my hand and official seal.

Signature: ____________________________

JENNIFER PITTELL
Notary Public, State of New York
No. 01P1051730
Qualified in Queens County
Commission Expires Dec 4, 2007
Exhibit A

Property Description

PARCEL I:

LOT 30 OF TRACT NO. 26557, IN THE CITY OF EL SEGUNDO, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 675 PAGES 95 TO 98 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING ALL OIL, GAS, ASPHALTUM, AND OTHER HYDROCARBONS AND OTHER MINERALS, WHETHER SIMILAR TO THOSE HEREIN SPECIFIED OR NOT, WITHIN OR THAT MAY BE PRODUCED FROM SAID LAND; PROVIDED, HOWEVER, THAT THE SURFACE OF SAID LAND SHALL NEVER BE USED FOR THE EXPLORATION, DEVELOPMENT, EXTRACTION, REMOVAL OR STORAGE OF SAID OIL, GAS, ASPHALTUM, AND OTHER HYDROCARBONS AND OTHER MINERALS, AND FURTHER PROVIDED THAT NO INSTALLATION CONSTRUCTED THEREON SHALL BE DISTURBED IN ANY MANNER IN EXTRACTING SAID RESERVED MINERALS, AS RESERVED IN DEED FROM STANDARD OIL COMPANY OF CALIFORNIA, RECORDED DECEMBER 20, 1960 AS INSTRUMENT NO. 1622, IN BOOK D-1069 PAGE 898, OFFICIAL RECORDS.


PARCEL II:

LOT 31 AND THAT PORTION OF LOTS 32 AND 35 OF TRACT NO. 26557, IN THE CITY OF EL SEGUNDO, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS SHOWN ON MAP RECORDED IN BOOK 675 PAGES 95 TO 98 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING SOUTHERLY OF A LINE THAT IS PARALLEL WITH THE NORTHERLY LINE OF SAID LOT 32 AND THE EASTERLY PROLONGATION THEREOF, AND DISTANT 70.00 FEET SOUTHERLY THEREFROM, MEASURED AT RIGHT ANGLES.

EXCEPTING ALL OIL, GAS, ASPHALTUM, AND OTHER HYDROCARBONS AND OTHER MINERALS, WHETHER SIMILAR TO THOSE HEREIN SPECIFIED OR NOT, WITHIN OR THAT MAY BE PRODUCED FROM SAID LAND; PROVIDED,
HOWEVER, THAT THE SURFACE OF SAID LAND SHALL NEVER BE USED FOR THE EXPLORATION, DEVELOPMENT, EXTRACTION, REMOVAL OR STORAGE OF SAID OIL, GAS, ASPHALTUM, AND OTHER HYDROCARBONS AND OTHER MINERALS, AND FURTHER PROVIDED THAT NO INSTALLATION CONSTRUCTED THEREON SHALL BE DISTURBED IN ANY MANNER IN EXTRACTING SAID RESERVED MINERALS, AS RESERVED IN DEED FROM STANDARD OIL COMPANY OF CALIFORNIA, RECORDED DECEMBER 20, 1960 AS INSTRUMENT NO. 1622, IN BOOK D-1069 PAGE 898, OFFICIAL RECORDS.

DEED

TRANSFER TAX
NOT A PUBLIC RECORD

D.T.T

NOTIFICATION SIGNED

41 38-010-009

NUMBER OF PARCELS SHOWN

THIS FORM NOT TO BE DUPLICATED

Order: 276555-23 Comment:
When Recorded Mail to:
Maxxam Enterprises
1801 Avenue of the Stars, Suite 421
Los Angeles, CA. 90067

Title Order 
Escrow No: 03-41092

GRANT DEED

The undersigned declares that the documentary transfer tax is as set forth on a separate declaration

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Maxxam Enterprises, LLC, a California limited liability company

hereby GRANT(S) to

X-Factor, L.P., a California limited partnership

An undivided 44.63% interest in and to the real property in the County of Los Angeles,
State of California completely described on Exhibit "A" attached hereto

Dated: August 14, 2003

Maxxam Enterprises, LLC
a California limited liability company

By: Behrouz Soroudi

MAIL TAX STATEMENTS TO ADDRESS ABOVE
State of California
County of Los Angeles

On August 11, 2003, before me, the undersigned, a Notary Public in and for said State, personally appeared BEHROUZ SOROUDI, personally known to me or proven to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[Signature]

JOCelyn LUSTRO
Commission #1319994
Notary Public - California
Los Angeles County
My Comm. Expires Sep 4, 2006

03 2427642
Exhibit A

Property Description

PARCEL I:

LOT 30 OF TRACT NO. 26557, IN THE CITY OF EL SEGUNDO, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 675 PAGES 95 TO 98 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING ALL OIL, GAS, ASPHALTUM, AND OTHER HYDROCARBONS AND OTHER MINERALS, WHETHER SIMILAR TO THOSE HEREBIN SPECIFIED OR NOT, WITHIN OR THAT MAY BE PRODUCED FROM SAID LAND; PROVIDED, HOWEVER, THAT THE SURFACE OF SAID LAND SHALL NEVER BE USED FOR THE EXPLORATION, DEVELOPMENT, EXTRACTION, REMOVAL OR STORAGE OF SAID OIL, GAS, ASPHALTUM, AND OTHER HYDROCARBONS AND OTHER MINERALS, AND FURTHER PROVIDED THAT NO INSTALLATION CONSTRUCTED THEREON SHALL BE DISTURBED IN ANY MANNER IN EXTRACTING SAID RESERVED MINERALS, AS RESERVED IN DEED FROM STANDARD OIL COMPANY OF CALIFORNIA, RECORDED DECEMBER 20, 1960 AS INSTRUMENT NO. 1622, IN BOOK D-1069 PAGE 898, OFFICIAL RECORDS.


PARCEL II:

LOT 31 AND THAT PORTION OF LOTS 32 AND 35 OF TRACT NO. 26557, IN THE CITY OF EL SEGUNDO, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS SHOWN ON MAP RECORDED IN BOOK 675 PAGES 95 TO 98 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING SOUTHERLY OF A LINE THAT IS PARALLEL WITH THE NORTHERLY LINE OF SAID LOT 32 AND THE EASTERLY PROLONGATION THEREOF, AND DISTANT 70.00 FEET SOUTHERLY THEREFROM, MEASURED AT RIGHT ANGLES.

EXCEPTING ALL OIL, GAS, ASPHALTUM, AND OTHER HYDROCARBONS AND OTHER MINERALS, WHETHER SIMILAR TO THOSE HEREBIN SPECIFIED OR NOT, WITHIN OR THAT MAY BE PRODUCED FROM SAID LAND; PROVIDED, HOWEVER, THAT THE SURFACE OF SAID LAND SHALL NEVER BE USED FOR THE EXPLORATION, DEVELOPMENT, EXTRACTION, REMOVAL OR STORAGE OF SAID OIL, GAS, ASPHALTUM, AND OTHER HYDROCARBONS AND OTHER MINERALS, AND FURTHER PROVIDED THAT NO INSTALLATION CONSTRUCTED THEREON SHALL BE DISTURBED IN ANY MANNER IN EXTRACTING SAID RESERVED MINERALS, AS RESERVED IN DEED FROM STANDARD OIL COMPANY OF
CALIFORNIA, RECORDED DECEMBER 20, 1960 AS INSTRUMENT NO. 1622, IN BOOK D-1069 PAGE 898, OFFICIAL RECORDS.

SAID TRACT BEING A SUBDIVISION OF THE SURFACE AND THAT PORTION OF THE
SUBSURFACE WHICH LIES ABOVE A PLANE 450 FEET BELOW THE MEAN LOW
WATER LEVEL OF THE PACIFIC OCEAN (AS SAID MEAN LOW WATER LEVEL IS
ESTABLISHED BY U. S. COAST AND GEODETIC SURVEY BENCH MARKS ALONG
THE SHORE LINE).
TITLE(S):
DEED

FEE
FEE $16 M

D.T.T
TRANSFER TAX
NOT A PUBLIC RECORD

CODE
20
CODE
19
CODE
9

Assessor's Identification Number (AIN)
To be completed by Examiner OR Title Company in black Ink.

41 38 010 009

Number of Parcels Shown
002

THIS FORM NOT TO BE DUPLICATED

Description: Los Angeles, CA Document-Year.DocID 2003.2427643 Page: 1 of 5
Order: 276555-23 Comment:
When Recorded Mail to:
Maxxam Enterprises
1801 Avenue of the Stars, Suite 421
Los Angeles, CA. 90067

Title Order #
Escrow No: 03-41092

APN # 4135-010-009 $0/5

GRANT DEED

The undersigned declares that the documentary transfer tax is as set forth on a separate declaration
FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Maxxam Enterprises, LLC, a California limited liability company

hereby GRANT(S) to

X-Factor, L.P., a California limited partnership

An undivided 11.30 % interest in and to the property in the County of Los Angeles, State
of California which is completely described on Exhibit "A" attached hereto and
incorporated herein

Dated: August 14, 2003

Maxxam Enterprises, LLC,
a California limited liability company

By: Behrouz Soroudi

MAIL TAX STATEMENTS TO ADDRESS ABOVE
State of California  
County of Los Angeles

On August 16, 2003, before me, the undersigned, a Notary Public in and for said State, personally appeared BEHROUZ SOROUDI, personally known to me or proven to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[Signature]

JOCelyn Luistro
Commission # 13198884
Notary Public - California
Los Angeles County
My Comm. Expires Sep 4, 2005
PARCEL I:

LOT 30 OF TRACT NO. 26557, IN THE CITY OF EL SEGUNDO, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 675 PAGES 95 TO 98 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING ALL OIL, GAS, ASPHALTUM, AND OTHER HYDROCARBONS AND OTHER MINERALS, WHETHER SIMILAR TO THOSE HEREIN SPECIFIED OR NOT, WITHIN OR THAT MAY BE PRODUCED FROM SAID LAND; PROVIDED, HOWEVER, THAT THE SURFACE OF SAID LAND SHALL NEVER BE USED FOR THE EXPLORATION, DEVELOPMENT, EXTRACTION, REMOVAL OR STORAGE OF SAID OIL, GAS, ASPHALTUM, AND OTHER HYDROCARBONS AND OTHER MINERALS, AND FURTHER PROVIDED THAT NO INSTALLATION CONSTRUCTED THEREON SHALL BE DISTURBED IN ANY MANNER IN EXTRACTING SAID RESERVED MINERALS, AS RESERVED IN DEED FROM STANDARD OIL COMPANY OF CALIFORNIA, RECORDED DECEMBER 20, 1960 AS INSTRUMENT NO. 1622, IN BOOK D-1069 PAGE 898, OFFICIAL RECORDS.


PARCEL II:

LOT 31 AND THAT PORTION OF LOTS 32 AND 35 OF TRACT NO. 26557, IN THE CITY OF EL SEGUNDO, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS SHOWN ON MAP RECORDED IN BOOK 675 PAGES 95 TO 98 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING SOUTHERLY OF A LINE THAT IS PARALLEL WITH THE NORTHERLY LINE OF SAID LOT 32 AND THE EASTERLY PROLONGATION THEREOF, AND DISTANT 70.00 FEET SOUTHERLY THEREFROM, MEASURED AT RIGHT ANGLES.

EXCEPTING ALL OIL, GAS, ASPHALTUM, AND OTHER HYDROCARBONS AND OTHER MINERALS, WHETHER SIMILAR TO THOSE HEREIN SPECIFIED OR NOT, WITHIN OR THAT MAY BE PRODUCED FROM SAID LAND; PROVIDED, HOWEVER, THAT THE SURFACE OF SAID LAND SHALL NEVER BE USED FOR THE EXPLORATION, DEVELOPMENT, EXTRACTION, REMOVAL OR STORAGE OF SAID OIL, GAS, ASPHALTUM, AND OTHER HYDROCARBONS AND OTHER MINERALS, AND FURTHER PROVIDED THAT NO INSTALLATION CONSTRUCTED THEREON SHALL BE DISTURBED IN ANY MANNER IN EXTRACTING SAID RESERVED MINERALS, AS RESERVED IN DEED FROM STANDARD OIL COMPANY OF

Said tract being a subdivision of the surface and that portion of the subsurface which lies above a plane 450 feet below the mean low water level of the Pacific Ocean (as said mean low water level is established by U.S. Coast and Geodetic Survey bench marks along the shore line).
GRANT DEED

THE UNDERSIGNED GRANTORS DECLARE(S):

DOCUMENTARY TRANSFER TAX IS $660.00  
(XX) COMPUTED ON FULL VALUE OF PROPERTY CONVEYED, OR  
( ) COMPUTED ON FULL VALUE LESS VALUE OF LIENS AND  
ENCUMBRANCES REMAINING AT TIME OF SALE:  
( ) UNINCORPORATED AREA: ( ) CITY OF EL SEGUNDO, AND

FOR VALUABLE CONSIDERATION, RECEIPT OF WHICH IS HEREBY
ACKNOWLEDGED,

THE BENENSON CAPITAL COMPANY, A NEW YORK GENERAL PARTNERSHIP OF
NEW YORK, STATE OF NEW YORK

HEREBY GRANT(S) TO:

555 AVIATION BOULEVARD, LTD., A CALIFORNIA LIMITED PARTNERSHIP
AS TO AN UNDIVIDED ONE-HALF INTEREST IN AND TO
THE FOLLOWING DESCRIBED REAL PROPERTY IN THE CITY OF EL SEGUNDO,
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA:

PER EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

THE PROPERTY IS BEING CONVEYED SUBJECT TO:

1) SECOND HALF 1993-1994;
2) ALL MATTERS AND DEFECTS OF RECORD;
3) ALL MATTERS AND DEFECTS WHICH WOULD BE DISCLOSED BY A
   CORRECT SURVEY OR BY INSPECTION OF THE PROPERTY.

DATED: ____________

THE BENENSON CAPITAL COMPANY, A
NEW YORK GENERAL PARTNERSHIP

BY: ________________________________
Charles R. Benenson Family Trust

BY: ________________________________
Charles J. Benenson, Trustee

STATE OF ____________________________
COUNTY OF __________________________
ON ____________________________, BEFORE ME, THE UNDERSIGNED, A
NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED

______________________________
PERSONALLY KNOWN TO ME OR PROVED TO ME ON THE BASIS OF
SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE
SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGES TO ME THAT
HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED
CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE
INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE
PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

WITNESS MY HAND AND OFFICIAL SEAL.

______________________________

925689-01
LOTS 10, 11, 12, 13, 32 AND 35 OF TRACT NO. 26557, IN THE CITY OF EL SEGUNDO, IN THE
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 675 PAGES
95 THROUGH 98 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID
COUNTY, BEING THE "LAND AS DEFINED IN THE CONDITIONS AND STIPULATIONS OF THIS
POLICY."

EXCEPT THAT PORTION OF SAID LOTS 32 AND 35 LYING SOUTHERLY OF A LINE THAT IS
PARALLEL WITH THE NORTHERLY LINE OF SAID LOT 32 AND THE EASTERLY PROLONGATION
THEREOF, AND DISTANT 70.00 FEET SOUTHERLY THEREFROM, MEASURED AT RIGHT ANGLES.

ALSO EXCEPT THEREFROM ANY AND ALL BUILDINGS AND IMPROVEMENTS NOW LOCATED
THEREON, AS EXCEPTED BY C.L. PECK-ROBERT S. NORMAN, A GENERAL PARTNERSHIP, IN
DEED RECORDED DECEMBER 30, 1986 AS INSTRUMENT NO. 1023 WHICH SAID DEED RECITES
THAT SAID BUILDINGS AND IMPROVEMENTS ARE AND SHALL REMAIN REAL PROPERTY.

ALSO EXCEPT ALL OIL, GAS, ASPHALTUM, AND OTHER HYDROCARBONS AND OTHER MINERALS,
WHETHER SIMILAR TO THOSE HEREBIN SPECIFIED OR NOT, WITHIN OR THAT MAY BE PRODUCED
FROM SAID LAND, PROVIDED, HOWEVER, THAT THE SURFACE OF SAID LAND SHALL NEVER BE
USED FOR THE EXPLORATION, DEVELOPMENT, EXTRACTION, REMOVAL OR STORAGE OF SAID
OIL, GAS, ASPHALTUM, AND OTHER HYDROCARBONS AND OTHER MINERALS, AND FURTHER
PROVIDED THAT NO INSTALLATION CONSTRUCTED THEREON SHALL BE DISTURBED IN ANY
MANNER IN EXTRACTING SAID RESERVED MINERALS, AS RESERVED IN DEED FROM STANDARD
OIL COMPANY OF CALIFORNIA, RECORDED DECEMBER 20, 1960, AS INSTRUMENT NO. 1522, IN
BOOK D-1069 PAGE 898, OFFICIAL RECORDS.

SAID TRACT BEING A SUBDIVISION OF THE SURFACE AND THAT PORTION OF THE SUBSURFACE
WHICH LIES ABOVE A PLANE 450 FEET BELOW THE MEAN LOW WATER LEVEL OF THE PACIFIC
OCEAN (AS SAID MEAN LOW WATER LEVEL IS ESTABLISHED BY U. S. COAST AND GEODETIC
SURVEY BENCH MARKS ALONG THE SHORELINE).

172
The undersigned grantors declare(s):
Documentary transfer tax is $660.00
( ) computed on full value of property conveyed, or
( ) computed on full value less value of liens and
encumbrances remaining at time of sale.
( ) unincorporated area: ( ) city of El Segundo, and

For valuable consideration, receipt of which is hereby
acknowledged,

Laurence A. Tisch, of Westchester County, New York

Hereby grant(s) to:
555 Aviation Boulevard, Ltd., a California limited partnership
as to an undivided one-half interest in and to
the following described real property in the city of El Segundo,
County of Los Angeles, State of California:

Per exhibit "A" attached hereto and made a part hereof.

The property is being conveyed subject to:
1) Second half 1993-1994;
2) All matters and defects of record;
3) All matters and defects which would be disclosed by a
correct survey or by inspection of the property.

Dated 12/31/93

Laurence A. Tisch

State of New York

County of New York

On December 31, 1993 before me, the undersigned, a
Notary Public in and for said State, personally appeared
Laurence A. Tisch

Personally known to me or proved to me on the basis of
satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledges to me that
he/she/they executed the same in his/her/their authorized
capacity(ies), and that by his/her/their signature(s) on the
instrument the person(s), or the entity upon behalf of which the
person(s) acted, executed the instrument.

Witness my hand and official seal.
EXHIBIT A

Lots 10, 11, 12, 13, 32 and 35 of Tract No. 26557, in the City of El Segundo, in the County of Los Angeles, State of California, as per map recorded in Book 675 Pages 85 through 98 inclusive of Maps, in the Office of the County Recorder of Said County, being the land as defined in the conditions and stipulations of this policy.

Except that portion of said Lots 32 and 35 lying southerly of a line that is parallel with the northerly line of said Lot 32 and the easterly prolongation thereof, and distant 70.00 feet southerly therefrom, measured at right angles.

Also except therefrom any and all buildings and improvements now located thereon, as excepted by C.L. Peck-Robert S. Norman, a general partnership, in Deed recorded December 30, 1956 as Instrument No. 1023 which said deed recites that said buildings and improvements are and shall remain real property.

Also except all oil, gas, asphaltum, and other hydrocarbons and other minerals, whether similar to those herein specified or not, within or that may be produced from said land, provided, however, that the surface of said land shall never be used for the exploration, development, extraction, removal or storage of said oil, gas, asphaltum, and other hydrocarbons and other minerals, and further provided that no installation constructed thereon shall be disturbed in any manner in extracting said reserved minerals, as reserved in Deed from Standard Oil Company of California, recorded December 20, 1960, as Instrument No. 1622, in Book D-1069 Page 89b, Official Records.

Said Tract being a subdivision of the surface and that portion of the subsurface which lies above a plane 450 feet below the mean low water level of the Pacific Ocean (as said mean low water level is established by U.S. Coast and Geodetic Survey bench marks along the shoreline).
COVENANT AND AGREEMENT REGARDING MAINTENANCE
OF OFF-STREET PARKING

The undersigned hereby certify that we are the owners of the hereinafter legally described real
property ("Owners") located in the City of El Segundo, State of California.
Lot 30 of Tract 26557 (Parking Lot #E)

(Legal description of parking site)
as recorded in Book 675 Page(s) 95-98, Records of Los Angeles County.
Parking site address: 851 S. Aviation Boulevard

And pursuant to Section 20.54.130 of the El Segundo Municipal Code, the undersigned hereby
covenant and agree to and with said City that an off-site parking area containing not less than
452 _______ (number) usable and accessible automobile parking spaces as shown on Exhibit
A _______ which comply with the El Segundo Municipal Code Chapter 20.54 will be provided
and maintained on the above described property to provide the required parking for the use of the
building located at "701 S. Aviation Blvd."

(Users") in said City upon that
land legally described as follows: Lot 31, Lots 32 and 35 of Tract 26557 (Building A & E)

(Legal description of use or building site)
as recorded in Book 675 Page(s) 95-98, Records of Los Angeles County.

This covenant and agreement shall run with the land and shall be binding upon the Owners and
its/his/her/their successors, heirs or assigns and shall continue in effect so long as the use or
building requiring such parking is maintained without providing off-street automobile parking
spaces on the same lot and/or another lot as required by the provisions of the El Segundo
Municipal Code or unless otherwise released by authority of the Director of Planning and Building
Safety. Owners title to and right to use the property upon which the parking spaces is to be
provided will be subservient User's right to 452 _______ (number) parking spaces (Shown on
Exhibit A _______). Owner warrants that such lots are not and will not be made subject to any other
covenant or contract for such use without prior written consent of the City.

Dated this 20th day of        , 2000

Signature of Parking Site Owner(s)   

Company Name: Xerox Corporation

076
(I) (WE) the mortgage or trust deed beneficiary agree to the above stated conditions by affixing (my)
(our) signature hereto:

Signature of mortgage or trust deed beneficiary: 

There is no mortgage or trust deed affecting this property. I declare under penalty of perjury that the
foregoing statement is true and correct. Executed at Torrance, California on this day of January, 2001.

Signature of Parking Site Owner(s)

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES


Personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature

FOR DEPARTMENT USE ONLY:

Approved by

Date

Chang
Manager
COVENANT AND AGREEMENT REGARDING MAINTENANCE OF OFF-STREET PARKING

The undersigned hereby certify that we are the owners of the hereinafter legally described real property ("Owners") located in the City of El Segundo, State of California.
Lot 31, Lots 32 and 33 of Tract 26557 (Building A & E)

(Legal description of parking site)

as recorded in Book 675 Page (s) 95-98, Records of Los Angeles County.
Parking site address: 701 S. Aviation Boulevard

And pursuant to Section 20.54.130 of the El Segundo Municipal Code, the undersigned hereby covenant and agree to and with said City that an off-site parking area containing not less than 501 (number) usable and accessible automobile parking spaces as shown on Exhibit A which comply with the El Segundo Municipal Code Chapter 20.54 will be provided and maintained on the above described property to provide the required parking for the use or the building located at 655 S. Aviation Boulevard (Users) in said City upon that land legally described as follows: Lots 10, 11, 12, 13 (Building M1) of Tract 26557

(Legal description of use or building site)

as recorded in Book 675 Page (s) 95-98, Records of Los Angeles County.

This covenant and agreement shall run with the land and shall be binding upon the Owners and its/his/her/their successors, heirs or assigns and shall continue in effect so long as the use or building requiring such parking is maintained without providing off-street automobile parking spaces on the same lot and/or another lot as required by the provisions of the El Segundo Municipal Code or unless otherwise released by authority of the Director of Planning and Building Safety. Owners title to and right to use the property upon which the parking spaces is to be provided will be subservient User's right to 501 (number) parking spaces (Shown on Exhibit A). Owner warrants that such lots are not and will not be made subject to any other covenant or contract for such use without prior written consent of the City.

Dated this 20th day of December 2000

Signature of Parking Site Owner(s)
(I) (WE) the mortgage or trust deed beneficiary agree to the above stated conditions by affixing (my) (our) signature hereto:

Signature of mortgage or trust deed beneficiary: 

There is no mortgage or trust deed affecting this property. I declare under penalty of perjury that the foregoing statement is true and correct. Executed at California on this __________ day of January 2001.

Signature of Parking Site Owner(s) 

STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES  

On January 2, 2001, before me, CHARLES BARRY, NOTARY PUBLIC, personally appeared L. STUART LOUGH.

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature 

OFFICIAL SEAL, CHARLES BARRY  
NOTARY PUBLIC - CALIFORNIA  
COMMISSION # 1127943  
LOS ANGELES COUNTY  
My Commission Exp. February 28, 2001

FOR DEPARTMENT USE ONLY:

Approved by 

Date 

(Title)
COVENANT AND AGREEMENT REGARDING MAINTENANCE OF OFF-STREET PARKING SPACE

The undersigned hereby certify that they are the owners of the hereinafter described real property located in the City of El Segundo, State of California:

Lots 1, 2 and 3 and a portion of Lot 4 (Building M2); and the lessees of Lots 30 and 31 and portions

as described in Book 675 Pages 95 to 98, Records of Los Angeles County. The Parking Site addressed herein:

Lot E being located at 551 South Aviation Boulevard per City records.

Pursuant to Section 20.54.070 of the El Segundo Municipal Code the undersigned hereby covenant to and agree with said City that off-site parking area(s) containing usable and accessible automobile parking spaces as shown in Exhibit A, which comply with said Code, will be provided and maintained as follows on the above-described property(s) to furnish the required parking for the use of the building(s) described respectively hereinafter:

Lot 12, 11, 12, 13, 32 and 35 (M1); and Lot 28 and a portion of Lot 29 (M7): both of Tract 205557

as recorded in Book 675 Pages 95 to 98, Records of Los Angeles County. This covenant and agreement shall run with the land of the owned property and shall be binding upon ourselves, any future owners, encumbrancers, their successors, heirs or assigns and shall continue in effect so long as the use or building requiring such parking is maintained without proof of off-street automobile parking spaces on the same lot and/or another lot as required by the provisions of said Code or unless otherwise released by authority of the Director of Development Services. Our title to and right to use the lots upon which the parking space is to be provided, will be subsequent to the title to the premises upon which the structure is to be erected and shall warrant that such lots are not and will not be made subject to any other covenant or contract for such use without prior written consent of said City:

Dated this 26th day of July 1959.

Signature of Parking Site Owners:

XEROX CORPORATION, by Melvin R. Kaiser, Manager, Real Estate Operations, Western U.S.

There is no mortgage or trust deed affecting these properties. I declare under penalty of perjury that the following statement is true and correct. Executed at El Segundo, California on this 26th day of July 1959.

Signature of Parking Site Owners:

XEROX CORPORATION, by Melvin R. Kaiser, Manager, Real Estate Operations, Western U.S.

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

On this the undersigned, a Notary Public in and for said County and State, personally appeared

know to me to be the person whose name is subscribed to the within instrument and acknowledged that the same was executed in my presence.

WITNESS my hand and official seal.

EXHIBIT L
TERMINATION AGREEMENT

The City of El Segundo, a municipal corporation, and 555 Aviation Boulevard, Ltd., a California limited partnership, hereby terminate that certain "Covenant and Agreement Regarding Maintenance of Off-Street Parking Space", dated December 20, 2000 and recorded February 07, 2001, as Instrument No. 01-0204706, of Official Records of Los Angeles County, California; a copy of which is attached hereto as Exhibit A and by this reference made a part hereof.

Said matter affects Lots 10, 11, 12, 13, 31, 32 and 35, all of Tract 26557, in the City of El Segundo, County of Los Angeles, as per map recorded in Book 675, Pages 95 to 98, inclusive of Maps in the Official Records of said County.

555 AVIATION BOULEVARD, LTD.,
a California limited partnership

By: ______________________
    Larry Worchell, General Partner

State of California
County of Los Angeles

On August 13, 2007, before me, ___________, Notary Public, personally appeared ___________, Notary Public (insert name and title of the officer), who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature: ___________, Notary Public

(Seal)
The City of El Segundo does not object to the recordation of the Termination Agreement.

CITY OF EL SEGUNDO

By: __________________________

Its: __________________________

Dated: _________________________

ACKNOWLEDGEMENT FORM FOR CITY OF EL SEGUNDO

STATE OF CALIFORNIA  }

COUNTY OF LOS ANGELES }

On __________________________ before me, __________________________

personally appeared __________________________

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature __________________________
COVENANT AND AGREEMENT REGARDING MAINTENANCE
OF OFF-STREET PARKING

The undersigned hereby certify that we are the owners of the hereinafter legally described real
property ("Owners") located in the City of El Segundo, State of California:
Lot 31, Lots 32 and 35 of Tract 26587 (Building A & E)

(Legal description of parking site)
as recorded in Book 675 Page(s) 95-98, Records of Los Angeles County.
Parking site address: 701 S. Aviation Boulevard

And pursuant to Section 20.54.130 of the El Segundo Municipal Code, the undersigned hereby
covenant and agree to and with said City that an off-site parking area containing not less than
501 (number) usable and accessible automobile parking spaces as shown on Exhibit A which comply with the El Segundo Municipal Code Chapter 20.54 will be provided and maintained on the above described property to provide the required parking for the use or the building located at 555 S. Aviation Boulevard ("Users") in said City upon that land legally described as follows: Lots 10, 11, 12, 13 (Building MI) of Tract 26587

(Legal description of use or building site)
as recorded in Book 675 Page(s) 95-98, Records of Los Angeles County.

This covenant and agreement shall run with the land and shall be binding upon the Owners and
its/his/her/their successors, heirs or assigns and shall continue in effect so long as the use or
building requiring such parking is maintained without providing off-street automobile parking
spaces on the same lot and/or another lot as required by the provisions of the El Segundo Municipal Code or unless otherwise released by authority of the Director of Planning and Building Safety. Owners title to and right to use the property upon which the parking spaces is to be provided will be subservient Users' right to 501 (number) parking spaces (Shown on Exhibit A). Owner warrants that such lots are not and will not be made subject to any other covenant or contract for such use without prior written consent of the City.

Dated this 20th day of December 2000

Signature of Parking Site Owner(s)

Company Name Xerox Corporation
(I) (WE) the mortgage or trust deed beneficiary agree to the above stated conditions by affixing (my)
(our) signature hereto:

Signature of mortgage or trust deed beneficiary:  

There is no mortgage or trust deed affecting this property. I declare under penalty of perjury that
the foregoing statement is true and correct. Executed at ____________, California on this ________
day of __________, 2001.

Signature of Parking Site Owner(s):

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

On __________, 2001 before me, CHARLES BARRY, NOTARY PUBLIC,
personally appeared __________, __________,
personally known to me (or proved to me on the basis of satisfactory evidence) to be the
person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me
that he/she/they executed the same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which
the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature ____________________________

FOR DEPARTMENT USE ONLY:

Approved by ____________________________

Date ____________________________

Title ____________________________
TERMINATION AGREEMENT

The City of El Segundo, a municipal corporation, and X-FACTOR, L.P., a California limited partnership, hereby terminate that certain "Covenant and Agreement Regarding Maintenance of Off-Street Parking Space", dated December 20, 2000 and recorded February 07, 2001, as Instrument No. 01-0204705, of Official Records of Los Angeles County, California attached hereto as Exhibit A.

Said matter affects Lots 30, 31 and portions of Lots 32 and 35, all of Tract 26557, as per map recorded in Book 675, Pages 95 to 98, inclusive of Maps in the Office of the County Recorder of said County.

X-FACTOR, L.P., a California limited partnership

By: Panorama Delta, Inc., a California corporation
   Its: Managing Partner

By:

Behrouz Soroudi
Its: Secretary

Dated: 10/22/07

State of California
County of Los Angeles

On October 22, 2007, before me, ____________________________, Notary Public, personally appeared ____________________________, personally known to me (or proved to me on the basis of satisfactory evidence), to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature: ____________________________

Notary Public
Commission # 1474948
Los Angeles County
Xerox Corporation, a New York corporation, as lessee of the real property described in the Termination Agreement, hereby consents to the recordation of the Termination Agreement.

XEROX CORPORATION,
a New York corporation

By: [Signature] 10/11/07

Its: Manager, CRE Acquisitions & Dispositions

State of Virginia
County of Loudoun

On Oct 1, 2007, before me, Cristian Ali Guzman, (insert name and title of the officer) personally appeared Barbara West personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature [Signature]

Cristian Ali Guzman
NOTARY PUBLIC
Commonwealth of Virginia
My Commission Expires 6/30/09

(Seal)
The City of El Segundo does not object to the recordation of the Termination Agreement.

CITY OF EL SEGUNDO

By: __________________________

Its: _________________________

Dated: _______________________

ACKNOWLEDGEMENT FORM FOR CITY OF EL SEGUNDO

STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

On ______________ before me, __________________________

personally appeared __________________________

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature __________________________
RECORDING REQUESTED BY

City of El Segundo Planning Division
350 Main Street
El Segundo, CA 90245

WHEN RECORDED MAIL TO:

City of El Segundo Planning Division
350 Main Street
El Segundo, CA 90245

COVENANT AND AGREEMENT REGARDING MAINTENANCE OF OFF-STREET PARKING

The undersigned hereby certify that it is the lessee ("Lessee") of the hereinafter legally described real property located in the City of El Segundo, State of California:

Portions of Lots 32 and 35 of Tract 26557 as recorded in Book 675, Pages 95-98, inclusive, of Records of Los Angeles County, as more particularly described on Exhibit "A" attached hereto and by this reference made a part hereof (the "Parking Site").

Parking Site Street Address: 701 S. Aviation Boulevard, El Segundo, CA

Pursuant to El Segundo Municipal Code ("ESMC") § 15-15-8, the undersigned covenant and agree that an off-site parking area containing not less than 396 usable and accessible automobile parking spaces as shown on Exhibit "B" attached hereto and by this reference made a part hereof which comply with ESMC Title 15, Chapter 15 must be provided and maintained on the above described Parking Site to provide the required parking for the use of the building leased by Lessee located at 555 S. Aviation Boulevard for the hours of 7:00 am to 6:00 pm Monday through Friday only (except Federal Holidays) in said City upon that land legally described as follows:

Lots 10, 11, 12 and 13 of Tract 26557, as recorded in Book 675 Pages 95-98, inclusive, of Records of Los Angeles County, as more particularly described on Exhibit "A" (the "Building Site").

This covenant and agreement runs with the leasehold interest of Lessee in the Parking Site and the Building Site (the "Leased Property") and is binding upon Lessee and its successors, heirs or assigns and will continue in effect so long as Lessee has a leasehold interest in the Leased Property and the Building Site requiring such parking is maintained without providing off-street automobile parking spaces on the same lot and/or another lot as required by the ESMC or unless otherwise released by the City. Lessee warrants that the Parking Site is not and will not be made subject to any other covenant or contract for such use without prior written consent of the City.

Dated this 29th day of May, 2007. Company Name: XEROX CORPORATION, a New York corporation

Signature of Lessee

By: [Signature]

Its: Manager, CRE Acquisitions and Dispositions

EXHIBIT N
There is no mortgage or trust deed affecting the leasehold interest. I declare under penalty of perjury that the foregoing statement is true and correct. Executed at Leesburg, Virginia on this 29th day of May, 2007.

Signature of Lessee

XEROX CORPORATION,
a New York corporation

By: [Signature]
Its: Manager, CRE Acquisitions and Dispositions
State of Virginia
County of Loudoun

On May 29, 2007 before me, Toni Burns, Notary Public, personally appeared Barbara West personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature: 

(Seal)

Embosed Hereon is My
Commonwealth of Virginia Notary Public Seal
My Commission Expires June 30, 2007
Toni Burns

FOR DEPARTMENT USE ONLY:

This is to certify that any interests in real property conveyed to the City by this Covenant are accepted pursuant to authority granted by City Council Resolution No. 4255, adopted April 2, 2002 and the City consents to recordation.

Approved by: Jeff Stewart, City Manager

Date:

095
EXHIBIT "A"

LEGAL DESCRIPTION

Portions of Lots 32 and 35 ("Parking Site")

That portion of said Lots 32 and 35 of Tract 26557, in the City of El Segundo, County of Los Angeles, State of California, as per map recorded in Book 675, Pages 95 to 98, inclusive, of Maps, in the Office of the County Recorder of said County, lying Northerly of a line that is parallel with the Northerly line of said Lot 32 and the Easterly prolongation thereof, and distant 70.00 feet Southerly therefrom, measured at right angles.

Lots 10, 11, 12 and 13 ("Building Site")

Lots 10, 11, 12 and 13 of Tract 26557, in the City of El Segundo, County of Los Angeles, State of California, as per map recorded in Book 675, Pages 95 to 98, inclusive, of Maps, in the Office of the County Recorder of said County.
COVENANT AND AGREEMENT REGARDING MAINTENANCE
OF OFF-STREET PARKING DURING PENDENCY OF LEASE

The undersigned hereby certify that it is the lessee ("Lessee") of the hereinafter legally described
real property located in the City of El Segundo, State of California consisting of the following:

Lot 30 of Tract 26557 as recorded in Book 675, Pages 95-98, inclusive, of Records of
Los Angeles County, as more particularly described on Exhibit "A" attached hereto and
by this reference made a part hereof (the "Parking Site").

Pursuant to El Segundo Municipal Code ("ESMC") § 15-15-8, the undersigned covenants and agrees that
a parking area containing not less than 490 usable and accessible automobile surface parking spaces as
shown on Exhibit "B" attached hereto and by this reference made a part hereof which comply with ESMC
Title 15, Chapter 15 must be provided and maintained on the above described Parking Site to provide the
required parking for the use of the building leased by Lessee located at 701 S. Aviation Boulevard during
the hours of 7:00 am to 6:00 pm Monday through Friday only (except Federal Holidays) in said City upon
that land legally described as follows (the "Parking Covenant"): Lot 31 and portions of Lots 32 and 35 of Tract 26557, as recorded in Book 675 Pages 95-98, inclusive, of Records of Los Angeles County, as more particularly described on
Exhibit "A" (the "Building Site").

This Parking Covenant is made with specific reference to that certain Lease Agreement dated
December 20, 1968, as amended, by and between X-Factor, L.P., as Lessor (by succession) and Xerox
Corporation, as Lessee (by succession), whereby said Lessee leases the Building Site and the Parking Site
(the "Lease"). The term of the Lease expires December 31, 2013, unless Lessee exercises its option to
extend, in which event the term of the Lease expires December 31, 2023 (the "Lease Expiration Date").

Notwithstanding any other provision in this document or in the Lease expressly or impliedly to
the contrary:

(1) the Parking Covenant is fully and for all times subordinate to, and does not in any way
affect or encumber, the fee title interests of the present or future owner(s) of the Building Site
and/or the Parking Site (alternatively, an "Owner" and collectively, the "Owners"), but is
expressly tied solely to the Lease and the occupancy of Xerox and its successors and assigns
(collectively, "Lessee") under the Lease for purposes of its duration and effectiveness, and is
binding upon Lessee and Lessor;

(2) the Parking Covenant expires automatically and in its entirety on the sooner of the
following (the "Parking Covenant Expiration Date"): (A) midnight on the Lease Expiration Date,
or (B) any earlier date of termination of the Lease pursuant to the Lease, or (C) the date that the
Parking Covenant is no longer required by the ESMC or the obligation to record such Parking Covenant is otherwise released in writing by the City with respect to Lessee's use of the Parking Site; and

(3) From and after said Parking Covenant Expiration Date, this document, and the Parking Covenant contained herein, shall have no further force or effect whatsoever.

Without limiting the generality of the foregoing, it is specifically acknowledged and agreed that, after the Parking Covenant Expiration Date, neither this document nor the Parking Covenant contained herein shall have any relevance whatsoever to any right of title to, or possession of, or use of, any portion of the Building Site or the Parking Site.

If requested by any then-current Owner of either the Building Site or the Parking Site, at any time after the Parking Covenant Expiration Date, the Lessee agrees to promptly execute, acknowledge and deliver to any Owner a specific release of this Parking Covenant, in either case in recordable form, which may then be recorded in the Official Records of Los Angeles County (the "Official Records"), but no such release shall be necessary to clear title to the Building Site or the Parking Site of the effect of this document or of the Parking Covenant herein. In addition, any Owner may, after the Parking Covenant Expiration Date, unilaterally terminate and release of record this document and the Parking Covenant by filing in the Official Records an affidavit executed and sworn to by any of said Owners stating that the Lease and the Parking Covenant have expired; no joinder of or consent by Lessee shall be required with respect to the execution, acknowledgement and recording of any such affidavit.

Lessee represents, warrants and agrees that the Parking Site is not and will not be made (by Lessee) subject to any other covenant or contract relative to its use, without the prior written consent of the City.

Dated this __2nd__ day of October, 2007 Company Name: XEROX CORPORATION, a New York corporation

Signature of Lessee

By [Signature] Its: Manager, CRE Acquisitions & Dispositions

100
There is no mortgage or trust deed affecting the leasehold interest. I declare under penalty of perjury that the foregoing statement is true and correct. Executed at Leesburg, VA on this 2nd day of October, 2007.

Signature of Lessee

XEROX CORPORATION,
a New York corporation

By: [Signature]

Its: Manager, CRE Acquisitions & Dispositions

State of Virginia
County of Loudoun

On October 2, 2007, before me, [Signature], a Notary Public, personally appeared [Signature], personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[Signature]

FOR DEPARTMENT USE ONLY:

This is to certify that any interests in real property conveyed to the City by this Covenant are accepted pursuant to authority granted by City Council Resolution No. 4255, adopted April 2, 2002 and the City consents to recordation.

Approved by: Jeff Stewart, City Manager

Date:

JESSICA DANKMEYER
Notary Public
Commonwealth of Virginia
7052427
My Commission Expires Oct 31, 2010

(Seal)
EXHIBIT "A"

LEGAL DESCRIPTION

Lot 30 ("Parking Site")

Lot 30 of Tract 26557, in the City of El Segundo, County of Los Angeles, State of California, as per map recorded in Book 675, Pages 95 to 98, inclusive, of Maps, in the Office of the County Recorder of said County.

Lots 31 and Portions of Lots 32 and 35 ("Building Site")

Lot 31 and that portion of Lots 32 and 35 of Tract No. 26557, in the City of El Segundo, County of Los Angeles, State of California, as per map recorded in Book 675, Pages 95 to 98, inclusive of Maps, in the Office of the County Recorder of said County, lying Southerly of a line that is parallel with the Northerly line of said Lot 32 and the Easterly prolongation thereof, and distant 70.0 feet Southerly therefrom, measured at right angles.
EXHIBIT "B"
CERTIFICATE OF COMPLIANCE
REQUEST FOR CERTIFICATE OF COMPLIANCE
City of El Segundo

I/We the undersigned owner(s) of record of real property within the City of El Segundo, County of Los Angeles, hereby REQUEST the City of El Segundo to determine if said real property described below complies with the provisions of the Subdivision Map Act (Sec. 66410 et. seq., Government Code, State of California) and the City Subdivision Ordinance.

Date: 5/17/07

555 AVIATION BOULEVARD, LTD., a California limited partnership

By: Larry Worchell, General Partner

PROPERTY DESCRIPTION
701 S. Aviation Blvd. - Building M1 - APN 4138-009-016

Portions of Lots 32 and 35

The portions of said Lots 32 and 35 of Tract 26557, in the City of El Segundo, County of Los Angeles, State of California, as per map recorded in Book 675, Pages 95 to 98, inclusive of Maps, in the Office of the County Recorder of said County, lying Northerly of a line that is parallel with the Northerly line of said Lot 32 and the Easterly prolongation thereof, and distant 70.0 feet Southerly therefrom, measured at right angles.

DETERMINATION OF COMPLIANCE

I hereby certify that the above described parcel complies with the applicable provisions of the Subdivision Map Act and of the City Subdivision Ordinance and may be sold, financed or transferred in full compliance with all applicable provisions of the Subdivision Map Act and of the City of El Segundo Subdivision Ordinance.

Date: __________________________

By: __________________________

Title: __________________________

CITY OF EL SEGUNDO
ACKNOWLEDGEMENT FORM FOR PROPERTY OWNER(S)

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On August 13, 2007 personally appeared Larry Worcell

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

ACKNOWLEDGEMENT FORM FOR CITY OF EL SEGUNDO

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On before me, personally appeared

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

Approved by: City Engineer Date:
August 13, 2007

VIA MESSENGER

City of El Segundo
350 Main Street
El Segundo, CA 90245
Attention: Gary D. Chicots, Director of
Planning and Building Safety

Re: Letter of Authorization to Process Environmental Assessment EA-750 and
Certificate of Compliance No. 07-01 (the "Applications")
555 Aviation Boulevard, El Segundo, CA 90245 (the "Property")

Dear Mr. Chicots:

The undersigned, as the owner of the Property, requests the City of El Segundo to process and approve the above-referenced Applications submitted on behalf of the undersigned and Xerox Corporation ("Xerox") as lessee of the Property which Applications include the following:

(a) Certificate of Compliance Request for Certificate of Compliance City of El Segundo.

(b) Termination Agreement – Building M1 terminating the existing Covenant and Agreement Regarding Maintenance of Off-Street Parking Space recorded February 7, 2001 as Instrument No. 01-0204706 (the "2001 Parking Covenant").

(c) New Covenant and Agreement Regarding Maintenance of Off-Street Parking executed by Xerox to be recorded against Xerox's leasehold interest in the Property.

(d) Partners' Certificate authorizing Larry Worchell to execute the foregoing documents on behalf of 555 Aviation Boulevard, Ltd.
This letter also constitutes the authorization of the undersigned for J.C. Chang & Associates to submit and process the Applications on behalf of the undersigned.

555 Aviation Boulevard, Ltd., a California limited partnership

By: Larry Worchell, General Partner

ACKNOWLEDGMENT

State of California
County of Los Angeles

On August 13, 2007, before me, Chrisoula St. Dennis, notary public, personally appeared Larry Worchel, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Chrisoula St. Dennis, Notary Public

(Seal)
May 31, 2007

VIA FEDERAL EXPRESS

City of El Segundo
350 Main Street
El Segundo, CA 90245
Attn: Gary D. Chicots, Director
of Planning and Building Safety


Dear Mr. Chicots:

The undersigned, owner of the above-referenced Property, requests the City of El Segundo to process and approve the following applications ("Applications") submitted on behalf of the undersigned and Xerox Corporation ("Xerox") as lessee of the Property:

(1) Certificate of Compliance Request for Certificate of Compliance City of El Segundo;

(2) Termination Agreement terminating the existing Covenant and Agreement Regarding Maintenance of Off-Street Parking Space recorded February 7, 2001, as Instrument No. 01-0204706 (the "2001 Parking Covenant");

(3) New Covenant and Agreement Regarding Maintenance of Off-Street Parking executed by Xerox to be recorded against Xerox's leasehold interest in the Property and to replace the 2001 Parking Covenant; and

(4) Partner's Certificate authorizing Larry Worchell to execute the foregoing documents on behalf of 555 Aviation Boulevard, Ltd.

555 Aviation Boulevard, Ltd., a California Limited Partnership

By: Larry Worchell, General Partner

RECEIVED
JUN 01 2007
PLANNING DIVISION 111

EA-750/CC 07-01
555 Aviation Blvd LTD & X-Partner LP
PARTNERS' CERTIFICATE

THIS PARTNERS' CERTIFICATE ("Certificate") is given as of \textbf{Mar 31}, 2007, by the undersigned Partners of 555 Aviation Boulevard, Ltd., a California limited partnership ("Owner") in favor of the City of El Segundo (the "City"). This Certificate is given to the City in connection with the application for which Owner is seeking approval pursuant to the attached Letter of Authorization. The undersigned hereby certify that Larry Worshell, as General Partner of the Owner, has the authority:

(i) To execute the Certificate of Compliance Request for Certificate of Compliance;

(ii) To execute the Termination Agreement;

(iii) To execute the Covenant and Agreement Regarding Maintenance of Off-Street Parking; and

(iv) To execute and deliver any and all other documents and to take any and all actions required by the Owner that may be necessary or desirable in connection with the Applications.

555 AVIATION BOULEVARD, LTD.,
a California limited partnership

By: \textbf{Larry Worshell}

Its: \textbf{General Partner}

By: 

Its: 

\textbf{JUN 01 2007}

PLANNING DIVISION

\text{EA-750,CC 07-01}
555 Aviation Blvd LTD & X-Factor LP
December 5, 2007

VIA E-MAIL
El Segundo Planning Commission
c/o Mr. Gary Chicots, Planning Director (GChicots@ElSegundo.org)
and Ms. Kimberly Christensen, Planning Manager (KChristensen@ElSegundo.org)
Planning & Building Safety Department
of the City of El Segundo
350 Main Street
El Segundo, California  90245-3813

Re: Intention to Record Notice of Violation –
Government Code Section 66499.36 – 701 S. Aviation Boulevard:
Written Submission by X-Factor, L.P.
in Support of Request for Postponement of Decision

To The Honorable Members of the Planning Commission:

I am legal counsel to X-Factor, L.P., a California limited partnership (“X-Factor”). X-Factor is the current owner of real property improved with a single, large 3-story commercial building commonly known as 701 S. Aviation Boulevard in El Segundo (the “701 Property”). On about October 15, 2007, the Planning & Building Safety Department of the City of El Segundo (the “City”) sent X-Factor a written notice entitled “Notice of Violation: Intention To Record A Notice of Violation in Accordance With Government Code Section 66499.36” (the “Notice”), alleging in effect that there is a technical violation of the California Subdivision Map Act (the “Map Act”), allegedly because one of the boundaries of the 701 Property was improperly created by a grant deed in 1967 when the land was vacant. The Notice states that the City Planning Commission (the “Planning Commission”) has set a date of December 13, 2007 to conduct a hearing (the “Hearing”) for the purpose of deciding whether or not to record a Notice of Violation against the 701 Property. I met with City Planning & Building Safety...
Director Gary Chicots and Ms. Kimberly Christensen, City Planning Manager (collectively, “Planning Staff”) last week on this matter, and in furtherance of that meeting, I submit this letter on behalf of X-Factor to assist the Planning Commission in its evaluation of this matter. X-Factor respectfully requests that the Planning Commission postpone rendering a decision at the Hearing on the merits of the alleged violation, and allow X-Factor six (6) months time to undertake various efforts described below to attempt to resolve the numerous, interrelated problems that are directly associated with this matter.

I. INTRODUCTION

X-Factor, a passive investor/landlord, purchased the 701 Property in 2003 from TIAA Realty, Inc., an affiliate of Teachers Insurance and Annuity. Xerox was, and still is, the sole tenant of the entire building under a triple-net lease, since 1968. For almost 40 years, this 300,000+ square foot building, as originally constructed, has remained exactly the same and has been used for the same type of commercial office and related uses, and no one complained about any alleged failure to comply with any law, including the Map Act. The City issued both a building permit for the original building construction (in July 1967) and Certificates of Occupancy (in December 1968, and May of 1976), copies of which are attached hereto as Exhibits “A”, “B” and “C”, respectively, for your reference.

In late 2006, Xerox approached X-Factor and asked for permission to engage in substantial new construction activities at the 701 Property. X-Factor has neither consented nor agreed to allow Xerox to proceed, because, among other things, the proposed construction will reduce the value of the building and Xerox is in material breach of its lease: Among other things, in 2001, Xerox misrepresented itself as being the "owner" of the 701 Property and signed and recorded parking covenants which burdened the 701 Property by allocating many of its parking spaces to another property (555 Aviation Boulevard) which was also occupied by Xerox. There is an arbitration proceeding which is currently pending between Xerox and X-Factor to resolve this and other controversies.

Nonetheless, Xerox has repeatedly demanded permission and has engaged in certain activities involving the City and its Planning and Building Department staff which resulted in the City generating the Notice which we now must address. X-Factor has undertaken no activities, has requested no building or other permits, and has done nothing to seek any benefits from the City. Yet X-Factor, and not Xerox, is now being called upon to respond to a notice claiming a violation which carries serious adverse consequences to X-Factor.
As discussed more fully herein, the activities of Xerox, undertaken despite X-Factor’s refusal to consent to the proposed construction, have given rise to the following problems now faced by X-Factor:

1. Apparently, Xerox commissioned a survey, and delivered copies to the City and the adjoining landowner, as a result of which the City has issued its Notice of a Map Act violation; and

2. The adjoining landowner is now claiming that this survey shows certain structures erected in 1968 "encroach" on its property.

Why is X-Factor facing these issues only now after 40 years? Why is the City involving itself in what is essentially a private dispute between Xerox and the 701 Property owner? Has Xerox somehow involved the City and the adjoining landowner in this dispute in the hopes of gaining some leverage over X-Factor in the arbitration proceeding?

As the above questions and the comments below demonstrate, there are substantial legal and factual issues which must be considered and resolved before the Planning Commission should take any step which could irreparably infringe upon X-Factor’s rights to maintain the 701 Property in the same condition that it has apparently been in for the past 40 years.

II. MAP ACT COMPLIANCE ISSUES

At the outset, it is in the interests of both the City and X-Factor to determine whether or not there actually is a “violation” of the Map Act. The current Map Act was effectively not even in existence until March 4, 1972. The deed which created the current lot configuration and “crossed” over existing parcel lines was, according to the City’s own Notice, recorded in 1967, about 5 years prior to the effectiveness of the Map Act.

First, it is necessary to confirm how the current lot configuration came about. As Planning Staff has acknowledged, that is a complicated task. There are lots of lots and multiple parties, past and present, to contend with and to account for. What we do know at this point is that (a) X-Factor currently owns two parcels (Lot 30 and Lot 31) in their entirety, and “portions” of Lots 32 and 35, with the 701 Aviation building sitting on Lots 31, 32 and 35; (b) 555 Aviation Boulevard, Ltd. (the “555 Owner”) apparently owns other portions of Lot 32 and 35, as well as Lots 10, 11, 12 and 13, on which is situated a building commonly known as 555 Aviation Boulevard (the “555 Property”); (c) legal descriptions found in various deeds from 1967 forward describe the common boundary of the respective properties as being a designated number of feet east, or west, of the lot lines of some of these lots; (d) Lot 30, the so-called “parking parcel”, is physically separated from Lots 31, 32 and 35 by Hawaii Street, and is utilized by Xerox as part of its parking for its occupancy of the 701 Property building; and (e) the 555 Property building
apparently utilizes parking on portions of Lots 32 and 35, as does the 701 Property building. Chain-of-title and other title search activities are needed to attempt to ascertain how this complicated scenario came about and to confirm the respective rights of the parties involved.

Even assuming, for the sake of argument only, that the 1967 deed constitutes an improper act by today’s standards, the Map Act provides several exceptions to strict enforcement of its subdivision requirements, including exceptions that apply in instances where the alleged violation occurred before the Map Act’s effective enactment. One such exception relates to the question of whether or not there were relevant local subdivision ordinances in place at the time. We have asked Planning Staff to research that and provide us with copies of any such historical ordinances so that they can be evaluated.

In addition, as referenced above, the City has issued a number of discretionary approvals and permits over the years, such as building permits and certificates of occupancy. The effect of these municipal approvals must also be researched and evaluated in light of the alleged Map Act violation.

Furthermore, since 1967, there have been several subsequent conveyances of the 701 Property to other owners. When X-Factor purchased the property in 2003, X-Factor had no actual or constructive knowledge of any Map Act violations. This could also lead to legal and equitable defenses against any enforcement actions at this time.

III. LOT LINE ADJUSTMENT ISSUES

Planning Staff has advised us that the Map Act violation would be best addressed by proceeding with a Lot Line Adjustment involving the common property line between the 701 Property and the 555 Property. This by necessity would require that the 555 Owner agree with X-Factor on the location of the proposed adjusted lot line, since the two owners now share, and would continue to share, that property line. The 555 Owner has recently notified X-Factor, in writing, that the property line separating 555 from 701 Aviation that was created by the 1967 deed, is drawn in such a way that some of the walls and other improvements from X-Factor’s 701 Property cross-over the property line and “encroach” upon the 555 Property. Although X-Factor denies the contention that there is any actionable encroachment, the survey map that was supplied by the 555 Owner, and certain diagrams that were shown to us by Planning Staff, purport to show that the existing property line does cut across some existing improvements on the 701 Property.

The 555 Owner, through its legal counsel, Bryan Kravetz, Esq., has demanded that X-Factor agree to remove the allegedly encroaching improvements in the event of any sale or any change in use or occupancy of the 701 Property or the 555 Property, as well as other triggering events. Such a requirement is neither fair nor acceptable to X-Factor. X-Factor believes that it has legal and other rights to the ownership,
possession and use of ALL of its improvements, regardless of where they are situated in relation to the current property line. No Lot Line Adjustment is therefore possible unless and until X-Factor and the 555 Owner can resolve their differences on this important issue.

Regardless of whether the relevant parties agree that the Lot Line Adjustment should affirm the property line in its existing location or should be relocated, additional research, inquiries and inspections must be undertaken to insure that no underground utilities or other non-visible existing improvements are adversely affected or require the use of relevant easements or licenses to maintain. This also requires additional time for careful analysis.

**IV. PARKING COVENANTS**

As referenced above, in 2001, Xerox misrepresented itself as being the "owner" of the 701 Property and signed and recorded a parking covenant which burdened the 701 Property by allocating many of its parking spaces to the neighboring 555 Property which was also occupied by Xerox. In addition, Xerox also improperly signed and recorded a second parking covenant which required that the parking spaces on Lot 30 be “tied” to the building on the 701 Property. (Such 2001 parking covenants are sometimes collectively referred to herein as the “2001 Parking Covenants.”) Such actions by Xerox were expressly forbidden by and are a material breach under the terms of the operative lease between X-Factor as landlord and Xerox as tenant of the 701 Property. When these improper acts were discovered by X-Factor, X-Factor demanded that Xerox rectify the problems by releasing the improper 2001 Parking Covenants. Xerox prepared proposed releases and terminations of the 2001 Parking Covenants (collectively, the “Parking Terminations”), and Xerox and X-Factor jointly prepared a new proposed parking covenant which would allocate parking from Lot 30 to the 701 Property for the remaining term of Xerox’s lease and occupancy of the 701 Property (the “New Parking Covenant”), which Xerox has tendered to Planning Staff. Planning Staff in fact wants the parties to enter into the New Parking Covenant. Unfortunately however, Planning Staff has also indicated that it believes it cannot accept the Parking Terminations or the New Parking Covenant, unless and until a full Certificate of Compliance procedure is implemented by X-Factor and by the 555 Owner, which involves, among other things, the accomplishing of a Lot Line Adjustment. For the reasons discussed above and others, a Lot Line Adjustment is not possible until the parties resolve their differences concerning the location of the line and the alleged encroachment.
V. THIRD PARTY CLAIMS

X-Factor is in the processing of doing a complete “chain of title” analysis of the various ownership transfers and has engaged a title company for assistance. This may lead to claims against its seller and or other prior owners or other third parties who may have responsibility or liability in connection with this alleged Map Act violation. Further time is needed for this work to be completed.

VI. INSURANCE

X-Factor is also in the process of evaluating its insurance coverage rights. The postponement of the Hearing is also necessary to allow X-Factor sufficient time to evaluate such rights and, if appropriate, to tender the defense of this matter to its insurance carrier.

VII. CONSEQUENCES OF PREMATURE CITY ACTIONS

There are several material adverse consequences that would result from the Planning Commission rendering a decision against X-Factor at the Hearing and recording a Notice of Violation against the 701 Property. Such a decision and recordation would effectively immediately render the 701 Property objectively unmarketable, and non-finance-able. No one will be willing to buy the 701 Property and no lender will extend a loan on it. No title company will be willing to issue any title insurance regarding the 701 Property. The rights of X-Factor’s existing lender for the 701 Property could also be adversely affected. Such action will result in damages to X-Factor which would be substantial, and if the actions of the Planning Commission and the City are not absolutely and completely justifiable on the present record, could lead to actionable liability exposure. On the other hand, a postponement of action by the Planning Commission at this time would be fully justified and free of any risk of challenge or exposure.

VIII. CONCLUSION

There may not even be a Map Act violation here at all. In any event, there are substantial unanswered factual and legal questions which need to be carefully examined and resolved before the Planning Commission should take any official action on the merits in this matter. With the current state of affairs, neither a Lot Line Adjustment nor a new set of parking covenants can even be accomplished, and those are the two main substantive actions that the Planning Staff has indicated it wants X-Factor to undertake. If the City were to record a Notice of Violation against the 701 Property now, serious harm to X-Factor would immediately occur, and no good purpose would be served.
Premature action by the Planning Commission at the Hearing could lead to liability exposure; postponement to allow for careful, informed analysis is risk-free. Accordingly, X-Factor respectfully asks the Planning Commission to defer any substantive decision on the subject Notice of Violation at this time and to grant X-Factor a six (6) month extension of time on this matter.

Respectfully submitted,

Law Offices of Robert P. Andreani
Counsel for X-Factor L.P.

By: Robert P. Andreani

[Exhibits “A”, “B” and “C” Attached]
APPLICATION FOR BUILDING PERMIT

City of El Segundo
DEPT. OF BUILDING & SAFETY

DEPT. USE ONLY

APPLICATION FOR BUILDING PERMIT

City of El Segundo
DEPT. OF BUILDING & SAFETY

DEPT. USE ONLY

NOTICE

WALLS OR FENCES CANNOT CROACH ON PUBLIC PROPERTY.

DEC. 4, 2007

5005120.002 MyD

8

120
City of El Segundo

Department of Building and Safety
Certificate of Occupancy

This Certificate is issued pursuant to requirements of the City of El Segundo Building Code, and Zoning Ordinance certifying that at the time of its issuance this structure was in compliance with the various codes of the city, regulating building construction or use. For the following:

Building Address: 701 S. Naval St. Blvd

Group: E-2  Type Construction: 1  Fire Zone: A  Use Zone: R-2

Special Conditions:

The Certification:

Any change in the use, or occupancy of the building automatically voids this certificate.

SHERYL GREEN,
Director of Building and Safety

By: __________________________

To be posted in a conspicuous location and shall not be removed except by the Building Official.
City of El Segundo

Department of Building and Safety
Certificate of Occupancy

This Certificate is issued pursuant to requirements of the City of El Segundo Building Code, and Zoning Ordinance certifying that at the time of its issuance this structure was in compliance with the various codes of the city, regulating building construction or use. For the following:

Building Address: 701 SAGE AVIATION
Group: G-2
Type Construction: 1
Fire Zone: 3
Use Zone: M-1

Special Conditions: None

Use Classification: Offices & Labs.

Bill. Permit No.: 21299

XEROX CORPORATION

Address: 701 S. AVIATION BLVD., EL SEGUNDO

Date: May 6, 1976

By: ________

Director of Plan & Safety

To be posted in a conspicuous location and shall not be removed except by the Building Official.
CERTIFICATE OF COMPLIANCE

REQUEST FOR CERTIFICATE OF COMPLIANCE

City of El Segundo

I/We the undersigned owner(s) of record of real property within the City of El Segundo, County of Los Angeles, hereby REQUEST the City of El Segundo to determine if said real property described below complies with the provisions of the Subdivision Map Act (Sec. 66410 et. seq., Government Code, State of California) and the City Subdivision Ordinance.

Date: 5/17/07

555 AVIATION BOULEVARD, LTD.,
a California limited partnership

By: [Signature]

Larry Worcellem, General Partner

PROPERTY DESCRIPTION 701 S. Aviation Blvd. - Building M1 - APN 4138-009-016

Portions of Lots 32 and 35

The portions of said Lots 32 and 35 of Tract 26557, in the City of El Segundo, County of Los Angeles, State of California, as per map recorded in Book 675, Pages 95 to 98, inclusive of Maps, in the Office of the County Recorder of said County, lying Northerly of a line that is parallel with the Northerly line of said Lot 32 and the Easterly prolongation thereof, and distant 70.0 feet Southerly therefrom, measured at right angles.

DETERMINATION OF COMPLIANCE

I hereby certify that the above described parcel complies with the applicable provisions of the Subdivision Map Act and of the City Subdivision Ordinance and may be sold, financed or transferred in full compliance with all applicable provisions of the Subdivision Map Act and of the City of El Segundo Subdivision Ordinance.

Date: [Signature]

CITY OF EL SEGUNDO

By: [Signature] Title: [Signature]
ACKNOWLEDGEMENT FORM FOR PROPERTY OWNER(S)

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On August 13, 2007, before me, Chrisoula St. Dennis, Notary Public personally appeared Larry Worchell.

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Chrisoula St. Dennis, Notary Public

ACKNOWLEDGEMENT FORM FOR CITY OF EL SEGUNDO

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On __________________ before me, __________________

personally appeared __________________

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature __________________

Approved by: __________________
City Engineer

Date:
August 13, 2007

VIA MESSENGER

City of El Segundo
350 Main Street
El Segundo, CA 90245
Attention: Gary D. Chicots, Director of
Planning and Building Safety

Re: Letter of Authorization to Process Environmental Assessment EA-750 and
Certificate of Compliance No. 07-01 (the "Applications")
555 Aviation Boulevard, El Segundo, CA 90245 (the "Property")

Dear Mr. Chicots:

The undersigned, as the owner of the Property, requests the City of El Segundo to process
and approve the above-referenced Applications submitted on behalf of the undersigned and
Xerox Corporation ("Xerox") as lessee of the Property which Applications include the following:

(a) Certificate of Compliance Request for Certificate of Compliance City of El
Segundo.

(b) Termination Agreement – Building M1 terminating the existing Covenant and
Agreement Regarding Maintenance of Off-Street Parking Space recorded February 7, 2001 as
Instrument No. 01-0204706 (the "2001 Parking Covenant").

(c) New Covenant and Agreement Regarding Maintenance of Off-Street Parking
executed by Xerox to be recorded against Xerox’s leasehold interest in the Property.

(d) Partners' Certificate authorizing Larry Worchell to execute the foregoing
documents on behalf of 555 Aviation Boulevard, Ltd.
This letter also constitutes the authorization of the undersigned for J.C. Chang & Associates to submit and process the Applications on behalf of the undersigned.

555 Aviation Boulevard, Ltd.,
a California limited partnership

By: __________________________
Larry Worchel, General Partner

ACKNOWLEDGMENT

State of California
County of Los Angeles

On August 13, 2007, before me, Chrisoula St. Dennis, (insert name and title of the officer) personally appeared Larry Worchel, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/ are subscribed to the within instrument, and acknowledged to me that he/she they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Chrisoula St. Dennis, Notary Public

(Seal)
555 AVIATION BOULEVARD, LTD.  
c/o Larry Worchell  
4221 Wilshire Blvd., Suite 430  
Los Angeles, CA 90010  
(323) 934-1400  

May 31, 2007

VIA FEDERAL EXPRESS

City of El Segundo  
350 Main Street  
El Segundo, CA 90245  
Attn: Gary D. Chicots, Director  
of Planning and Building Safety

Re: 555 Aviation Boulevard, El Segundo ("Property");  
Letter of Authorization to Process Certificate of  
Compliance and Parking Covenant Application

Dear Mr. Chicots:

The undersigned, owner of the above-referenced property, 
requests the City of El Segundo to process and approve the 
following applications ("Applications") submitted on behalf of 
the undersigned and Xerox Corporation ("Xerox") as lessee of the 
Property:

(1) Certificate of Compliance Request for Certificate of 
    Compliance City of El Segundo;

(2) Termination Agreement terminating the existing Covenant 
    and Agreement Regarding Maintenance of Off-Street Parking Space 
    recorded February 7, 2001, as Instrument No. 01-0204706 (the 
    "2001 Parking Covenant");

(3) New Covenant and Agreement Regarding Maintenance of Off- 
    Street Parking executed by Xerox to be recorded against Xerox’s 
    leasehold interest in the Property and to replace the 2001 
    Parking Covenant; and

(4) Partner’s Certificate authorizing Larry Worchell to 
    execute the foregoing documents on behalf of 555 Aviation 
    Boulevard, Ltd.

555 Aviation Boulevard, Ltd., a  
California Limited Partnership  

By Larry Worchell, General Partner
PARTNERS' CERTIFICATE

THIS PARTNERS' CERTIFICATE ("Certificate") is given as of March 31, 2007, by the undersigned Partners of 555 Aviation Boulevard, Ltd., a California limited partnership ("Owner") in favor of the City of El Segundo (the "City"). This Certificate is given to the City in connection with the application for which Owner is seeking approval pursuant to the attached Letter of Authorization. The undersigned hereby certify that Larry Worcwell, as General Partner of the Owner, has the authority:

(i) To execute the Certificate of Compliance Request for Certificate of Compliance;
(ii) To execute the Termination Agreement;
(iii) To execute the Covenant and Agreement Regarding Maintenance of Off-Street Parking; and
(iv) To execute and deliver any and all other documents and to take any and all actions required by the Owner that may be necessary or desirable in connection with the Applications.

555 AVIATION BOULEVARD, LTD.,
a California limited partnership

By: ____________________________

Its: ____________________________

By: ____________________________

Its: ____________________________

JUN 01 2007
PLANNING DIVISION
December 5, 2007

VIA E-MAIL
El Segundo Planning Commission
c/o Mr. Gary Chicots, Planning Director (GChicots@ElSegundo.org)
and Ms. Kimberly Christensen, Planning Manager (KChristensen@ElSegundo.org)
Planning & Building Safety Department
of the City of El Segundo
350 Main Street
El Segundo, California 90245-3813

Re: Intention to Record Notice of Violation –
Government Code Section 66499.36 – 701 S. Aviation Boulevard:
Written Submission by X-Factor, L.P.
in Support of Request for Postponement of Decision

To The Honorable Members of the Planning Commission:

I am legal counsel to X-Factor, L.P., a California limited partnership (“X-Factor”). X-Factor is the current owner of real property improved with a single, large 3-story commercial building commonly known as 701 S. Aviation Boulevard in El Segundo (the “701 Property”). On about October 15, 2007, the Planning & Building Safety Department of the City of El Segundo (the “City”) sent X-Factor a written notice entitled “Notice of Violation: Intention To Record A Notice of Violation in Accordance With Government Code Section 66499.36” (the “Notice”), alleging in effect that there is a technical violation of the California Subdivision Map Act (the “Map Act”), allegedly because one of the boundaries of the 701 Property was improperly created by a grant deed in 1967 when the land was vacant. The Notice states that the City Planning Commission (the “Planning Commission”) has set a date of December 13, 2007 to conduct a hearing (the “Hearing”) for the purpose of deciding whether or not to record a Notice of Violation against the 701 Property. I met with City Planning & Building Safety
Director Gary Chicots and Ms. Kimberly Christensen, City Planning Manager (collectively, "Planning Staff") last week on this matter, and in furtherance of that meeting, I submit this letter on behalf of X-Factor to assist the Planning Commission in its evaluation of this matter. X-Factor respectfully requests that the Planning Commission postpone rendering a decision at the Hearing on the merits of the alleged violation, and allow X-Factor six (6) months time to undertake various efforts described below to attempt to resolve the numerous, interrelated problems that are directly associated with this matter.

I. INTRODUCTION

X-Factor, a passive investor/landlord, purchased the 701 Property in 2003 from TIAA Realty, Inc., an affiliate of Teachers Insurance and Annuity. Xerox was, and still is, the sole tenant of the entire building under a triple-net lease, since 1968. For almost 40 years, this 300,000+ square foot building, as originally constructed, has remained exactly the same and has been used for the same type of commercial office and related uses, and no one complained about any alleged failure to comply with any law, including the Map Act. The City issued both a building permit for the original building construction (in July 1967) and Certificates of Occupancy (in December 1968, and May of 1976), copies of which are attached hereto as Exhibits "A", "B" and "C", respectively, for your reference.

In late 2006, Xerox approached X-Factor and asked for permission to engage in substantial new construction activities at the 701 Property. X-Factor has neither consented nor agreed to allow Xerox to proceed, because, among other things, the proposed construction will reduce the value of the building and Xerox is in material breach of its lease: Among other things, in 2001, Xerox misrepresented itself as being the "owner" of the 701 Property and signed and recorded parking covenants which burdened the 701 Property by allocating many of its parking spaces to another property (555 Aviation Boulevard) which was also occupied by Xerox. There is an arbitration proceeding which is currently pending between Xerox and X-Factor to resolve this and other controversies.

Nonetheless, Xerox has repeatedly demanded permission and has engaged in certain activities involving the City and its Planning and Building Department staff which resulted in the City generating the Notice which we now must address. X-Factor has undertaken no activities, has requested no building or other permits, and has done nothing to seek any benefits from the City. Yet X-Factor, and not Xerox, is now being called upon to respond to a notice claiming a violation which carries serious adverse consequences to X-Factor.
As discussed more fully herein, the activities of Xerox, undertaken despite X-Factor's refusal to consent to the proposed construction, have given rise to the following problems now faced by X-Factor:

1. Apparently, Xerox commissioned a survey, and delivered copies to the City and the adjoining landowner, as a result of which the City has issued its Notice of a Map Act violation; and

2. The adjoining landowner is now claiming that this survey shows certain structures erected in 1968 "encroach" on its property.

Why is X-Factor facing these issues only now after 40 years? Why is the City involving itself in what is essentially a private dispute between Xerox and the 701 Property owner? Has Xerox somehow involved the City and the adjoining landowner in this dispute in the hopes of gaining some leverage over X-Factor in the arbitration proceeding?

As the above questions and the comments below demonstrate, there are substantial legal and factual issues which must be considered and resolved before the Planning Commission should take any step which could irreparably infringe upon X-Factor's rights to maintain the 701 Property in the same condition that it has apparently been in for the past 40 years.

II. MAP ACT COMPLIANCE ISSUES

At the outset, it is in the interests of both the City and X-Factor to determine whether or not there actually is a "violation" of the Map Act. The current Map Act was effectively not in existence until March 4, 1972. The deed which created the current lot configuration and "crossed" over existing parcel lines was, according to the City's own Notice, recorded in 1967, about 5 years prior to the effectiveness of the Map Act.

First, it is necessary to confirm how the current lot configuration came about. As Planning Staff has acknowledged, that is a complicated task. There are lots of lots and multiple parties, past and present, to contend with and to account for. What we do know at this point is that (a) X-Factor currently owns two parcels (Lot 30 and Lot 31) in their entirety, and "portions" of Lots 32 and 35, with the 701 Aviation building sitting on Lots 31, 32 and 35; (b) 555 Aviation Boulevard, Ltd. (the "555 Owner") apparently owns other portions of Lot 32 and 35, as well as Lots 10, 11, 12 and 13, on which is situated a building commonly known as 555 Aviation Boulevard (the "555 Property"); (c) legal descriptions found in various deeds from 1967 forward describe the common boundary of the respective properties as being a designated number of feet east, or west, of the lot lines of some of these lots; (d) Lot 30, the so-called "parking parcel", is physically separated from Lots 31, 32 and 35 by Hawaii Street, and is utilized by Xerox as part of its parking for its occupancy of the 701 Property building; and (e) the 555 Property building
apparently utilizes parking on portions of Lots 32 and 35, as does the 701 Property building. Chain-of-title and other title search activities are needed to attempt to ascertain how this complicated scenario came about and to confirm the respective rights of the parties involved.

Even assuming, for the sake of argument only, that the 1967 deed constitutes an improper act by today’s standards, the Map Act provides several exceptions to strict enforcement of its subdivision requirements, including exceptions that apply in instances where the alleged violation occurred before the Map Act’s effective enactment. One such exception relates to the question of whether or not there were relevant local subdivision ordinances in place at the time. We have asked Planning Staff to research that and provide us with copies of any such historical ordinances so that they can be evaluated.

In addition, as referenced above, the City has issued a number of discretionary approvals and permits over the years, such as building permits and certificates of occupancy. The effect of these municipal approvals must also be researched and evaluated in light of the alleged Map Act violation.

Furthermore, since 1967, there have been several subsequent conveyances of the 701 Property to other owners. When X-Factor purchased the property in 2003, X-Factor had no actual or constructive knowledge of any Map Act violations. This could also lead to legal and equitable defenses against any enforcement actions at this time.

III. LOT LINE ADJUSTMENT ISSUES

Planning Staff has advised us that the Map Act violation would be best addressed by proceeding with a Lot Line Adjustment involving the common property line between the 701 Property and the 555 Property. This by necessity would require that the 555 Owner agree with X-Factor on the location of the proposed adjusted lot line, since the two owners now share, and would continue to share, that property line. The 555 Owner has recently notified X-Factor, in writing, that the property line separating 555 from 701 Aviation that was created by the 1967 deed, is drawn in such a way that some of the walls and other improvements from X-Factor’s 701 Property cross-over the property line and “encroach” upon the 555 Property. Although X-Factor denies the contention that there is any actionable encroachment, the survey map that was supplied by the 555 Owner, and certain diagrams that were shown to us by Planning Staff, purport to show that the existing property line does cut across some existing improvements on the 701 Property.

The 555 Owner, through its legal counsel, Bryan Kravetz, Esq., has demanded that X-Factor agree to remove the allegedly encroaching improvements in the event of any sale or any change in use or occupancy of the 701 Property or the 555 Property, as well as other triggering events. Such a requirement is neither fair nor acceptable to X-Factor. X-Factor believes that it has legal and other rights to the ownership,
possession and use of ALL of its improvements, regardless of where they are situated in relation to the current property line. No Lot Line Adjustment is therefore possible unless and until X-Factor and the 555 Owner can resolve their differences on this important issue.

Regardless of whether the relevant parties agree that the Lot Line Adjustment should affirm the property line in its existing location or should be relocated, additional research, inquiries and inspections must be undertaken to insure that no underground utilities or other non-visible existing improvements are adversely affected or require the use of relevant easements or licenses to maintain. This also requires additional time for careful analysis.

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As referenced above, in 2001, Xerox misrepresented itself as being the "owner" of the 701 Property and signed and recorded a parking covenant which burdened the 701 Property by allocating many of its parking spaces to the neighboring 555 Property which was also occupied by Xerox. In addition, Xerox also improperly signed and recorded a second parking covenant which required that the parking spaces on Lot 30 be "tied" to the building on the 701 Property. (Such 2001 parking covenants are sometimes collectively referred to herein as the "2001 Parking Covenants".) Such actions by Xerox were expressly forbidden by and are a material breach under the terms of the operative lease between X-Factor as landlord and Xerox as tenant of the 701 Property. When these improper acts were discovered by X-Factor, X-Factor demanded that Xerox rectify the problems by releasing the improper 2001 Parking Covenants. Xerox prepared proposed releases and terminations of the 2001 Parking Covenants (collectively, the "Parking Terminations"), and Xerox and X-Factor jointly prepared a new proposed parking covenant which would allocate parking from Lot 30 to the 701 Property for the remaining term of Xerox's lease and occupancy of the 701 Property (the "New Parking Covenant"), which Xerox has tendered to Planning Staff. Planning Staff in fact wants the parties to enter into the New Parking Covenant. Unfortunately, however, Planning Staff has also indicated that it believes it cannot accept the Parking Terminations or the New Parking Covenant, unless and until a full Certificate of Compliance procedure is implemented by X-Factor and by the 555 Owner, which involves, among other things, the accomplishing of a Lot Line Adjustment. For the reasons discussed above and others, a Lot Line Adjustment is not possible until the parties resolve their differences concerning the location of the line and the alleged encroachment.
V. THIRD PARTY CLAIMS

X-Factor is in the processing of doing a complete “chain of title” analysis of the various ownership transfers and has engaged a title company for assistance. This may lead to claims against its seller and or other prior owners or other third parties who may have responsibility or liability in connection with this alleged Map Act violation. Further time is needed for this work to be completed.

VI. INSURANCE

X-Factor is also in the process of evaluating its insurance coverage rights. The postponement of the Hearing is also necessary to allow X-Factor sufficient time to evaluate such rights and, if appropriate, to tender the defense of this matter to its insurance carrier.

VII. CONSEQUENCES OF PREMATURE CITY ACTIONS

There are several material adverse consequences that would result from the Planning Commission rendering a decision against X-Factor at the Hearing and recording a Notice of Violation against the 701 Property. Such a decision and recordation would effectively immediately render the 701 Property objectively unmarketable, and non-finance-able. No one will be willing to buy the 701 Property and no lender will extend a loan on it. No title company will be willing to issue any title insurance regarding the 701 Property. The rights of X-Factor’s existing lender for the 701 Property could also be adversely affected. Such action will result in damages to X-Factor which would be substantial, and if the actions of the Planning Commission and the City are not absolutely and completely justifiable on the present record, could lead to actionable liability exposure. On the other hand, a postponement of action by the Planning Commission at this time would be fully justified and free of any risk of challenge or exposure.

VIII. CONCLUSION

There may not even be a Map Act violation here at all. In any event, there are substantial unanswered factual and legal questions which need to be carefully examined and resolved before the Planning Commission should take any official action on the merits in this matter. With the current state of affairs, neither a Lot Line Adjustment nor a new set of parking covenants can even be accomplished, and those are the two main substantive actions that the Planning Staff has indicated it wants X-Factor to undertake. If the City were to record a Notice of Violation against the 701 Property now, serious harm to X-Factor would immediately occur, and no good purpose would be served.
Premature action by the Planning Commission at the Hearing could lead to liability exposure; postponement to allow for careful, informed analysis is risk-free. Accordingly, X-Factor respectfully asks the Planning Commission to defer any substantive decision on the subject Notice of Violation at this time and to grant X-Factor a six (6) month extension of time on this matter.

Respectfully submitted,

Law Offices of Robert P. Andreani
Counsel for X-Factor L.P.

By: ___________________________

Robert P. Andreani

[Exhibits "A", "B", and "C" Attached]
## Application for Building Permit

**City of El Segundo**  
**DEPT. OF BUILDING & SAFETY**

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<th>Item</th>
<th>Description</th>
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<td>December 5, 2007</td>
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<tr>
<td>Address</td>
<td>701 Aviation Blvd.</td>
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<tr>
<td>Permit Number</td>
<td>12-13-07 Hearing</td>
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### Building Permit

**Department:**  
**Application for Building Permit**

**Permit Number:** 12-13-07 Hearing  
**Address:** 701 Aviation Blvd.

### Notice

**Walls or Fences Cannot Diminish the Use of Public Property.**

### Table

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### Validation

**Valuation:**  
**Date:** 12/05/2007  
**Signature:** [Signature]

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**5005120.002 MyD 8**

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137
City of El Segundo

Department of Building and Safety
Certificate of Occupancy

This Certificate is issued pursuant to requirements of the City of El Segundo Building Code, and Zoning Ordinance certifying that at the time of its issuance the structure was in compliance with the various codes of the city, regulating building construction or use. For the following:

Building Address: 701 S. Aviation Blvd

Group: C-2  Type Construction: 1  Time Zone: 3  L to Zone: M-2

Special Conditions:

Use Classification: OFFICES

Any change in the use or occupancy of this building automatically voids this certificate.

MELVYN GREEN, Director of Building and Safety

By: ______________________

To be posted in a conspicuous location and shall not be removed except by the Building Official
City of El Segundo

Department of Building and Safety
Certificate of Occupancy

This Certificate is issued pursuant to requirements of the City of El Segundo Building Code and Zoning Ordinance certifying that at the time of its issuance this structure was in compliance with the various codes of the city regarding building construction or use. For the following:

Building Address: 701 Sdge Aviation
Group: G-1
Type: Construction: 1
Fire Zone: 3
Use Zone: 2

Special Conditions: None

Use: Offices & Labs.

Owner of Record: XEGER CORPORATION
Address: 701 Aviation Blvd., El Segundo

Any change in the use or occupancy of the building automatically voids this certificate.

Date: May 6, 1976

By: ____________________

Director of Building & Safety

To be posted in a conspicuous location and shall not be removed except by the Building Official.
I. Introduction

On December 13, 2007 the Planning Commission held a public hearing regarding whether to record a Notice of Violation of Government Code § 66412.6 (Subdivision Map Act) regarding real property that has been illegally divided at 711 S. Aviation Boulevard (APN No. 4138-009-015) and 701 S. Aviation Boulevard (APN No. 4138-009-016). During the public hearing, testimony was provided by staff, both property owners’ representatives, and the tenant and their representatives. The public hearing was continued for 60 days to the February 28, 2008 Planning Commission hearing to allow both property owners additional time to either submit completed applications to the City for a Certificate of Compliance in order to eliminate the violation or to present any additional evidence regarding the violation.

At the December 13, 2007 hearing, the Planning Commission also considered and approved the termination of the existing off-site parking covenants; approved the proposed off-site parking covenants for permanent off-site parking in excess of ten spaces to satisfy the El Segundo Municipal Code parking requirements for the office/manufacturing buildings located at 555 S. Aviation Boulevard and 701 S.
Aviation Boulevard subject to verification of the adequacy of the number of parking spaces being provided by each respective property owner for each building; and providing authority to the Director of Planning and Building Safety to adjust the number of off-site spaces allowed based upon the proposed remodeling and reconfiguration of uses within each respective building.

II. Recommendation

Staff recommends that the Planning Commission open the continued public hearing, review the facts and findings related to Environmental Assessment EA No. 750, Miscellaneous No. 07-01; if desirable, reopen public testimony and take evidence; and, direct the Planning and Building Safety Director to record a notice of violation in accordance with Government Code § 66499.36 for the real property at 711 S. Aviation Boulevard (APN 4138-009-015).

Alternatively, if the property owner for 711 S. Aviation Boulevard provided the necessary materials prior to, or at the February 28, 2008 Planning Commission meeting, Planning staff recommends that the matter be continued for two additional months to allow staff sufficient time to verify receipt of all necessary documents and process and complete the Certificate of Compliance and the Lot Line Adjustment that will be required to ensure that the parcels are properly subdivided.

III. Background and Analysis

After reviewing the Certificate of Compliance application and the proposed configuration of the parcels which is identical to the how the parcels are currently deeded improperly to the two property owners, Planning Staff determined that the proposed configuration of the parcels can meet both the subdivision requirements and the ESMC requirements for subdivisions and development standards. The standards that have to be met include minimum lot size, minimum lot frontage, access to a public right-of-way, and compliance with all development standards including, without limitation, setbacks, lot coverage, and parking for the existing facilities on site. The attached Planning Commission report dated December 13, 2007 provides an in depth analysis of the notice of violation issue and the project site history.

Since the December 13, 2007 Planning Commission meeting, Planning staff verified that the number of off-site parking spaces required for 555 S. Aviation Boulevard is consistent with the request and approval of the number of permanent off-site parking spaces to be provided across the street at 701 S. Aviation Boulevard. This is based upon analysis of the plans for the proposed remodeling and reconfiguration of uses within the 555 S. Aviation Boulevard building.

During the intervening time between hearings, Planning Department staff met and/or spoke with all involved parties (the two property owners' representatives and
the tenant's representatives) in a continued effort to resolve this matter. Some progress was made.

On January 17, 2008 Bryan Kravetz, counsel and representative for 555 AVIATION BOULEVARD, LTD., sent a letter by U.S. mail which the City received on January 22, 2008. The letter included an attachment that provided consent of the property owner, signed and notarized by Larry Worrell, Managing Partner, authorizing a covenant and agreement regarding the maintenance of off-street parking during the pendency of the tenant's (Xerox) lease.

On January 30, 2008, the Planning and Building Safety Department sent a follow up letter by certified U.S. mail informing X Factor, L.P., of the remaining outstanding items necessary to complete the Certificate of Compliance, the proposed parking covenant for off-site parking to comply with the El Segundo Municipal Code requirements, and the termination agreement for the existing parking covenant. On February 8, 2008, Robert P. Andreani, counsel and representative for X-Factor, L.P., sent a letter by e-mail followed by an original letter sent by U.S. mail which the City received on February 11, 2008. The letter included an attachment that provided consent of the property owner, signed and notarized by Behrouz Soroudi, its Managing Partner and Secretary, authorizing a covenant and agreement regarding the maintenance of off-street parking during the pendency of the tenant's (Xerox) lease. Additionally, on February 8, 2008, Robert Hessenius, one of the representatives for X-Factor, reviewed the City's zoning and subdivision regulations and obtained copies of records on February 11, 2008.

However, the Certificate of Compliance application is still incomplete as one of the property owners, X-Factor, L.P. has not signed and notarized the Certificate of Compliance application submitted to the City. Additional items from X-Factor, L.P., are still outstanding as well to complete the processing of the Certificates of Compliance. The outstanding items include: filing fees by X-Factor, L.P. for the certificate of compliance, a letter of authorization from X-Factor, L.P. allowing Xerox Corporation or its representative J.C. Chang and Associates to act on X-Factor's behalf regarding the processing of the applications for 701 S. Aviation Boulevard (APN 4138-009-015), and legal documentation showing authorization for Behrouz Soroudi to act on behalf of X-Factor, L.P. A lot line adjustment would be required once the Certificate of Compliance is complete to bring the parcels into compliance with the Subdivision Map Act and ESMC. The proposed parking covenants cannot be recorded until the certificate of compliance and the lot line adjustment applications are complete because the proposed legal description of the two properties (701 S. Aviation Boulevard (APN 4138-009-016) and 711 S. Aviation Boulevard (APN 4138-009-015)).

A termination agreement is being processed for the existing covenant and agreement (Instrument No. 01 0204706) for off-site parking for 501 spaces which was incorrectly recorded on February 7, 2001 with the tenant's signature rather than the property owner allocating parking from 701 S. Aviation Boulevard and 711 S.
Aviation Boulevard to 555 S. Aviation Boulevard. The proposed new covenant would allocate 396 parking spaces from 701 S. Aviation Boulevard to be used to meet parking requirements for the building at 555 S. Aviation Boulevard. A termination agreement is being processed for the existing covenant and agreement (Instrument No. 01 204705) for off-site parking for 452 parking spaces which was incorrectly recorded on February 7, 2001 with the tenant’s signature rather than the property owner allocating parking from 855 S. Aviation Boulevard to 711 S. Aviation Boulevard. The proposed new covenant would allocate 490 parking spaces from 855 S. Aviation Boulevard to be used to meet parking requirements for the building at 701 and 711 S. Aviation Boulevard.

The Planning Commission closed public testimony on December 13, 2007, but continued the public hearing until February 28, 2008. Based upon the evidence presented during the public hearing, the Planning Commission should authorize the Planning and Building Safety Director to record the notice of violation with the County Recorder. The notice of violation, when recorded, constitutes actual notice to the existing property owners and constructive notice to all subsequent owners regarding such property.

No evidence was submitted to the City demonstrating that the subject parcels were legally subdivided. The City's interest is in obtaining compliance so that the parcels can be properly subdivided. Therefore, since 555 Aviation Boulevard, Ltd. (Larry Worchell, Managing Partner), the property owner for 701 S. Aviation Boulevard (APN 4138-009-016), submitted all necessary materials for processing of the Certificate of Compliance, the termination agreements for the off-site parking covenants, and the proposed new parking covenants, Planning staff recommends that the notice of violation not be filed against the real property at 701 S. Aviation Boulevard. Planning staff does not believe that filing a notice of violation is warranted when the property owner at 701 S. Aviation Boulevard has provided all the necessary materials to comply so that the parcels can be properly subdivided. Since X-Factor, L.P. (Behrouz Soroudi, Managing Partner and Secretary), the property owner for 711 S. Aviation Boulevard (APN 4138-009-015) has still not submitted all necessary materials for processing the Certificate of Compliance and the proposed new covenants as of the issuance of this staff report, Planning staff recommends that the notice of violation be filed against the real property at 711 S. Aviation Boulevard. If the property owner for 711 S. Aviation Boulevard provided the necessary materials prior to, or at the February 28, 2008 Planning Commission meeting, Planning staff recommends that the matter be continued for two additional months to allow staff sufficient time to verify receipt of all necessary documents and process and complete the Certificate of Compliance and the Lot Line Adjustment that will be required.
IV. **Conclusion**

Planning staff recommends that the Planning Commission open the continued public hearing, review the facts and findings related to Environmental Assessment EA No. 750, Miscellaneous No. 07-01; if desirable, reopen public testimony and take evidence; and, direct the Planning and Building Safety Director to record a notice of violation in accordance with Government Code § 66499.36 for the real property at 711 S. Aviation Boulevard.

V. **Exhibits**

A. Letter from Bryan Kravetz dated January 17, 2008 and attached original consent of owner document for 555 AVIATION BOULEVARD, LTD.

B. Letter to X-Factor, LP, dated January 30, 2008

C. E-mail from Robert P. Andreani dated February 4, 2008 and attached copy of consent of owner document for X-Factor L.P.

D. Letter from Robert P. Andreani dated February 8, 2008 and attached original consent of owner document for X-Factor L.P.

E. Planning Commission Staff Report and Attachments

Prepared By: Kimberly Christensen, AICP, Planning Manager

Kimberly Christensen, AICP, Planning Manager
Department of Planning & Building Safety

Gary Chicots, Director
Planning and Building Safety Department

P:\Planning & Building Safety\PROJECTS\726-750\EA-750\PC022808\EA-750.SR2008.02.28.doc
VIA FEDERAL EXPRESS

Kimberly Christensen, AICP, Planning Manager
City of El Segundo
Planning and Building Safety Department
350 Main Street
El Segundo, CA 90245-3813

Re: 555 Aviation Boulevard, Ltd.

Dear Ms. Christensen:

Enclosed is the original notarized Consent of Owner in connection
with the Covenant and Agreement Regarding Maintenance of Off-
Street Parking, all in connection with the above matter.

Please advise if anything further is required of my client, 555
Aviation Boulevard, Ltd.

Thank you for your courtesies and cooperation.

Very truly yours,

BRYAN KRAVETZ

BK:mt
cc: Larry WorcHELL (Via FAX w/o encls)
    Cynthia Wolcott, Esq. (Via FAX w/o encls)
COVENANT AND AGREEMENT REGARDING MAINTENANCE OF OFF-STREET PARKING
CONSENT OF OWNER

The undersigned hereby certify that it is the Owner and Lessor of the hereinafter legally described real property located in the City of El Segundo, State of California:

That portion of said Lots 32 and 35 of Tract 26557, in the City of El Segundo, County of Los Angeles, State of California, as per map recorded in Book 675, Pages 95 to 98, inclusive, of Maps, in the Office of the County Recorder of said County, lying Northerly of a line that is parallel with the Northerly line of said Lot 32 and the Easterly prolongation thereof, and distant 70.00 feet Southerly therefrom, measured at right angles.

Owner hereby consents to the recordation of the Covenant and Agreement Regarding Maintenanace of Off-Street Parking pursuant to the terms and conditions thereof.

555 AVIATION BOULEVARD, LTD.,
a California limited partnership

By: [Signature]
Larry Worcheley, General Partner

Dated: Jan 10, 2008
ACKNOWLEDGMENT

State of California
County of Los Angeles

On January 10, 2008, before me, Chrisoula St. Dennis, Notary Public, personally appeared Larry Worchei, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Chrisoula St. Dennis
Notary Public

(seal)
January 30, 2008

X Factor
9595 Wilshire Boulevard, Suite 501
Beverly Hills, CA 90212

SUBJECT: NOTICE OF VIOLATION: INTENTION TO RECORD A NOTICE OF VIOLATION IN ACCORDANCE WITH GOVERNMENT CODE § 66499.36

Property Address: 711 S. Aviation Boulevard
(APN: 4138-009-015)

Code Compliance Number:
2007-0111 (APN: 4138-009-016)
2007-0112 (APN: 4138-009-015)

Dear Property Owner:

In response to the City's November 21, 2007, notice of violation the Planning and Building Safety Department received materials purportedly submitted on your behalf by the Xerox Corporation's legal counsel which consisted of the fee payment of $155 for a new off-street parking covenant and Exhibit A referenced in the termination agreement for the existing parking covenant. No materials have been received directly from you or your representative Robert P. Andreani that address the outstanding items for the Certificate of Compliance and parking covenant applications.

Please be advised that the submission of the above-described materials is insufficient to address the matter of the illegal subdivision or process the request for an off-street parking covenant.

The following additional information is still required:

1. Submit a signed and notarized certificate of compliance application form.

350 Main Street, El Segundo, California 90245-3813
Phone (310) 524-2380    FAX (310) 322-4167
2. Submit the application fee of $1,835 for the certificate of compliance.

3. Provide legal documentation to show that the person or persons who are authorized to sign on behalf of X-Factor for 711 S. Aviation Blvd.

4. Please provide a letter authorizing Xerox and/or representatives of Xerox to act on your behalf with regards to the submitted applications.

Be advised that the Planning Commission reviewed and approved the off-street parking agreement subject to completion of the Certificate of Compliance process at its meeting on December 13, 2007. The Planning Commission continued the hearing for 2 months to February 28, 2008 regarding the illegal subdivision. All the necessary documents outlined above that have been requested previously must be submitted to the Planning and Building Safety Department by 5 p.m. on Tuesday, February 12, 2008 in order to determine that all the necessary documents have been provided to process the Certificate of Compliance application and that sufficient effort has been made to resolve the subdivision violation during the intervening time period since the public hearing on December 13, 2007. Note also that the City will proceed with the hearing of the subdivision violation on February 28, 2008. If you have any questions regarding this matter, please contact Kimberly Christensen, Planning Manager at (310) 524-2340.

Sincerely,

[Signature]

Gary Chicots, Director
Planning and Building Safety Department

Certified Mail No. 7002 2410 0003 4827 2813

CC: Kimberly Christensen, AICP, Planning Manager
Robert P. Andreani
555 Aviation Boulevard LTD
Cynthia Wolcott
Dear Ms. Christensen and Mr. Berger:

Attached is the signed (& notarized) Consent of Owner signed on behalf of X-Factor LP in PDF form regarding the above-referenced matter. Please let me know if you need the original “ink-signed” version and if so, to whom I should send it.

Thank you, Bob Andreani

LAW OFFICES of ROBERT P. ANDREANI
Citigroup Center
444 S. Flower Street
Suite 500, Fifth Floor
Los Angeles, California 90071-2906
Telephone: 213-891-9555
FAX: 213-891-1515
Cell: 213-215-1822
E-Mail: Bob.Andreani@sbcglobal.net

THIS MESSAGE IS INTENDED TO BE A CONFIDENTIAL COMMUNICATION, AND IT MAY BE SUBJECT TO ATTORNEY-CLIENT COMMUNICATION PRIVILEGE, ATTORNEY WORK-PRODUCT PRIVILEGE OR ANOTHER PRIVILEGE. THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL(S) TO WHOM IT IS ADDRESSED. Any other use of this message is prohibited. If you have received this message in error, please notify us immediately by reply e-mail to Bob.Andreani@sbcglobal.net and delete the message. Thank you.

IF DOCUMENTS ARE ATTACHED TO THIS E-MAIL MESSAGE PLEASE READ THE FOLLOWING:

Robert P. Andreani Attorney-at-Law cannot opine on the enforceability of any changes made to the transmitted document(s) that have not been drafted or reviewed by him, nor can he opine on the suitability of the transmitted document(s) for any other transaction other than the one to which it/they relate. Therefore if changes are made to the transmitted document(s), by so doing, you assume the risk that changes to the document(s) made by you without counsel's review may not (a) be enforceable under California law, (b) be suitable for the purposes intended, or (c) achieve your desired objectives as such have been articulated to me prior to the transmission of the transmitted document(s). In addition, any legal advice given to you by Robert P. Andreani Attorney-at-Law with respect to the transmitted document(s) shall be deemed not to cover or take into effect any changes made to the document(s) in your office if such changes are not reviewed by Robert P. Andreani Attorney-at-Law prior to their execution.
CONSENT OF OWNER

to

COVENANT AND AGREEMENT REGARDING MAINTENANCE
OF OFF-STREET PARKING DURING PENDENCY OF LEASE

The undersigned hereby declares that it is the Owner of the hereinafter legally described
real property located in the City of El Segundo, State of California consisting of the following:

Lot 30 of Tract 26557, in the City of El Segundo, County of Los Angeles, State of
California, as per map recorded in Book 675, Pages 95-98, inclusive, of Maps in
the Office of the County Recorder of said County (the “Lot 30 Property”).

Owner hereby consents to the recordation with the Los Angeles County Recorder of that
certain document entitled “Covenant and Agreement Regarding Maintenance of Off-Street
Parking During Pendency of Lease”, executed by Xerox Corporation, executed on and dated as
of October 2, 2007, which identifies the Lot 30 Property as the “Parking Site” therein, the first
page of which document is attached hereto as Exhibit “A” (the “Lot 30 Parking Covenant”),
pursuant to the terms and conditions thereof (the “Consent”).

Owner’s Consent is conditioned upon the termination and removal of the two previous
parking covenants executed and recorded by Xerox Corporation in or about February 2001
relating to the Lot 30 Property and the property commonly known as 701 S. Aviation Boulevard,
El Segundo California, respectively.

Owner’s Consent is in no way intended to be, and should not be construed as, a waiver by
Owner of any of its rights or remedies relative to Owner’s pending Demand For Arbitration
involving Xerox Corporation.

Nothing herein is intended to, or shall, modify any of the terms or conditions of the Lot
30 Parking Covenant itself.

X-FACTOR, L.P., a California limited partnership

By: Panorama Delta, Inc., a California corporation
   Its: Managing Partner
   By: Behrouz Soroudi
      Its: Secretary

Dated: January 31, 2008
ACKNOWLEDGMENT

State of California
County of Los Angeles

On January 31, 2008, before me, Jocelyn Luistro, Notary Public, (insert name and title of the officer), Notary Public, personally appeared _______ Berezki Semeni _______ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

________________________
Notary Public

(seal)
Exhibit "A"
Lot 30 Parking Covenant – First Page

RECORDING REQUESTED BY
City of El Segundo Planning Division
330 Main Street
El Segundo, CA 90245

WHEN RECORDED MAIL TO:
City of El Segundo Planning Division
250 Main Street
El Segundo, CA 90245

COVENANT AND AGREEMENT REGARDING MAINTENANCE OF OFF-STREET PARKING DURING PENDENCY OF LEASE

The undersigned hereby certify that it is the lessee ("Lessee") of the hereinafter legally described real property located in the City of El Segundo, State of California, consisting of the following:

Lot 29 of Tract 26557 as recorded in Book 675, Pages 95-96, inclusive, of Records of Los Angeles County, as more particularly described on Exhibit "A" attached hereto and by this reference made a part hereof (the "Parking Site").

Pursuant to El Segundo Municipal Code ("ESMC") § 15-15-8, the undersigned covenants and agrees that a parking area containing not less than 480 usable and accessible automobile surface parking spaces as shown on Exhibit "B" attached hereto and by this reference made a part hereof, which comply with ESMC Title 15, Chapter 15 must be provided and maintained on the above described Parking Site to provide the required parking for the use of the building leased by Lessee located at 701 S. Aviation Boulevard during the hours of 7:00 am to 6:00 pm Monday through Friday only (excluding Federal Holidays) in said City upon that land legally described as follows (the "Parking Covenant"):

Lot 1 and portions of Lots 32 and 35 of Tract 26557, as recorded in Book 675 Pages 95-96, inclusive, of Records of Los Angeles County, as more particularly described on Exhibit "A" (the "Building Site").

This Parking Covenant is made with specific reference to that certain Lease Agreement dated December 20, 1988, as amended, by and between X-Factor, L.P., as Lessee (by succession) and Xerox Corporation, as Lessor (by succession), whereby said Lessee leases the Building Site and the Parking Site (the "Lease"). The term of the Lease expires December 31, 2013, unless Lessee exercises its option to extend, in which event the term of the Lease expires December 31, 2023 (the "Lease Expiration Date").

Notwithstanding any other provision in this document or to the Lease expressly or impliedly to the contrary:

1) the Parking Covenant is fully and for all times subordinate to, and does not in any way affect or encumber, the fee simple interest of the present or future owner(s) of the Building Site and the Parking Site (alternatively, "Owner" and collectively, the "Owners"), but is expressly held solely to the lease and the occupancy of Xerox and its successors and assigns (collectively, "Lessee") under the Lease for purposes of its duration and effectiveness, and is binding upon Lessee and Owner;

2) the Parking Covenant expires automatically and in its entirety on the earliest of the following (the "Parking Covenant Expiration Date"): (A) midnight on the Lease Expiration Date, or (B) any earlier time of termination of the Lease pursuant to the Lease, or (C) the date that the
February 8, 2008

VIA FEDERAL EXPRESS
Ms. Kimberly Christensen, Planning Manager (KChristensen@ElSegundo.org)
Planning & Building Safety Department
of the City of El Segundo
350 Main Street
El Segundo, California 90245-3813

Re: X-Factor Consent of Owner – 711 S. Aviation Boulevard

Dear Ms. Christensen:

Per your request, enclosed is the “wet” ink signed original of the Consent of Owner signed by X-Factor, a PDF copy of which was previously sent to you electronically as an e-mail attachment. I believe you now have all that you need in order to record the 2 terminations of the 2001 parking covenants and the new parking covenant (to which the enclosed Consent of Owner specifically makes reference).

Respectfully submitted,

Law Offices of Robert P. Andreani
Counsel for X-Factor LP.

By:

Robert P. Andreani

Co: X-Factor, LP
CONSENT OF OWNER

to

COVENANT AND AGREEMENT REGARDING MAINTENANCE
OF OFF-STREET PARKING DURING PENDENCY OF LEASE

The undersigned hereby declares that it is the Owner of the hereinafter legally described
real property located in the City of El Segundo, State of California consisting of the following:

Lot 30 of Tract 26557, in the City of El Segundo, County of Los Angeles, State of
California, as per map recorded in Book 675, Pages 95-98, inclusive, of Maps in
the Office of the County Recorder of said County (the “Lot 30 Property”).

Owner hereby consents to the recordation with the Los Angeles County Recorder of that
certain document entitled “Covenant and Agreement Regarding Maintenance of Off-Street
Parking During Pendency of Lease”, executed by Xerox Corporation, executed on and dated as
of October 2, 2007, which identifies the Lot 30 Property as the “Parking Site” therein, the first
page of which document is attached hereto as Exhibit “A” (the “Lot 30 Parking Covenant”),
pursuant to the terms and conditions thereof (the “Consent”).

Owner’s Consent is conditioned upon the termination and removal of the two previous
parking covenants executed and recorded by Xerox Corporation in or about February 2001
relating to the Lot 30 Property and the property commonly known as 701 S. Aviation Boulevard,
El Segundo California, respectively.

Owner’s Consent is in no way intended to be, and should not be construed as, a waiver by
Owner of any of its rights or remedies relative to Owner’s pending Demand For Arbitration
involving Xerox Corporation.

Nothing herein is intended to, or shall, modify any of the terms or conditions of the Lot
30 Parking Covenant itself.

X-FACTOR, L.P., a California limited partnership

By: Panorama Delta, Inc., a California corporation
   Its: Managing Partner

By: Behrouz Soroudi
   Its: Secretary

Dated: January 31, 2008
ACKNOWLEDGMENT

State of California
County of Los Angeles

On January 31, 2008, before me, Jocelyn Luistro, Notary Public, Notary Public, personally appeared Behrouz Serondi, Notary Public, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

[Signature]
Notary Public

(seal)
Covenant and Agreement Regarding Maintenance of Off-Street Parking During Pendency of Lease

The undersigned hereby certify that it is the lessor ("Lessor") of the hereinafter legally described real property located in the City of El Segundo, State of California consisting of the following:

Lot 30 of Tract 26557 as recorded in Book 675, Pages 93-98, inclusive, of Records of Los Angeles County, as more particularly described on Exhibit "A" attached hereto and by this reference made a part hereof (the "Parking Site").

Pursuant to El Segundo Municipal Code ("ESMC") § 15-15-5, the undersigned covenants and agrees that a parking area containing not less than 400 usable and accessible automobile surface parking spaces as shown on Exhibit "B" attached hereto and by this reference made a part hereof which comply with ESMC Title 15, Chapter 15 must be provided and maintained on the above described Parking Site to provide the required parking for the use of the building leased by Lessee located at 701 S. Aviation Boulevard during the hours of 7:00 am to 6:00 pm Monday through Friday only (except Federal Holidays) in said City upon that this property is described as follows the "Parking Covenant":

Lot 31 and portions of Lots 32 and 33 of Tract 26557, as recorded in Book 675 Pages 93-98, inclusive, of Records of Los Angeles County, as more particularly described on Exhibit "A" (the "Building Site").

This Parking Covenant is made with specific reference to that certain Lease Agreement dated December 20, 1968, as amended, by and between X-Factor, L.P., as Lessee (by succession) and Xerox Corporation, as Lessor (by succession), whereby said Lessor leases the Building Site and the Parking Site (the "Lease"). The term of the Lease expires December 31, 2013, unless Lessee exercises an option to extend, in which event the term of the Lease expires December 31, 2023 (the "Lease Expiration Date").

Notwithstanding any other provision in this document or in the Lease expressly or impliedly to the contrary:

(1) the Parking Covenant is subject to and for all times subservient to, and does not in any way affect or encumber, the fee simple title of the present or future owner(s) of the Building Site and/or the Parking Site (alternatively, an "Owner" and collectively, the "Owners"); but is expressly sold solely to the Lessor and the occupancy of Xerox and its successors and assigns (collectively, "Lessor") under the Lease for purposes of its duration and effectiveness, and is binding upon Lessor and Lessee;

(2) the Parking Covenant expires automatically and in its entirety on the earlier of the following (the "Parking Covenant Expiration Date") the (A) midnight on the Lease Expiration Date, or (B) any earlier date of termination of the Lease pursuant to the Lease, or (C) the date that the
Identified as a "Deed Line" on Pacific Land Consultants, Inc. map
Christensen, Kimberly

From: rhesenius@aol.com
Sent: Wednesday, February 06, 2008 12:35 PM
To: Christensen, Kimberly
Subject: February 28 Planning Commission Hearing (Xerox)

Dear Ms. Christensen:

As per my voicemail message to you of a couple of minutes ago, I am an attorney for X-Factor, one of the participants in the above referenced matter. I would like to review El Segundo's "subdivision" ordinance as it existed up until December 31, 1968. My understanding is that this would involve Chapter 28 of the municipal code. Based on what I have seen to date, it looks like a subdivision law was originally enacted in 1951 (Ord. No. 379), and then substantially amended or perhaps restated and amended in 1959 by Ordinance No. 536. If my assumptions are correct, what I think I need to see is Chapter 28 as it existed in 1959, and any amendments through 1968.

Your office was kind enough to collect and send to Robert Andreani similar materials principally relating to Chapter 34 (the zoning ordinance, although there were some subdivision materials included in that production as well). I wonder whether the same could now be done for me with respect to the subdivision ordinance only. Of course, I would be happy to come to your offices and review the materials there, if that is feasible.

Thank you very much for any help you could provide to me. I look forward to speaking with you in the future.

LAW OFFICE OF RICHARD S. HESSENIUS
A Professional Corporation
720 Thirtieth Street, Manhattan Beach, California 90266
Telephone: 310-545-8131
E-Mail: RHessenius@aol.com

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More new features than ever. Check out the new AOL Mail!
Karl, FYI.

Gary

Dear Gary:

Attached hereto is the Declaration of Behrouz Soroudi which is referenced in my February 27 letter.

Best regards,

Richard.

LAW OFFICE OF RICHARD S. HESSENIUS
A Professional Corporation
Telephone: 310-545-8131
E-Mail: RHessenius@aol.com

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-----Original Message-----
From: Darlene Flores <Darlene@maxxamllc.com>
To: rhessenius@aol.com
Sent: Thu, 21 Feb 2008 4:19 pm
Subject: FW: Declaration

Richard,

On behalf of Behrouz Soroudi, attach please find the signed Declaration of Behrouz Soroudi.

Darlene Flores
Maxxam Enterprises
Supercharge your AIM. Get the AIM toolbar for your browser.
DECLARATION OF BEHROUZ SOROUDI

I, Behrouz Soroudi, the undersigned, declare as follows.

1. I am the Secretary of Panorama Delta, Inc., a California corporation ("Panorama"). Panorama, in turn, is the general partner of X-Factor, L.P., a California limited partnership ("X-Factor").

2. I am authorized by both Panorama and X-Factor to make this declaration. I know all of the following facts of my own personal knowledge and, if called as a witness in this matter, could and would competently testify thereto.

3. X-Factor purchased the property commonly known as 701 S. Aviation Boulevard, El Segundo, California (the "property") in August 2003 for an amount exceeding $5 million. I was the representative of X-Factor who was actively involved in arranging for the purchase of the property.

4. X-Factor has owned the property since August 2003 and is the current owner of the property.

5. At the time X-Factor purchased the property, neither X-Factor nor its partners knew that there was any actual or potential subdivision law violation applicable to the property. To the contrary, X-Factor purchased title insurance in connection with its acquisition of the property, and the policy of title insurance did not reflect any subdivision law violation. Neither the seller nor anyone else involved in the transaction conveyed any information to me indicating that there might be a violation of the subdivision laws.

6. I first learned that the City of El Segundo contended that the property had been unlawfully subdivided some time during the fall of 2007.

7. It is my understanding, based upon the documents generated in connection with X-Factor's acquisition of the property, that the property was developed in 1967.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on February 21, 2008 at Beverly Hills, California.

Behrouz Soroudi

163
Christensen, Kimberly

From: bob.andreani [bob.andreani@sbcglobal.net]
Sent: Wednesday, February 27, 2008 1:24 PM
To: Chicots, Gary; Christensen, Kimberly; Hensley, Mark; Berger, Karl
Cc: 'bob.andreani'; rhexenius@aol.com
Subject: Letter Submission By X-Factor L.P. for El Segundo Planning Commission Hearing 2-28-08 Re Parking Covenants

Dear Ms. Christensen and Messrs. Chicots, Hensley and Berger:

Attached please find a letter from me to the Planning Commission of El Segundo, submitted on behalf of my client, X-Factor, L.P., for your and the Planning Commission members’ consideration in connection with the Planning Commission hearing scheduled for tomorrow evening.

Thank you, Bob Andreani

LAW OFFICES of ROBERT P. ANDREANI
Citigroup Center
444 S. Flower Street
Suite 500, Fifth Floor
Los Angeles, California 90071-2906
Telephone: 213-891-9555
FAX: 213-891-1515
Cell: 213-215-1822
E-Mail: Bob.Andreani@sbcglobal.net

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February 27, 2008

VIA E-MAIL
El Segundo Planning Commission
c/o Mr. Gary Chicots, Planning Director (GCChicots@ElSegundo.org)
and Ms. Kimberly Christensen, Planning Manager (KChristensen@ElSegundo.org)
Planning & Building Safety Department
of the City of El Segundo
350 Main Street
El Segundo, California 90245-3813

Re: Intention to Record Notice of Violation –
Government Code Section 66499.36 – 701-711 S. Aviation Boulevard:

Written Submission by X-Factor, L.P.
Regarding Parking Covenant Replacement

To The Honorable Members of the Planning Commission:

I am co-legal counsel (together with Richard S. Hessenius, Esq.) to X-Factor, L.P., a California limited partnership ("X-Factor"). X-Factor is the current owner of real property improved with a single, 3-story commercial building commonly known as 701-711 S. Aviation Boulevard in El Segundo (the "701 Property"). On about January 30, 2008, the Planning & Building Safety Department of the City of El Segundo (the "City") sent X-Factor a written notice entitled "Notice of Violation: Intention To Record A Notice of Violation in Accordance With Government Code Section 66499.36" (the "January 30 Notice"), relative to the above, the subject of which is set for a continued hearing of the Planning Commission tomorrow.

This letter is submitted to address only one aspect of the January 30 Notice, which is the subject of parking covenants. Two parking covenants were improperly signed and
recorded by Xerox Corporation in 2001. One of them allocated parking from X-Factor's property to the property at 555 Aviation Boulevard, and the other allocated parking from 855 S. Aviation Boulevard (Lot 30) to the 701 Property. Both Xerox and the City's Planning Staff have acknowledged that these 2001 parking covenants were improperly entered into and should be removed. With respect to the second of such parking covenants, in the Planning Commission Staff Report, dated December 13, 2007, that was prepared and disseminated in advance of the previous Planning Commission hearing on that date (the "December 13 Staff Report"), on page 7 thereof, under the heading "Parking Covenants", City Planning Staff stated:

"There is an existing covenant and agreement (Instrument No. 01-204705) for off-site parking for 452 parking spaces which was incorrectly recorded on February 7, 2001 with the tenant's [Xerox's] signature rather than the property owner allocating parking from 855 S. Aviation Boulevard to 711 S. Aviation Boulevard."

"The existing covenant would be terminated and is proposed to be replaced with a new covenant that would allocate 490 parking spaces from 855 S. Aviation Boulevard to be used to meet parking requirements for the building at 701 and 711 S. Aviation Boulevard. The covenant and agreement will run with the leasehold interest of the tenant which is currently the Xerox Corporation."

The new covenant referred to in the December 13 Staff Report citation above was prepared and agreed to by Xerox and X-Factor, was signed and was submitted to Planning Staff (together with a proposed Termination of the old 2001 covenant and a written "Consent of Owner" from X-Factor) with a request that the old covenant termination and the new covenant both be approved by the City and recorded. Based upon the recommendation of Planning Staff, the new covenant was approved by the Planning Commission, but its approval was conditioned upon X-Factor submitting a Request for Certificate of Compliance, as reflected in the January 30 Notice itself, which states that the Planning Commission has

"reviewed and approved the off-street parking agreement subject to completion of the Certificate of Compliance process at its meeting on December 13, 2007." (emphasis added)

By this letter, X-Factor respectfully requests that the Planning Commission remove the above-cited condition to the effectiveness of the new parking covenant relative to 855 and 701-711 Aviation, and allow for the recodarion of (i) the Termination of the old, improper 2001 covenant and (ii) the new parking covenant, now, irrespective of the status of any alleged Subdivision Map Act violation and without the submission by X-Factor of a Request for Certificate of Compliance.
The fact remains that the 2001 parking covenants were improper, and the new covenant will provide for sufficient parking at the subject site. All interested parties have agreed to remove the old covenant and to replace it with the new covenant involving 855 and 711-711 Aviation (collectively, the "Parking Covenant Replacement"). The only stated reasons for delaying the Parking Covenant Replacement that have been offered by Planning Staff are the following:

☐ If there is to be a lot line adjustment as part of a Certificate of Compliance procedure, the legal description of the subject lots may change; and

☐ Xerox has indicated its desire to construct tenant improvements within the subject building, which may involve changes to some of the uses and the required parking ratios may therefore shift.

Those are not sufficient grounds to withhold the Parking Covenant Replacement, for the reasons discussed below:

1. There may not ever even be a lot line adjustment or a Certificate of Compliance procedure that is implemented here. (As you know, X-Factor maintains that it is not in violation of the Subdivision Map Act and does not have to submit to a compliance procedure.) In either event, however, there is no problem in accomplishing the Parking Covenant Replacement now, in advance of any potential future lot line adjustment. If in fact there is a future lot line adjustment, then the legal description of the lots in question will either be exactly equivalent to the legal descriptions which currently are of-record, or they may be different. If they are equivalent, then there is absolutely no problem in having previously recorded the new parking covenant under the pre-lot line legal descriptions. If the lot line results in a non-equivalent legal description, then the previously recorded Parking Covenant Replacement documents will still, as a matter of law, remain applicable to the property, as will all other previously recorded documents. If that were not true, then the recordation of a lot line adjustment would require that all other previous recorded documents, such as deeds, deeds of trust, etc., be re-recorded with new legal descriptions, which is clearly not the case.

2. Similarly, Xerox may or may not ultimately perform tenant improvement construction in the subject building which may or may not change the overall parking ratio requirements. (As you know, X-Factor's consent to any such work is required under its lease with Xerox, and X-Factor has not consented to the work.) In either event, the Parking Covenant Replacement will be appropriate. If X-Factor consents and Xerox performs tenant improvement work in the future, it will be subject to the availability of sufficient parking for the intended changes in use at that time, and if the proposed new parking covenant does not provide for sufficient parking, then additional parking will need to be somehow found, or Xerox's plans will need to be adjusted. The proposed new parking covenant allows for the same number of parking spots as the current, improper
2001 covenant provides. The Planning Staff has acknowledged that it provides for more than enough parking spaces for the current build-out and the current uses in the subject building. Therefore, there is no reason to refrain from completing the Parking Covenant Replacement now.

The situation with respect to the other 2001 covenant bears some similarity to the 855 - 701 covenant. It involves parking that was improperly allocated by Xerox (as a tenant) from X-Factor's property in favor of the 555 Aviation property. In addition, however, that 2001 covenant between 555 and 701 Aviation purported to convey parking rights that should not have even been conveyed by the owner. They involved separate ownerships and separate properties that were not related to each other even by common leasehold interests. We are informed that a termination of that 2001 555-701 covenant and its replacement with a covenant that does not burden X-Factor's property, has also been proposed and agreed-to by the parties, and by Planning Staff, and that appropriate correcting documentation has also been prepared and signed by the necessary parties and submitted to the City, but that the Planning Commission has placed a similar condition precedent to their implementation and recordation. Although X-Factor is not privy to the relationship between Xerox and the owner of 555 Aviation, X-Factor believes that the correcting documentation for this other 2001 covenant should also be accepted by the City and recorded now, so that X-Factor's "title" can be cleared of these improper parking burdens, regardless of whatever else may be pending between or among any of Xerox, the City and the 555 Aviation owner.

Both of the old 2001 parking covenants were, by everyone's admission, improper. They need to be removed and replaced, now. Since all interested parties are in agreement about the need to achieve these corrective measures now, the City should not impose any unnecessary conditions.

Therefore, X-Factor again respectfully requests that the Planning Commission authorize its Planning Staff to accomplish the Parking Covenant Replacement now, and allow at least the termination of the 2001 555 - 701 covenant now, without any conditions.

Respectfully submitted,

Law Offices of Robert P. Andreani
Co-Counsel for X-Factor L.P.

By: [Signature]

cc: X-Factor, L.P.
Christensen, Kimberley

From: bob.andreani [bob.andreani@sbcglobal.net]
Sent: Wednesday, February 27, 2008 1:56 PM
To: Chicsots, Gary; Christensen, Kimberly; Hensley, Mark; Berger, Karl
Cc: 'bob.andreani'; rhessenius@aol.com; bandreani1@aol.com
Subject: FW: More Legible Copy: Letter Submission By X-Factor L.P. for El Segundo Planning Commission Hearing 2-28-08 Re Parking Covenants

Here is a "darker" scanned PDF copy of the same letter I submitted to you earlier today, which may be more legible and easier to photocopy. It is the exact same text as the prior lighter PDF copy. Please feel free to use this copy in place of the prior one. Thank you, Bob Andreani

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Cc: 'bob.andreani'; rhesenius@aol.com  
Subject: Letter Submission By X-Factor L.P. for El Segundo Planning Commission Hearing 2-28-08 Re Parking Covenants

Dear Ms. Christensen and Messrs. Chicots, Hensley and Berger:

Attached please find a letter from me to the Planning Commission of El Segundo, submitted on behalf of my client, X-Factor, L.P., for your and the Planning Commission members’ consideration in connection with the Planning Commission hearing scheduled for tomorrow evening.

Thank you, Bob Andreani

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February 27, 2008

Via E-Mail
EL SEGUNDO PLANNING COMMISSION
Mr. Gary Chicots, Director (GChicots@ElSegundo.org)

Re: NOTICE OF VIOLATION AND INTENTION TO RECORD A NOTICE OF VIOLATION CONCERNING 711 S. AVIATION BOULEVARD (APN: 4138-009-015)

TO THE HONORABLE MEMBERS OF THE EL SEGUNDO PLANNING COMMISSION:

I, along with Robert Andreani, represent X-Factor, L.P. ("X-Factor"), the owner of property variously referred to as 701 S. Aviation Boulevard and 711 S. Aviation Boulevard. The purpose of this correspondence is to supplement Mr. Andreani’s December 5, 2007 letter and X-Factor’s presentation to the Planning Commission on
December 13, 2007. The subject of this letter is the stated intention of the City of El Segundo (the "City") to record a “notice of violation” respecting an alleged “subdivision violation” which occurred in 1967.

As may be recalled, the hearing on this matter was continued in order to give the parties a further opportunity to resolve certain differences and to enable X-Factor’s representatives to review the City’s legal position. Although substantial progress has been made in private efforts to settle the dispute (including, without limitation, the parties’ firm agreement to terminate certain parking covenants which were improperly recorded in 2001, and their submission to the City of all documents necessary to effect such termination), X-Factor is not yet in a position to represent that all of its differences with Xerox have been concluded. It is hoped that, within a brief additional period of time, we will be able to advise that all negotiations have been successfully completed.

As the Staff of the Planning Commission ("Staff") has been advised, X-Factor has deferred submitting this letter in the hope that it could report that a global settlement had been reached. Since that is no longer feasible, and given the shortness of time, I have outlined below X-Factor’s legal position concerning the proposed citation.

**INTRODUCTION**

With the cooperation of the Staff, I have had an opportunity to review the various authorities which govern the resolution of this matter. I have concluded that there is no basis for either the issuance or the recordation of a notice of violation against X-Factor. I therefore urge the Planning Commission to withdraw the intended notice of violation.

**BACKGROUND**
X-Factor is the owner of certain property located in the City. This property shall be referred to as the “701 property”. The neighboring property is located at 555 S. Aviation Boulevard and is owned by 555 Aviation, Ltd. It shall be referred to as the “555 property.” Xerox Corporation ("Xerox") leases both the 701 property and the 555 property.

In late 2006, Xerox sought X-Factor's consent to certain tenant alterations of an office building located on the 701 property. X-Factor declined to consent to the proposed alterations, contending that, among other things, Xerox had defaulted under its lease by recording certain parking covenants in February 2001. That dispute is now the subject of a pending arbitration proceeding.

Notwithstanding X-Factor's declination, Xerox applied to the City for permits necessary to undertake the construction work and to remove the 2001 parking covenants. In the course of reviewing that application, Staff concluded that the 701 property and the 555 property were not properly subdivided in 1967, and that a certificate of compliance must therefore be obtained in connection with a lot line adjustment, before any building permit could issue.

On December 13, 2007, the Staff of the Planning Commission issued its report recommending citations against the owner of the 555 property and the owner of 701 property. The basis for each citation was an asserted violation of the Subdivision Map Act ("SMA") and corresponding city code provisions, when the two parcels which are currently the 555 property and the 701 property were divided and improved in the 1960s.

Staff's analysis is set forth below:

"The real property identified as 711 S. Aviation Boulevard (APN No. 4138-009-015) and 701 S. Aviation Boulevard (APN No. 4138-009-016)
was legally subdivided into three lots (lots 31, 32 and 35) by Tract Map No. 26557 recorded on August 28, 1961. A building permit was applied for on July 14, 1967 and issued on September 19, 1967 for a new office building and surface parking on the property located at 701 S. Aviation Boulevard (Lots 1, 2, 3, 4, 30, 31, 32, and 35 of Tract 26557). On or about September 26, 1967, the real property was divided into two parcels without approvals under the Subdivision Map Act (Government Code sections 66410 et seq.) or the El Segundo Municipal Code ("ESMC"). El Segundo Municipal Code Section 34.2 (effective in October 1962) defined a lot as '(1) A parcel of real property when shown as a delineated parcel of land with a number or other designation on a plat recorded in the office of the county recorder,' and '(2) A parcel of land containing not less than the prescribed minimum square footage required in the zone in which it is located, nor more than one acre, the dimensions or boundaries of which are defined by a record of survey recorded pursuant to law when recorded in the office of the county recorder and which abuts at least one public street or private easement determined by the commission to be adequate for purposes of access from a street...’ Further, ESMC Section 34.110 allowed the division of lots or parcels containing more than two times the minimum required lot area into a maximum of four lots with requirements for direct access to a public street or with approval by the planning commission and the city council for divided parcels with access by an easement. Consequently, it appears that the subdivision violates Government Code Section 66412.6 since no record of survey was recorded in compliance with the zoning regulations and minimum lot size for the reconfiguration of Lots 31, 32, and 35 of Tract 26557 into two lots on or about September 26, 1967.”

LEGAL ARGUMENT AGAINST IMPOSITION OF THE CITATION
X-Factor disputes that there has been a violation of either state or municipal law in this matter. However, even if the alleged "divider" of the properties violated some law in 1967, that violation could not be held against a subsequent purchaser (like X-Factor) of the property.

In this regard, Government Code Section 66412.6(b), states, in relevant part:

“For purposes of this division or of a local ordinance enacted pursuant thereto, any parcel created prior to March 4, 1972, shall be conclusively presumed to have been lawfully created if any subsequent purchaser acquired that parcel for valuable consideration without actual or constructive knowledge of a violation of this division or the local ordinance. Owners of parcel or units of land affected by the provisions of this subdivision shall be required to obtain a certificate of compliance or a conditional certificate of compliance pursuant to Section 66499.35 prior to obtaining a permit or other grant of approval for development of the parcel or unit of land.”


Under Section 66412.6(b), X-Factor cannot be held in violation of the SMA at this time, and the City cannot now properly record a notice of violation, if: (1) the parcel was created before March 4, 1972; (2) X-Factor acquired the property for valuable consideration; and (3) X-Factor did not have actual or constructive knowledge of a subdivision violation at the time it purchased the property. Each of these requirements is established in this matter by the Declaration of Behrouz Soroudi, submitted concurrently herewith.
It is true that, under the foregoing statute, the City may require X-Factor or any other party to apply for a certificate of compliance before issuing any permit for development work. However, X-Factor seeks no such permit. See, e.g., Keizer v. Adams, 2 Cal. 3d 976 (1970); Van't Rood v. County of Santa Clara, 113 Cal. App. 4th 549 (2003). Unless and until it does so, there is no basis for issuing a citation.

CONCLUSION

There is no showing that X-Factor has violated any law or regulation. Nor does X-Factor seek any relief, remedy or benefit from the City. X-Factor has not applied for a building permit or other license, and has no current intention of further developing the property. It is now, and has always been, a "passive" owner.

Accordingly, the City should recognize that there has been no violation of any law, and withdraw the proposed citations.

Respectfully submitted,

Richard S. Hessenius

Richard S. Hessenius
Attorney At Law (SBN 76765)
RESOLUTION NO. 2629

A RESOLUTION DIRECTING THE PLANNING AND BUILDING SAFETY DIRECTOR TO RECORD A NOTICE OF VIOLATION REGARDING REAL PROPERTY LOCATED AT 711 S. AVIATION BOULEVARD (LOT 31, A PORTION OF LOT 32 AND A PORTION OF LOT 35 OF TRACT 26557; APN NO. 4138-009-015) IN ACCORDANCE WITH GOVERNMENT CODE §§ 66410, ET SEQ.

The Planning Commission of the City of El Segundo does resolve as follows:

SECTION 1: Findings. Based upon testimonial and documentary evidence presented during public hearings held on December 13, 2007, and February 28, 2008, the Planning Commission finds as follows:

A. On or about March 20, 2007, the City received an application relating to real property located at 711 South Aviation Boulevard (Lot 31, and a portion of Lot 32 and a portion of Lot 35 of Tract 26557; APN No. 4138-009-015). This Resolution generally and collectively refers to this real property as the “Property.”

B. During the course of reviewing the application for completeness, City staff researched the land use history of the Property including, without limitation, how the Property was subdivided.

C. By Map No. 26557, recorded August 28, 1961, the Property was legally subdivided into three lots. A graphical depiction of Map No. 26557, showing the three legal Lots 31, 32 and 35, is attached as Exhibit “A,” and incorporated by reference (the “Map”).

D. The Property is improved with a 265,654 square-foot office and industrial building which was constructed in accordance with a building permit issued on September 19, 1967.

E. By grant deed recorded on or about September 26, 1967, the Property was divided into two parcels (“1967 Subdivision”). This division is identified on the Map as the “Deed Line.”

F. El Segundo Municipal Code § 34.2, in effect at the time of the 1967 Subdivision (the “Old ESMC”), defined a lot as:

1. “A parcel of real property when shown as a delineated parcel of land with a number or other designation on a plat recorded in the office of the county recorder,” and

2. “A parcel of land containing not less than the prescribed minimum square footage required in the zone in which it is located, nor more than one acre, the dimensions or boundaries of which are defined by a
record of survey pursuant to law when recorded in the office of the county recorder and which abuts at least one public street or private easement determined by the commission to be adequate for purposes of access from a street."

G. Old ESMC § 34.110 allowed subdivision of lots or parcels containing more than two times the minimum required lot area into a maximum of four lots with requirements for direct access to a public street or with approval by the planning commission and the city council for divided parcels with access by an easement.

H. There are no records evidencing that the 1967 Subdivision was approved by the City in accordance with applicable law.

I. There are no records evidencing that the 1967 Subdivision was properly surveyed, complied with the Old ESMC, or otherwise met the requirements of applicable law as to zoning, minimum lot size, or subdivisions.

J. On October 15, 2007, the City provided notice in accordance with Government Code § 66499.36 to the Property’s owners regarding the City’s intent to record a notice of violation (“NOV”) against the Property. Among other things, the letter notified the Property’s owners that the Planning Commission would consider this matter at a public hearing on December 13, 2007.

K. By letter dated December 5, 2007, one of the Property’s owners requested a 60-day extension to resolve the apparent subdivision violation.

SECTION 2: Violation of Government Code §66412.6. The Planning Commission finds that the Property violates Government Code §§66410, et seq., specifically Government Code §66412.6, and the ESMC for the following reasons:

A. The Property was improperly subdivided from three parcels into two parcels by grant deed recorded on or about September 26, 1967. No record of survey was recorded in compliance with the City’s local regulations including, without limitation, the Old ESMC §§ 34.2 and 34.110, to allow a subdivision of Lots 31, 32 and 35 on the Map.

B. The City did not approve a lot line adjustment, certificate of compliance or conditional certificate of compliance for creating any lot on the Property before March 4, 1972 other than the subdivision approved by the Map.

SECTION 3: Recording of NOV: Release. The Planning and Building Safety Director, or designee, is directed to record a NOV against the Property in accordance with this Resolution and Government Code § 66499.36 within this resolution. The NOV constitutes actual notice to the current owner and constructive notice of the violation to all subsequent owners for the Property. Should the City issue a certificate of compliance regarding the Property, approve a lot line adjustment, or grand additional approvals in accordance with
the Subdivision Map Act and other applicable law affecting the Property, then the Planning and Building Safety Director, or designee, is authorized to release the NOV.

SECTION 4: This Resolution will remain effective unless superseded by a subsequent resolution.

SECTION 5: The Commission Secretary is directed to mail a copy of this Resolution to the Property's owners and to any other person requesting a copy.

SECTION 6: This Resolution may be appealed within ten (10) calendar days after its adoption. All appeals must be in writing and filed with the City Clerk within this time period. Failure to file a timely written appeal will constitute a waiver of any right of appeal.

SECTION 7: Except as provided in Section 7, this Resolution is the Commission's final decision and will become effective immediately upon adoption.

PASSED, APPROVED AND ADOPTED this 28th day of February 2008.

Cheryl Frick, Chairperson
City of El Segundo Planning Commission

ATTEST:

Gary Chicola, Secretary

Fellhauer - Aye
Fuentes - Aye
Rotolo - Aye
Wagner - Aye
Frick - Absent

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

By:
Karl H. Berger, Assistant City Attorney

P:\Planning & Building Safety\PROJECTS\726-750\EA-750\EA-750.PCreso2629 final.2008.2.28.doc
MINUTES OF THE MEETING
OF THE PLANNING COMMISSION
OF THE CITY OF EL SEGUNDO, CALIFORNIA

December 13, 2007

Chair Frick called the El Segundo Planning Commission meeting to order at 7:00 p.m. in the El Segundo City Hall's Council Chambers, 350 Main Street, El Segundo, California.

Chair Frick led the Pledge of Allegiance to the Flag.

PRESENT: WAGNER, FRICK, FUENTES, FELLHAUER and ROTOLO

None.

Chair Frick presented the Consent Calendar.

Chair Frick presented Agenda Item E-1, Environmental Assessment No. 750. Address: 851 S. Aviation Boulevard (APN 4138-009-009)711 S. Aviation Boulevard (APN: 4138-009-015) and 701 S. Aviation Boulevard (APN: 4138-009-016) and 555 S. Aviation Boulevard (APN 4138-009-004).

Planning Manager Christensen addressed the Commission regarding an item that was submitted to the City after the Planning Commission packets were distribute to the Commission. Ms. Christensen stated that there are seven items of additional communications on the dais and each of the items relate to item H-2 on the agenda consisting of a series of email and letters.

Chair Frick presented Agenda Item H-2, Environmental Assessment No. 750. Address: 711 S. Aviation Boulevard (APN: 4138-009-015) and 701 S. Aviation Boulevard (APN: 4138-009-016)

Assistant City Attorney Berger itemized the letter and email correspondence as: (1) a letter dated December 11, 2007 from Mr. Robert Andreani to Mr. Berger and Brain Lee Kravetz. (2) an email correspondence dated December 13, 2007 at 5:26 pm between Mr. Berger and Dan Fisher with Xerox Corporation. (3) an email correspondence dated December 21, 2007 at 10:05 am from Cynthia Wolcott with Xerox Corporation to Mr. Berger. (4) an email correspondence dated December 12, 2007 at 9:45 am from Cynthia Wolcott to Mr. Chicots and Ms. Christensen. (5) an email correspondence dated December 12, 2007 at 12:14 pm from Brian Kravetz to Ms. Christensen and copied to Ms. Wolcott. (6) an email correspondence dated December 12, 2007 at 3:17 pm between Tim Kelly and Ms. Christensen and Mr. Chicots copied to Ms. Wolcott, Pat McDonald and Amy Feller. (7) an email correspondence dated December 13, 2007 at 2:29 pm between Jody E. Sidebotham to Mr. Berger, Ms. Christensen and Mr. Chicots and copied to Don Fisher.

Planning Manager Christensen presented the staff report (of record.)
Chair Frick questioned why staff suggested two months as opposed to a greater length of time to resolve this matter.

Planning Manager Christensen responded that the reason why staff proposed a maximum of two months is that the City originally sent official notice on October 15, 2007. She stated that State law requires that the City hold a hearing within thirty to sixty days following the issuance of the notice. She stated that staff has been in lengthy discussions over a number of months trying to work with the tenant and the property owner to resolve the matter. She stated that staff has given adequate time to submit the necessary documents. Ms. Christensen commented that staff believes that a hundred and eighty days is excessive.

Planning Director Chicots stressed the fact that staff has spent a considerable amount of time, almost a year, and know it's our responsibility to ensure that all the subdivisions in the city are done accordingly to the law. Mr. Chicots stated that he believes that a six month continuance is excessive.

Vice-Chair Wagner asked Mr. Chicots to confirm that there will be "no" Building Permits issued to Xerox for changes to there buildings until this issue is resolved.

Mr. Chicots answered that is "correct". He stated that the property line is questionable the way it was subdivided. He stated that there is a new proposed line and the City can't issue building permits due to the violation of the building code and the City will not issue any permits until it's resolved.

Commissioner Rotolo questioned if the applicant is able to apply for or start the plan check process.

Mr. Chicots replied that the Planning and Building Safety Department has not held up the plan check process but cannot issue the permit until the lot line adjustment compliance gets resolved.

Chair Frick opened the public hearing.

Bob Andreani, Attorney for X-Factor

Mr. Andreani stated that he is here on behalf of X-Factor and is not an applicant neither is he interested in applying for any permits. X-Factor owns the 711 Aviation Boulevard building and the entire parcel south of the deed line. X-Factor is requesting that the Commission defer making a decision whether there was a subdivision violation by granting six months to work this out with the other parties involved and to return with a solution. He stated that X-Factor purchased the property 5 years ago and Xerox is the tenant in a single building on the property and occupies the entire building on a long term lease that's existed since 1968. He stated that the building has been on the parcel for more than 40 years. He stated that building permits and certificates of occupancy have been issued throughout this period of time with no complaint made until recently. Mr. Andreani explained how the tenant at Xerox applied for some permits recently to do extensive remodeling to the north property at 555 Aviation at which time the Planning staff discovered that 40 years ago the property was deeded. Xerox wanted to do some major renovation to 711 Aviation but they need approval from the landlord under their lease. Mr. Andreani has not given Xerox permission due to various reasons being he doesn't believe that the renovation to the building would be a good improvement and that it might violate the terms of the lease. He stated that now there is a dispute regarding the improvement to the building.
and it is in arbitration, which is now pending.

Mr. Andreani confirmed that the issue with the parking is fine and that there is plenty of parking on the property but he stated that Xerox improperly signed and recorded a parking covenant that in 2000-01 affected our property and gave away our parking spaces on our lot along with another lot that Xerox was occupying and now has breached their lease. He stated that our neighbor at 555 Aviation recently sent information regarding improvements on our property that extended beyond the deed line onto their property which is encroaching on their property. He stated that the neighbor is demanding that these improvements be removed sometime in the future.

Commissioner Rotolo asked Mr. Andreani when does the current lease expire with Xerox.

Mr. Andreani responded that Xerox has eight years left and has the right to extend it for ten years giving Xerox a total of eighteen years left with the extension.

Vice-Chair Wagner asked Mr. Andreani concerning the letter dated December 25, 2007 regarding parking covenant section four, that stated that “you didn’t want the covenant to be accepted due to the problem” but in the December 11, 2007 letter X-Factor never mentioned anything about the parking covenant. Mr. Wagner asked Mr. Andreani if he is saying that the parking covenant is acceptable.

Mr. Andreani answered “yes” and if there was any confusion he apologized.

Planning Director Chicots asked Mr. Andreani if X-Factor would be willing to sign the parking covenant if the Commission asked.

Mr. Andreani replied that he believes the way it was written with Xerox entering into the covenant as a tenant under their lease they are granting themselves basically the right to use parking under their lease hold and that’s fine if he can work out the language.

Assistant City Attorney Berger intervened and asked Mr. Andreani for clarification is that a “yes”.

Mr. Andreani replies “yes”, that they agree to the covenant. Mr. Andreani clarified for Mr. Wagner his client is willing to sign the parking covenant, but that there are two covenants one applies to X-Factor and the other one that they are not being asked to sign for 555 Aviation.

**Don Fisher, Attorney for Xerox Corporation**

Mr. Fisher stated he appreciated working along with staff for the past year or more. Xerox is the one use on both of the properties. Xerox has been a good corporate citizen in El Segundo with over 600 employees in the City. He stated that Xerox would like to finalize this issue quickly due to leases conditions in a couple other buildings. He stated that one of them has already terminated and another will be terminated shortly. He stated that the reason for the improvement work on both properties (X-Factor at 701 Aviation & 555 Aviation) is they are planning to move some employees and consolidate their staff into both of these buildings. He stated that the permits that they are requesting is not
major construction. It’s not structural work or tearing down a building and rebuilding. He stated that it is just interior improvements. He stated that the work has been approved by 555 Aviation Ltd which is cooperating with the work. He stated that X-Factor has not agreed with the improvement to the building not just the lot line or Subdivision Map Act issue.

Vice-Chair Wagner questioned staff if both parties were to sign everything would the lot line adjustment issue have to come back before the Commission.

Planning Director Chicots replied "no”.

Commissioner Fuentes questioned staff if the parking covenant is for the new maximum occupancy.

Planning Manager Kimberly Christensen stated that is correct based on the applicant assessment of the amount of parking they’ll need based on the expected use of the building. The parking breaks down by the building space and use such as office use, storage, warehouse and light industrial.

Mr. Fisher asked that Mr. Berger to clarify for the record that a letter was attached to Jody E. Sidebotham’s email from Mr. Fisher.

Assistant City Attorney Berger clarified that there is a letter dated December 13, 2007 from Mr. Fisher addressed to the Planning Commission.

**Brian Kravetz, Attorney for 555 Aviation Limited**

Mr. Kravetz requested that staff approve the certificate of compliance on the property of 555 Aviation that is before the Commission tonight.

Commissioner Rotolo questioned staff how does 555 Aviation tie into the project and is the Commission able to approve the certificate of compliance.

Assistant City Attorney Berger intervened and stated that today the City received the application from 555 Aviation and the only outstanding issue is the signature on the parking covenant. Mr. Berger stated to Mr. Kravetz that we will have to examine it on a staff level but the application for a certificate of compliance is not before the Commission tonight.

Mr. Kravetz requested that the parking covenant be approved with respect to 555 Aviation and that the matter of certificate of compliance be referred back to staff for action and that absent approval of staff the matter be continued for 60 days.

Planning Manager Christensen clarified that the matter of certificate of compliance is not on tonight’s agenda.

Assistant City Attorney Berger addressed the Commission regarding where the lot line lay. He stated that it is up to the property owner to come into the city and submit the survey maps to readjust the property line. He stated it is up to the Commission to decide if it’s a violation of the map act.

Commissioner Fellhauer questioned if Mr. Andreani and Mr. Kravetz clients’ were notified at the same time of the violations of the property lines.
Planning Manager Christensen replied "yes" that is correct and that attached to the staff report as exhibits are the two letters sent by certified mail on October 13, 2007.

Chair Frick reopened public communication.

Commissioner Rotolo asked Mr. Fisher if there was an arbitration date scheduled.

Mr. Fisher replied "no" it hasn't taken place yet.

**Richard Hessenius, attorney for X-Factor**

Mr. Hessenius stated that he is the opposing counsel who filed the arbitration demand for X-Factor in July 2007 and he has not received a formal response from Xerox.

Chair Frick closed the public hearing.

Assistant City Attorney Berger indicated that there are two clerical errors in the draft Resolution on master Page 13, under section 1 subsection Q regarding a letter dated December 4, 2007, stating that the property owner requested a 60-day extension and it should read as follows "requesting an 180-day extension". Also he stated that on master Page 14, section 7 states "Except as providing in Section 7," and it should read "Except as provided in Section 6."

Vice-Chair Wagner made a motion to grant a continuance to the February 28, 2008 scheduled meeting. He stated that hopefully both parties will have reached an agreement before returning back before the Commission. He stated if both parties returned back before the Commission on February 28, 2008 he will make a motion to record the notice of violation. Seconded by Commissioner Rotolo. Motion carried (5-0).

Vice-Chair Wagner moved, second by Commissioner Rotolo to approve Environmental Assessment No. 750, regarding approval of two parking covenants: a parking covenant for 490 off-site parking spaces to be provided at 851 S. Aviation Boulevard (APN 4138-009-009) for the real property at 711 S. Aviation Boulevard (APN 4138-009-015) and a parking covenant for 396 off-site parking spaces to be provided at 701 S. Aviation Boulevard (APN 4138-009-016) for the real property 555 Aviation Boulevard (APN 4138-009-004). Motion carried (5-0).

None.

Planning Director Chicos wished everyone a Merry Christmas.
The Commissioners wished everyone Happy Holidays.

None.

Chair Frick moved to adjourn, Motion carried (5-0).

The meeting adjourned at 8:44 p.m.

PASSED AND APPROVED ON THIS 13th DAY OF DECEMBER 2007.

Gary Chicots, Secretary of the Planning Commission and Director of The Planning and Building Safety Department

Cheryl Frick, Madame Chair
Planning Commission
City of El Segundo, California
MINUTES OF THE MEETING
OF THE PLANNING COMMISSION
OF THE CITY OF EL SEGUNDO, CALIFORNIA

February 28, 2008

Vice-Chair Wagner called the El Segundo Planning Commission meeting to order at 7:00 p.m. in the El Segundo City Hall's Council Chambers, 350 Main Street, El Segundo, California.

CALL TO ORDER

Vice-Chair Wagner led the Pledge of Allegiance to the Flag.

PLEDGE TO FLAG

PRESENT: WAGNER, ROTOLO, FUENTES, FELLHAUER

ROLL CALL

ABSENT: FRICK

PUBLIC

COMMUNICATIONS

CONSENT CALENDAR

CALL ITEMS FROM

CONSENT

None.

MOTION

Vice-Chair Wagner presented the Consent Calendar.

None.

MOTION

Commissioner Rotolo moved, seconded by Commissioner Fellhauer to approve the December 6, 2007, Minutes as submitted. Motion carried (4-0).

MOTION

Vice-Chair Wagner presented Agenda Item E-2, Environmental Assessment No. 774 and Adjustment No. 07-02. Applicant: Henry Wianecki. Address: 1445 E. Maple Avenue.

Vice-Chair Wagner presented Agenda Item I-3, Environmental Assessment No. 750. Address: 711 S. Aviation Boulevard (APN: 4138-009-015) and 701 S. Aviation Boulevard (APN: 4138-009-016)

Commissioner Rotolo moved, seconded by Commissioner Fellhauer to approve Environmental Assessment No. 774 Adjustment No. 07-02. Motion carried (4-0).

Written

Communications

NEW BUSINESS -
PUBLIC HEARING

Planning Manager Kimberly Christensen read four items into the record. 1 item for Agenda item E-2. 3 items for Agenda Item I-3 Assistant City Attorney Carl Berger read one item for item I-3 into the record.

Planning Manager Kim Christensen presented the staff report (of record).
Vice-Chair Wagner reopened public testimony from the December 13, 2007 Planning Commission Meeting.

Vice-Chair Wagner questioned Planning Manager Kimberly Christensen regarding stamped Page 26 regarding X-Factor if there has been any submittal of the required materials relative to the Certificate of Compliance and the other signed documents.

Planning Manager Kimberly Christensen stated that the only signed document the City received relative to that process was the two parking covenants and that the Certificate of Compliance has never been signed by the property owner at 711 S. Aviation Boulevard.

Richard Hessenius, representative for X-Factor

Mr. Hessenius briefly update the Commission on what had occurred since the December 13, 2007 meeting. He stated that there had been substantial and positive discussion between X-Factor and Xerox and that he had hoped to announce at this meeting that the issues had been resolved. He stated that while they are not resolved yet he believed that they are close. Mr. Hessenius has spoken with counsel for Xerox as well with Planning staff requesting if possible another two week continuance. Mr. Hessenius feels that it will be inappropriate for the City or the Planning Commission to issue either issue a citation, certainly to record a citation for one reason that assumes for the purposes of this argument that there was illegalities of some nature that date back to 1967 when the property was subdivided. He stated that he is not in agreement with assuming that is the case. He stated that there is a specific statute in the Government Code that deals with this situation.

Robert Andreani, representative for X-Factor

Mr. Andreani requested that the Commission grant an extension to resolve this matter between X-Factor and Xerox. Mr. Andreani has been working with the counsel for Xerox and that they are in agreement on the parking covenant and he believes that they have come to some type of agreement between both parties and if so they will be willing to sign the documents.

Don Fisher, representative for Xerox Corporation

Mr. Fisher commented that there has been discussion with X-Factor and Xerox relating to some issue between both parties. Mr. Fisher stated that Xerox would like to resolve the Map Act issue and settle and resolve this issue. He stated that due to the fact that X-Factor is the owner and that they are the tenant and have no control over the situation. They have worked together and have come to agreement to terminate the 2001 parking covenant and record the new parking covenant which has been submitted to the City. He stated that the documents granting consent from the property owner has been submitted to City staff and he would like to see the parking covenant issued resolved.

Brain Kravetz, representative for 555 Aviation

Mr. Kravetz stated that the owner of the property at 701 Aviation has fully complied with the City’s requirements in connection with the Certificate of Compliance for 555 Aviation which has been submitted to City staff. Mr. Kravetz
commented that there is nothing further to do but he does recognize that staff has acknowledged they’ve completed everything and there should not be a citation or notice of violation. Mr. Kravetz recommends that the Certificate of Compliance application that has been filed should be approved for that single parcel of property and that staff has acknowledged as well that they have the proper legal descriptions and a record of survey. He stated this particular parcel is independent of anything else. He stated that it does comply and this shouldn’t be an issue before the Commission and it should be approved.

Mr. Rotolo asked a question of Mr. Berger regarding Mr. Hessenius’ statement and the verbiage regarding his letter about the lot line adjustment.

Mr. Berger responded “yes” that is the proper code language, however, the testimony focused on the actual knowledge of the person, and that his client X-Factor’s knowledge as set forth in the declaration demonstrates that they had actual knowledge of the subdivision grant deed line. Mr. Berger believes that they had constructive knowledge of what was recorded on the property on Book No. 675 Page 98 on August 28, 1961 as Tract No. 26557 that shows the proper subdivision of the property and that there has not been a subsequent map that was recorded against the property to demonstrate that there is a different lot line.

Mr. Rotolo questioned Mr. Berger whether it was determined that it was or wasn’t constructive knowledge and whether the code did apply to the parcel before 1972. He asked if it was illegal since the current subdivision does not reflect the existing conditions, wouldn’t a new subdivision map be required to be recorded.

Mr. Berger indicated that the parking covenant isn’t the issue before the Commission and the real issue is that the Subdivision Map Act violation.

Mr. Berger believed that the issue in term of resolving the violation of the map act is corrected with a Certificate of Compliance. The Certificate of Compliance will be an actual certificate that is issued by the City with a condition on it stating the property owner will be in compliance with the Map Act. Mr. Berger considers it to be a lot line adjustment not an entirely new map that will reallocate or design what property lines will exist.

Ms. Fellhauer acknowledges that Mr. Andreani is requesting more time from the Commission but she questioned Mr. Andreani about what has X-Factor done to resolve the differences or has X-Factor reached some type of an agreement with Xerox since the December 13, 2007 meeting.

Mr. Andreani’s response was that he and Mr. Fisher have had face to face meetings and telephone conversations and it is safe to say that they’re close to reaching some type of agreement.

Ms. Fellhauer asked Mr. Andreani how much time from this point will it take to reach mutual agreement.

Mr. Andreani stated that he’s assuming that the agreement has been reached and it is safe to say that the matter is receiving the documentation. He might be overstating this but it might take a two week process to document it but its close.

Mr. Rotolo gave Mr. Fisher the opportunity to comment on how close Xerox is to reaching agreement with X-Factor after hearing from Mr. Andreani on X-Factor’s behalf.
Mr. Fisher stated that there have been meetings as well as telephone conversations but the issues of the subject of our negotiation doesn't have much do with the matter at hand and that it has do with the lease arrangement and other arrangements with X-Factor. Mr. Fisher expects X-Factor to solve this lot line issue first then Mr. Andreani's statement will be correct on having it resolved subject to being documented and subject to final agreement. Mr. Fisher commented that Xerox is relying on X-Factor to resolve this issue and that he wished X-Factor had resolved this issue before tonight.

Commissioner Fellhauer moved, seconded by Commissioner Rotolo to approve Environmental Assessment No. 750, adopting Resolution 2629 directing the Planning Building Safety Director to acknowledge there is a violation located at real property 711 S. Aviation Boulevard a portion of Lot 32 and Lot 35 of Tract Map No. 26557 APN No. 4138-009-016 in accordance with Government Code Section 66410; acknowledge that the property owner had constructive knowledge of the violation; and to authorize the Planning staff to record a notice of violation after a term of 30 days if the issues are not resolved between the parties. Motion carried (4-0).

Planning and Building Safety Director Gary Chicots introduced the new Building Safety Manager Sam Lee.

The Commission welcomed Building Safety Manager Sam Lee. Commissioner Fuentes thanked staff being able to attend Planning Commission Training.

None.

Vice-Chair Wagner made a motion to adjourn the meeting. Motion carried (4-0).

The meeting adjourned at 8:06 p.m.

PASSED AND APPROVED ON THIS 28th DAY OF FEBRUARY 2008

Gary Chicots, Secretary of the Planning Commission and Director of The Planning and Building Safety Department

Cheryl Frick, Madame Chair Planning Commission City of El Segundo, California
City of El Segundo

Planning and Building Safety
350 Main Street
El Segundo, CA 90245
(310) 524-2344; FAX: (310) 322-4167
www.elsegundo.org

APPEAL OF A
PLANNING COMMISSION OR A DIRECTOR'S DECISION
Environmental Assessment No: 750

Applicant
X-Factor, L.P., a California limited partnership – (Owner of Subject Property)

Name (print or type)
X-Factor, L.P.

Address
9595 Wilshire Boulevard, Suite 501

City, State, and Zip Code
Beverly Hills, California 90212

Check One: Owner [x] Lessee

Date March 6, 2008

Phone 310-246-6500 Fax 310-246-0124

Email Bruce@MaxxamLLC.com

Signature

Property Owner:
X-Factor, L.P., a California limited partnership – (Owner of Subject Property)

Name (print or type)
X-Factor, L.P.

Address
9595 Wilshire Boulevard, Suite 501

City/St/Zip
Beverly Hills, California 90212

Phone 310-246-6500

Fax 310-246-0124

Signature:

Representative of applicant: (i.e., attorney, expeditor, etc.)
Robert P. Andreani, Esq.

Name (print or type)
Law Offices of Robert P. Andreani

Address
444 S. Flower Street, Suite 500

City/St/Zip
Los Angeles, California 90071-2906

Phone 213-891-9555 Fax 213-891-1515

Email Bob.Amdeani@SBCGlobal.Net

Signature:
Request: Under the provisions of Title 15, of the Municipal Code, application for consideration of an Appeal for the above described property.

1. Describe in detail the reason for the appeal. Include a full description of the proposed use (e.g., bank, general office, industrial, restaurant, etc.) including buildings and other equipment necessary for the project.

   See Letter from attorney Richard S. Hessenius, Esq., co-counsel to owner/applicant (X-Factor, L.P.), attached hereto as Exhibit “B” and incorporated herein by this reference.

2. Describe the existing development and the parking provided, and any proposed new development on the site. Include square footages and uses of each on the site and the parking provided.

   Existing property consists of approx. 300,000+ square foot 3-story commercial building built in late 1960’s, with surface parking, presently occupied entirely by Xerox Corporation as sole tenant under lease with owner. No proposed new development entitlements or permits are being sought by owner. See Letter from attorney Richard S. Hessenius, Esq., co-counsel to owner/applicant (X-Factor, L.P.), attached hereto as Exhibit “B” and incorporated herein by this reference.
3. Explain in detail why this particular site is especially suited for the proposed development.

   Not Applicable


4. Describe how the proposed project will compare/contract to the development of adjacent properties and the immediate area and will not have detrimental effects to the adjacent properties or neighborhood. How will potential impacts be mitigated?

   Not Applicable


5. Describe the technological processes and equipment employed on-site and their compatibility with existing and potential land uses within the general area.

   Not Applicable
NOTE: Separate Affidavits must be submitted if there are multiple owners.

OWNER'S AFFIDAVIT

1. We X-Factor, L.P., a California limited partnership being duly sworn depose and say that I/we the OWNER of the property involved in this application and that I/we have familiarized myself (ourselves) with the rules and regulation of the City of El Segundo with respect to preparing and filing this application and that the foregoing statements herein contained and the information documents and all plans attached hereto are in all respects true and correct to the best of my/our knowledge and belief.

X-Factor, L.P., a California limited partnership
By: Panorama Delta, Inc., a California corporation, its Managing General Partner

By: [Signature]

Behrouz Soroudi, its Secretary
Date March 6, 2008

STATE OF CALIFORNIA, County of Los Angeles )ss.

On this 6th day of March, 2008, before me, the undersigned Notary Public in and for said County and State, personally appeared Behrouz Soroudi known to me to be the person whose name is subscribed to the instrument, and acknowledged to me that he/she executed the same.

WITNESS my hand and official seal.

[Notary Public Seal]

Notary Public in and for said County and State

[Reception Stamp] MAR 07 2008

194 PLANNING DIVISION
AGENT AUTHORIZATION

I hereby authorize Robert P. Andreani and Richard S. Hessenius, individually or together, to act for me in all matters relevant to this application. I understand that these persons will be the primary contact on the project and will be sent all information and correspondence.

X-Factor, L.P., a California limited partnership
By: Panorama Delta, Inc., a California corporation, its Managing General Partner

By: Behrouz Soroudi, its Secretary

Owner's Signature

March 6, 2008
Date

AGENT AFFIDAVIT

I, Robert P. Andreani, the undersigned, depose and say that I am
We are) the AGENT(S) of the property involved in this application and that I(We) have familiarized myself ourselves with the rules and regulation of the City of El Segundo with respect to preparing and filing this application and that the foregoing statements herein contained and the information on all documents and all plans, attached hereto are in all respects true and correct to the best of my/our knowledge and belief.

Robert P. Andreani
Applicant's Signature

March 6, 2008
Date

STATE OF CALIFORNIA, ss.
County of Los Angeles, ss.

On his 6th day of March, 2008, before me, the undersigned Notary Public in and for said County and State, personally appeared Robert P. Andreani known to me to be the person whose name is subscribe to the within instrument, and acknowledged to me that he/she executed the same.

WITNESS my hand and official seal.

JOCELYN LUISTRO
Commission # 1611194
Notary Public - California
Los Angeles County
My Comm. Expires Oct 6, 2009

Notary Public in and for said County and State

PLANNING DIVISION
Procedures for filing application

1. Submit the properly completed application to the office of the Planning Division. Signature of the owner, owners, lessee, and/or agent shall be notarized before a Notary Public.

2. File application property completed in the office of the Planning and Building Safety Dept. along with completed Initial Study Applicant Questionnaire. Signature of the owner/owners, lessee (if applicant), and/or agent shall be required on all applications.

3. Applicant shall provide all information, drawings, and other materials as requested by the Planning Department as indicated on the Notice to Applicants.

4. Pay filing fee. (see fee schedule)

5. Applicant and affected property owners will be notified of time of hearing.

6. Applicant must be present at the hearing and may offer additional evidence to support his/her request.

7. There shall be an additional fee for filing an appeal.

8. Fish and Game Document Handling fee - $50.00 (all projects). County of Los Angeles Public Hearing Notice posting fee - $50.00 (for projects with an Initial Study and Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report. Not required for projects which are exempt from CEQA). Two separate checks, each made payable to the County of Los Angeles.
Planning Staff to complete

Date Received: ___________________________ EA No: ______
Planner (print name): ___________________________ Appeal No: ______
Signature: ___________ Fee Paid: ______

Rev. 03-01-07
P:\PBS\Forms – Planning\Appeal

[Exhibits “A” and “B” Attached]
Lot 31 and Portions of Lots 32 and 35:

Lot 31 and that portion of Lots 32 and 35 of Tract No. 26557, in the City of El Segundo, County of Los Angeles, State of California, as per map recorded in Book 675, Pages 95 to 98, inclusive of Maps, in the Office of the County Recorder of said County, lying Southerly of a line that is parallel with the Northerly line of said Lot 32 and the Easterly prolongation thereof, and distant 70.0 feet Southerly therefrom, measured at right angles.
Exhibit “B”

RICHARD S. HESSENIUS
ATTORNEY AT LAW

March 6, 2008

City Clerk
City of El Segundo
350 Main Street
El Segundo, CA 90245-3813

NOTICE OF APPEAL AND APPEAL FROM PLANNING COMMISSION’S
ADOPTION OF RESOLUTION NO. 2629

TO THE HONORABLE MEMBERS OF THE EL SEGUNDO CITY COUNCIL:

NOTICE IS HEREBY GIVEN that X-Factor, L.P. (“X-Factor”), the owner of certain real property and improvements commonly referred to as 711 S. Aviation Boulevard, hereby appeals from the Planning Commission’s February 28, 2008 adoption of Resolution No. 2629, which resolution found a violation of Government Code Section 66412.6 by reason of an alleged illegal subdivision.

X-Factor requests that the record of this proceeding before the Planning Commission be assembled and transferred to the City Council in connection with this appeal.

X-Factor’s appeal is based upon the following facts and analysis.

BACKGROUND

X-Factor is the owner of certain property located in the City of El Segundo (the “City”). This property shall be referred to as the “711 property”. The neighboring property is located at 555 S. Aviation Boulevard and is owned by 555 Aviation, Ltd. It shall be referred to as the “555 property.” Xerox Corporation (“Xerox”) leases both the 711 property and the 555 property.

In late 2006, Xerox sought X-Factor’s consent to certain tenant alterations of an office building located on the 711 property. X-Factor declined to consent to the proposed alterations, contending that, among other things, Xerox had defaulted under its lease by recording parking covenants affecting the 711 property. That dispute is now the subject of a private arbitration proceeding.

Notwithstanding X-Factor’s declination, Xerox applied to the City for permits necessary to undertake the construction work and to remove the parking covenants. In the course of reviewing that application, Staff concluded that the 711 property and the 555 property were not properly subdivided in 1967, and that a certificate of compliance must therefore be obtained in connection with a lot line adjustment, before any building permits could issue.

On December 13, 2007, the Staff of the Planning Commission issued its report recommending the recodification of notices of violation against the owner of the 555 property and the owner of 711 property. The basis for each notice was an asserted violation of the Subdivision Map Act and corresponding municipal code provisions, which allegedly occurred when two parcels currently identified as the 555 property and the 711
property were divided and improved in the 1960s. Staff's analysis is set forth below:

"The real property identified as 711 S. Aviation Boulevard (APN No. 4138-009-015) and 701 S. Aviation Boulevard (APN No. 4138-009-016) was legally subdivided into three lots (lots 31, 32 and 35) by Tract Map No. 26557 recorded on August 28, 1961. A building permit was applied for on July 14, 1967 and issued on September 19, 1967 for a new office building and surface parking on the property located at 701 S. Aviation Boulevard (Lots 1, 2, 3, 4, 30, 31, 32, and 35 of Tract 26557). On or about September 26, 1967, the real property was divided into two parcels without approvals under the Subdivision Map Act (Government Code sections 66410 et seq.) or the El Segundo Municipal Code ("ESMC"). El Segundo Municipal Code Section 34.2 (effective in October 1962) defined a lot as "(1) A parcel of real property when shown as a delineated parcel of land with a number or other designation on a plat recorded in the office of the county recorder," and "(2) A parcel of land containing not less than the prescribed minimum square footage required in the zone in which it is located, nor more than one acre, the dimensions or boundaries of which are defined by a record of survey recorded pursuant to law when recorded in the office of the county recorder and which abuts at least one public street or private easement determined by the commission to be adequate for purposes of access from a street..." Further, ESMC Section 34.110 allowed the division of lots or parcels containing more than two times the minimum required lot area into a maximum of four lots with requirements for direct access to a public street or with approval by the planning commission and the city council for divided parcels with access by an easement. Consequently, it appears that the subdivision violates Government Code Section 66412.6 since no record of survey was recorded in compliance with the zoning regulations and minimum lot size for the reconfiguration of Lots 31, 32, and 35 of Tract 26557 into two lots on or about September 26, 1967."

Notwithstanding the asserted violation, Staff further "determined that the parcels as deeded to the separate property owners and as currently configured can meet the subdivision requirements and the processing and approval of a Certificate of Compliance is feasible to make both parcels legally compliant with current ESMC requirement for subdivisions and development standards." The issues raised by Staff did not involve any public health or safety concerns under Government Code Section 66499.34.

On February 28, 2008, X-Factor, through its counsel, appeared at the continued hearing of this matter and argued that X-Factor was exempt from application of state or municipal subdivision laws under Government Code Section 66412.6(b) (hereinafter referred to as "the exemption statute"), because the 711 property (1) was divided before March 4, 1972. (2) was purchased by X-Factor after that date for valuable consideration, and (3) X-Factor had neither actual nor constructive notice of any violation at the time of purchase. The Planning Commission rejected X-Factor’s argument and thereupon adopted Resolution No. 2629. This appeal followed.

ARGUMENT AGAINST RECORDATION OF A NOTICE OF VIOLATION

X-Factor disputes that there has been a derogation of either state or municipal requirements in this matter. However, even if the alleged “divider” of the properties violated some law in 1967, that violation could not be held against X-Factor, as a subsequent purchaser of the 711 property.

The exemption statute states, in relevant part:

"For purposes of this division or of a local ordinance enacted pursuant thereto, any parcel created prior to March 4, 1972, shall be conclusively presumed to have been lawfully created if any subsequent purchaser acquired that parcel for valuable consideration without actual or constructive knowledge of a violation of this division or the local ordinance. Owners of parcel or units of land affected by the provisions of this subdivision shall be required to obtain a certificate of compliance or a conditional certificate of compliance pursuant to Section 66499.35 prior to obtaining a permit or other grant of approval for
development of the parcel or unit of land.”


Under the exemption statute, X-Factor cannot be held in violation of the Subdivision Map Act, and the City should not record a notice of violation, if: (1) the subject parcel was created before March 4, 1972; (2) X-Factor acquired the property for valuable consideration; and (3) X-Factor had neither actual nor constructive notice of a subdivision violation at the time it purchased the property. Each such requirement was established by the Declaration of Behrouz Soroudi, which was submitted to the Planning Commission before the February 28, 2008 hearing and included in the public record.

X-Factor concedes that, under the exemption statute, the City may properly require X-Factor or any other party to apply for a certificate of compliance before issuing a permit for development work. However, X-Factor currently seeks no such permit. See, e.g., *Keizer v. Adams*, 2 Cal. 3d 976 (1970); *Van't Rood v. County of Santa Clara*, 113 Cal. App. 4th 549 (2003). Unless and until it does, there is no basis for recording a notice of violation.

At the February 28, 2008 hearing, the City did not contend that X-Factor had “actual” knowledge of a subdivision violation when it purchased the 711 property. However, the City argued, and the Planning Commission apparently agreed, that X-Factor had “constructive knowledge” of an alleged illegal subdivision which occurred in 1967. Specifically, the City Attorney reasoned that a plat map, which had been recorded in 1961, did not reflect the subdivision of various lots into the 555 property and the 711 property. and that such map therefore gave “constructive notice” of an improper subdivision in 1967.

X-Factor disputes that it had “constructive notice” of any violation, for each of the following reasons. The term “constructive notice” is defined by California Civil Code Section 19.

“Every person who has actual notice of circumstances sufficient to put a prudent man upon inquiry as to a particular fact, has constructive notice of the fact itself in all cases in which, by prosecuting such inquiry, he might have learned such fact.”

In other words, in order to establish “constructive knowledge” sufficient to deprive X-Factor of the benefits of the exemption statute, it must first be shown that X-Factor had actual notice of circumstances which should have caused it to make further inquiry, thereby leading to the discovery of an “illegal” subdivision.

The doctrine of constructive notice is not favored. Rather it “is, at the best, but a poor substitute for actual notice, and is permitted by the law only through necessity.” *MacGowan v. Jones*, 142 Cal. 593, 595 (1904). In this regard, the circumstances known and sufficient to trigger further inquiry have been described by the courts as those which are “suspicious,” “conspicuous,” or “notorious”. See *Hobart v. Hobart Estate Co.*, 26 Cal.2d 412, 442 (1945) (known facts must be “sufficient to arouse the suspicions of a reasonable person” and are described as “suspicious facts”); *Nicholson v. City of Los Angeles*, 5 Cal. 2d 361, 364, 367 (1936) (facts must have “some element of conspicuousness or notoriety”). “Circumstances that are dubious or equivocal are not sufficient to take the place of actual notice. The rule imputes notice only of those facts that are naturally and reasonably connected with the fact known, and of which the known fact or facts can be said to furnish a clue. It does not impute notice of every conceivable fact and circumstance however remote which might come to light by exhausting all possible means of knowledge.” *Sim v. Malouf*, 95 Cal. App. 2d 82, 106 (1949).

Here, the recordation of a map in 1961 was insufficiently conspicuous or notorious to give rise to a further duty of inquiry. This was particularly so because X-Factor received lawful deeds conveying ownership of the 711 property, there was no recorded notice of any violation, and X-Factor knew that the 711 property had been operated without objection for almost 40 years. See, e.g., *Nicholson, supra* at 726 (“it must be made to appear that a reasonable inspection would have disclosed the defect”). If a “prudent man” would not be put on inquiry, “the mere fact that means of knowledge are open… and he has not availed himself of them, does not debar him
from relief when thereafter he shall make actual discovery [because] if he is under no duty to make such inquiry the law charges him with no notice of facts which would have come to him through inquiry.” Sterling v. Title Ins. & Trust Co., 53 Cal. App. 2d 736, 748-749 (1942).

Moreover, even if the recordation of a map in 1961 was sufficiently “notorious” as to put a prospective purchaser on inquiry notice, it is evident that X-Factor did conduct a prudent inquiry under the circumstances. As the Declaration of Behrouz Soroudi established, X-Factor hired a title insurance company in connection with its purchase of the 711 property. That title insurer conducted its own due diligence, which was certainly more extensive than any inquiry a “prudent man” might have undertaken. The title company, a presumed expert investigator in such matters, neither discovered nor reported an illegal subdivision of the 711 property. See Sime v. Malouf, supra. at 104 (1949) (it must be shown that the prudent inquiry, if “reasonably conducted, would have disclosed...the true state of affairs”). See also Mesner v. Uharriet, 174 Cal. 110, 117 (1916) (purchaser not required to review public records affecting adjoining parcels, but was rather entitled “to rest upon the want of any record” showing an easement).

In 2003, when X-Factor purchased the 711 property, it was clearly a matter of public record that the City had issued a building permit and two certificates of occupancy for the 711 property. The City issued the building permit on September 19, 1967, and there is no evidence that the improvements constructed pursuant to that permit failed to meet City requirements. See El Segundo Zoning Code, sec. 34.183 (building permit may not be issued in conflict with zoning law). The City also issued certificates of occupancy for the 711 property in December 1968 and again in May 1976. Those certificates were records on which a “prudent” purchaser of the property could reasonably rely, and each stated:

“This certificate is issued pursuant to the requirements of the City of El Segundo building Code and Zoning Ordinance certifying at the time of its issuance this structure is in compliance with the various codes of the City regulating building construction or use.”

This was the state of the public record when X-Factor purchased the property in 2003. See Sime v. Malouf, supra. at 108 (“It is well settled that one who has acted in a manner which would reasonably induce another to forego or discontinue an investigation...will not be heard to say that the facts would have been developed had inquiry been made.”)

A further reason why a “prudent purchaser” could not have been expected to find evidence of a violation of subdivision laws when the 711 property was divided from the 555 property is that the Subdivision Map Act did not govern the division. As noted, the 1967 property division resulted in two parcels. However, the Subdivision Map Act did not regulate the division of land into four or fewer parcels at that time. See Van’t Rood v. County of Santa Clara, 113 Cal. App. 4th 548 (2003); Fishback v. County of Ventura, 133 Cal. App. 4th 896 (2005). The subdivision law enacted by the City in late 1967 confirmed that the City had adopted the Subdivision Map Act definition of “subdivision”. See Ord. No. 675.

Staff’s analysis should not alter this conclusion. insofar as it was premised on Section 34.2 of the City’s zoning law, and not on the City’s subdivision code. Moreover, the definitions of “lot” cited by Staff failed either (a) to include the third definition of “lot” under the City’s zoning law in effect as of October 1962 or (b) to consider the definition of “lot” under the City’s subdivision law. See “Zoning and Subdivision Regulations of the City of El Segundo” (1969). sec. 20.08.270; Ord. No. 379 (1957). sec. 28.12.
CONCLUSION

X-Factor has not violated any law. Nor does X-Factor seek any relief or entitlement from the City. X-Factor has not applied for a building permit or other license, and has no current intention of further developing the property. It is now, and has always been, a “passive” owner.

Accordingly, the City should reverse the Planning Commission’s adoption of Resolution No. 2629.

Respectfully submitted,

Richard S. Hessenius
State Bar No. 76765
CALIFORNIA ALL-PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT

State of California
County of Los Angeles

On March 6, 2008 before me, Jocelyn Luistro, Notary Public (Here insert name and title of the officer)

personally appeared Beirzei Sarrudi

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)

ADDITIONAL OPTIONAL INFORMATION

INSTRUCTIONS FOR COMPLETING THIS FORM
Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notaary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they is (are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document.

DESCRIPTION OF THE ATTACHED DOCUMENT

Appeal of a Planning Commission

Number of Pages 13 Document Date 3/6/08

CAPACITY CLAIMED BY THE SIGNER

☐ Individual(s)
☒ Corporate Officer
  Secretary
☐ Partner(s)
☐ Attorney-in-Fact
☐ Trustee(s)
☐ Other

204
CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California
County of Los Angeles

On March 6, 2008 before me, Jocelyn Luistro, Notary Public
(Here insert name and title of the officer)

personally appeared Robert P. Andranian

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to
the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized
capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of
which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph
is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

Appeal of a Planning Commissioner
or a Director's Decision

Title or description of attached document continued

Number of Pages 13 Document Date 3/6/08

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

☒ Individual (s)
☐ Corporate Officer

☐ Partner(s)
☐ Attorney-in-Fact
☐ Trustee(s)
☐ Other

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☒ Indicate the capacity claimed by the signer. If the claimed capacity is a
corporate officer, indicate the title (i.e. CEO, CFO, Secretary).

☒ Securely attach this document to the signed document.
Christensen, Kimberly

From: bob.andreani [bob.andreani@sbcglobal.net]
Sent: Monday, May 19, 2008 12:22 PM
To: Berger, Karl; Chicotts, Gary; Christensen, Kimberly
Cc: 'bob.andreani'; bandreani1@aol.com; rhessenius@aol.com
Subject: FW: El Segundo - 701-711 Aviation City Council Hearing re: Appeal of Subdivision Map Act
Decision - Request for Postponement of Hearing Date

Re: 701-711 Aviation Blvd., El Segundo – X-Factor, L.P. Request for Postponement of City Council Hearing on Appeal

Dear Mr. Berger, Mr. Chicotts and Ms. Christensen:

Confirming my telephone conference last week with Mr. Chicotts and Ms. Christensen regarding the above matter, I am writing on behalf of my client, X-Factor, L.P., the owner of the subject property. As you know, a hearing is presently set before the El Segundo City Council for June 4, 2008 to address X-Factor’s appeal of a decision by the Planning Commission regarding an alleged violation of the Subdivision Map Act relative to an alleged improperly established lot line of the property. As discussed, X-Factor now requests that this hearing date be postponed for approximately 90 days, in order to enable the parties additional time to continue to attempt to resolve their disputes (and if necessary to proceed with its pending arbitration), in the hope and for the purpose of avoiding additional time, effort and costs for X-Factor and the City. Since the outcome of such efforts between X-Factor and Xerox might have significant effects on X-Factor’s City Council appeal, it could also be in the better interests of the City to postpone the hearing.

It is my understanding that the existing Tolling Agreement between X-Factor and the City, which was handled by my co-counsel Mr. Hessenius and Mr. Berger, already provides that the tolling period is tied to the City Council hearing date. Therefore, it seems that it would not be necessary to amend the Tolling Agreement in order to achieve a consensual postponement of the City Council hearing date. Rather, I believe that a simple written acknowledgement from you on behalf of the City granting the hearing postponement would be all that is needed.

Please feel free to call me or Mr. Hessenius if you have any questions about this request. Otherwise, I would appreciate a reply acknowledging that the hearing date is postponed, and informing us of the new hearing date.

Thank you for your consideration.

Bob Andreani, attorney for X-Factor, L.P.
LAW OFFICES of ROBERT P. ANDREANI
Citigroup Center
444 S. Flower Street
Suite 500, Fifth Floor
Los Angeles, California 90071-2906
Telephone: 213-891-9555
FAX: 213-891-1515
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E-Mail: Bob.Andreani@sbcglobal.net

THIS MESSAGE IS INTENDED TO BE A CONFIDENTIAL COMMUNICATION, AND IT MAY BE SUBJECT TO ATTORNEY-CLIENT COMMUNICATION PRIVILEGE, ATTORNEY WORK-PRODUCT PRIVILEGE OR ANOTHER PRIVILEGE. THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL(S) TO WHOM IT IS ADDRESSED. Any other use of this message is prohibited. If you have received this message in error, please notify us immediately by reply e-mail to Bob.Andreani@sbcglobal.net and delete the message. Thank you.

IF DOCUMENTS ARE ATTACHED TO THIS E-MAIL MESSAGE PLEASE READ THE FOLLOWING:
Robert P. Andreani Attorney-at-Law cannot opine on the enforceability of any changes made to the transmitted document(s) that have not been drafted or reviewed by him, nor can he opine on the suitability of the transmitted document(s) for any other transaction other than the one to which it/they relate. Therefore if changes are made to the transmitted document(s), by so doing, you assume the risk that changes to the document(s) made by you without counsel's review may not (a) be enforceable under California law, (b) be suitable for the purposes intended, or (c) achieve your desired objectives as such have been articulated to me prior to the transmission of the transmitted document(s). In addition, any legal advice given to you by Robert P. Andreani Attorney-at-Law with respect to the transmitted document(s) shall be deemed not to cover or take into effect any changes made to the document(s) in your office if such changes are not reviewed by Robert P. Andreani Attorney-at-Law prior to their execution.
Gentlemen and Lady:

On behalf of X-Factor, L.P., the appellant/landowner, we hereby submit the above-referenced Supplemental Memorandum for the City Council’s consideration. Mr. Chicotts confirmed to me in our telephone conversation today, that it would be sufficient and acceptable for X-Factor to submit this Supplemental Memorandum electronically, as an attachment to this e-mail, and that accordingly no “hard copies” would be required.

I also wish to point out to Mr. Chicotts that the attached Memorandum, in its Appendix, refers to certain documentation in the City’s files and records, which X-Factor designates, and requests the City Planning Department to include, for the purpose of supplementing the record of this proceeding.

Thank you, Bob Andreani

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IF DOCUMENTS ARE ATTACHED TO THIS E-MAIL MESSAGE PLEASE READ THE FOLLOWING:

Robert P. Andreani Attorney-at-Law cannot opine on the enforceability of any changes made to the
May 27, 2008

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

Via Electronic Delivery

SUPPLEMENTAL MEMORANDUM IN SUPPORT OF APPEAL FROM
PLANNING COMMISSION’S ADOPTION OF
RESOLUTION NO. 2629 AND DESIGNATION OF ADDITIONAL PUBLIC
RECORDS
(Environmental Assessment No. 750)

TO THE HONORABLE MEMBERS OF THE EL SEGUNDO CITY COUNCIL:

We represent X-Factor, L.P. (“X-Factor”), the owner of property variously
referred to as 701 S. Aviation Boulevard and 711 S. Aviation Boulevard
(hereinafter, the “711 property”). The purpose of this memorandum is to
supplement the “APPEAL OF A PLANNING COMMISSION OR A DIRECTOR’S
DECISION (Environmental Assessment No. 750)” (the “appeal”), filed by X-Factor
on March 7, 2008.

The subject of this memorandum, and of X-Factor’s appeal, is the stated
intention of the City of El Segundo (the “City”) to record a “notice of violation”
respecting an alleged “subdivision violation” which purportedly occurred over 40 years ago.

We have reviewed the various statutes and ordinances which govern the resolution of this matter, including those which existed in 1967. We have concluded that there is no basis for either issuing or recording a notice of violation. We therefore urge the City Council to reverse the decision of the Planning Commission to adopt Resolution No. 2629 for all of the reasons identified in X-Factor’s appeal (which are incorporated herein by this reference), as well as those which are discussed below.

A. BACKGROUND

X-Factor owns certain property located in the City, referred to herein as the “711 property”. The neighboring property is located at 555 S. Aviation Boulevard and is owned by 555 Aviation, Ltd. It shall be referred to herein as the “555 property.” Xerox Corporation (“Xerox”) leases both the 711 property and the 555 property.

In 1989, Xerox recorded a parking covenant burdening the 711 property which was apparently necessary to support the intensified use of a building leased by Xerox from a third party. That covenant: (a) transferred 118 spaces from the 711 property to Lot M-7; and (b) transferred 120 spaces from the 711 property to the 555 property. We understand that, at the same time, Xerox transferred 337 spaces from Lot M-2 (then owned by Xerox) to supply additional parking for the 555 property.

Ultimately, the 1989 parking covenant was expunged from the public records. However, in February 2001, and without the knowledge of the owner of the 711 property, Xerox again recorded, this time as the purported “owner” of the 711 property, two “parking covenants” (Document No. 01-0204705 and Document No. 01-0204706). The recordation of these parking covenants was
illegal under California Penal Code Section 115, which flatly prohibits recordation of false instruments affecting title.¹

Based upon statements contained in correspondence from Xerox's legal counsel, it appears that Xerox recorded the offending parking covenants in order to free Lot M-2 from covenants which had been recorded in 1989. By replacing Lot M-2 parking spaces, which had been dedicated for use by the 555 property, with spaces owned by X-Factor at the 711 property, Xerox was able to clear title to, and to sell, its own property.

In late 2006, Xerox sought X-Factor's consent to substantial tenant alterations of the office building located on the 711 property. The contemplated construction would have decreased the value of X-Factor's building by reducing available office space. X-Factor declined to consent to the proposed alterations because, among other things, Xerox had defaulted under its lease by recording the parking covenants in February 2001. The full nature and extent of this dispute was described in a Demand for Arbitration filed by X-Factor in June 2007. The arbitration between Xerox and X-Factor is currently pending and has not been resolved.

Despite X-Factor's refusal to consent to the proposed alterations, Xerox applied to the City for permits necessary to undertake the unauthorized construction work. In the course of reviewing that application, the City concluded that the 711 property and the 555 property were not properly subdivided in 1967, and that a certificate of compliance must therefore be obtained in connection with a lot line adjustment, before any building permits could be issued. Additionally, the owner of the 555 property has asserted that certain improvements on the 711 property, which have been in place for some 40 years, must be removed as "encroachments." X-Factor has responded, in correspondence previously submitted, that it has acquired a right to own, maintain and use the improvements, without interference, through the doctrines

¹ Unfortunately, a City representative erroneously approved these parking covenants.
of “adverse possession” and “easement by prescription.” It is uncertain whether acquiescence in the City’s required certificate of compliance procedure, and the redrawing of the lot line between the 711 property and the 555 property, would impact X-Factor’s vested interest to maintain and use the alleged “encroachments.” However, it cannot be denied that X-Factor is entitled to “due process of law” in any determination of its property rights, and should not be forced to abandon them without the benefit of such procedural safeguards.

On December 13, 2007, the Staff of the El Segundo Planning Commission issued its report recommending the recordation of a notice of violation against X-Factor. Such a notice, if recorded, would cloud X-Factor’s title to the 711 property and preclude its sale or refinancing. The basis for the Planning Commission’s notice was an asserted violation of the Subdivision Map Act (“SMA”) and corresponding city code provisions, when the two parcels which are currently the 555 property and the 701 property were divided and improved in the mid-1960’s.

Staff’s analysis is set forth verbatim below.

“The real property identified as 711 S. Aviation Boulevard (APN No. 4138-009-015) and 701 S. Aviation Boulevard (APN No. 4138-009-016) was legally subdivided into three lots (lots 31, 32 and 35) by Tract Map No. 26557 recorded on August 28, 1961. A building permit was applied for on July 14, 1967 and issued on September 19, 1967 for a new office building and surface parking on the property located at 701 S. Aviation Boulevard (Lots 1, 2, 3, 4, 30, 31, 32, and 35 of Tract 26557). On or about September 26, 1967, the real property was divided into two parcels without approvals under the Subdivision Map Act (Government Code sections 66410 et seq.) or the El Segundo Municipal Code (“ESMC”). El Segundo Municipal Code Section 34.2 (effective in October 1962) defined a lot as ‘(1) A parcel of real property when show as a delineated parcel of land with a number or other designation on a plat recorded in the office of the county recorder,’ and ‘(2) A parcel of land containing not less than the prescribed minimum square footage required in the zone in which it is located, nor more than one acre, the dimensions or boundaries of which are defined by a record of survey recorded pursuant to law
when recorded in the office of the county recorder and which abuts at least one public street or private easement determined by the commission to be adequate for purposes of access from a street...’ Further, ESMC Section 34.110 allowed the division of lots or parcels containing more than two times the minimum required lot area into a maximum of four lots with requirements for direct access to a public street or with approval by the planning commission and the city council for divided parcels with access by an easement. Consequently, it appears that the subdivision violates Government Code Section 66412.6 since no record of survey was recorded in compliance with the zoning regulations and minimum lot size for the reconfiguration of Lots 31, 32, and 35 of Tract 26557 into two lots on or about September 26, 1967.”

In short, Staff concluded that the 1967 division was illegal because the definition of the word “lot” in the City’s then zoning code contemplated only parcels identified in a map or survey which had been recorded with the county recorder, and no such map or survey currently appears as a matter of record. Staff did not consider the definition of the word “lot” in the City’s then subdivision code, nor did it explain how Municipal Code Section 34.110 (also part of the zoning code), which on its face permitted lot divisions without recordation of a map or a survey, either supported its analysis or constituted a separate basis for issuing a notice of violation.

Notwithstanding the alleged violation, Staff further “determined that the parcels as deeded to separate property owners and currently configured can meet the subdivision requirements and the processing and approval of a Certificate of Compliance is feasible to make both parcels legally compliant with current ESMC requirement for subdivisions and development standards.”

It does not appear that the issues raised by Staff involve any public health or safety concerns. See Government Code, Section 66499.34. To the contrary, the purported violation, if one exists at all (which X-Factor disputes), would be technical and non-substantive in nature.
Finally, Staff noted that the developer of the 711 property had applied for a building permit on July 14, 1967 and that the City had issued such a permit on September 19, 1967. The City also issued certificates of occupancy for the 711 property in 1968 and 1976.

On February 28, 2008, X-Factor appeared before the Planning Commission and argued, among other things, that it was exempt from application of state or municipal subdivision laws under Government Code Section 66412.6(b). The Planning Commission rejected X-Factor’s argument and thereupon adopted Resolution No. 2629. This appeal was then timely filed.

In its March 7, 2008 filing, X-Factor clearly demonstrated how it was exempt from application of the state or municipal subdivision laws, and that therefore no notice of violation could be properly recorded. This memorandum provides a further explanation as to why the City has no legitimate basis for issuing or recording any notice of violation against X-Factor’s property.

B. QUESTIONS

The Planning Commission’s analysis gives rise to the following important questions and concerns.

1. How did the definition of a “lot” under Section 34.2 of the City’s Code (concerning “Zoning”) give rise to a violation of state or local law, if at all?

2. Is the definition of a “lot” under the City’s Code, as recited by the Planning Commission, complete?

3. Did either the SMA or the City’s Code require recordation of an approved map to divide lots into two parcels in 1967, as Staff contends?

4. Did the City even have a subdivision law on the books in 1967 and, if so, why did not Staff refer to such a law in its report?
5. How does the Planning Commission's reference to, and reliance on, Section 34.110 support the issuance of a notice of violation, insofar as that ordinance specifically permitted the division of parcels into not less than four lots, without recordation of a map or survey?

C. X-FACTOR'S FURTHER LEGAL ARGUMENTS AGAINST IMPOSITION OF THE VIOLATION NOTICE.

1. *While Staff Has Alleged A Technical Violation Of The Subdivision Law, It Failed To Consider That Law In Its Report.*

Staff has recommended, and the Planning Commission has agreed upon, the issuance of a notice for an alleged violation of either the state or municipal subdivision laws. However, the City considered neither. Instead, its analysis focused exclusively on Chapter 34 of the City's code. Chapter 34 is the City's zoning law. It is Chapter 28 which contains the City's subdivision law. In short, the City has predicated its entire analysis on the wrong ordinance. This, in itself, constitutes an unmistakable and fundamental flaw in the City's position.

2. *There Was No Violation Of The City's Zoning Law In Any Event.*

Staff cited Section 34.2 of the municipal zoning law (in effect as of October 1962) for two definitions of the word "lot" (as used in the zoning, not the subdivision, ordinance). It concluded that, insofar as the subject property did not match either of the two definitions, there must be a violation of the subdivision laws. While the logic of this conclusion is dubious, even more glaring is Staff's failure to consider the third definition of the word "lot" in the zoning ordinance.

Staff attached to its report the entirety of Section 34.2 as it existed in 1962. As noted, Section 34.2 contained three separate definitions of the word "lot." The first definition of "lot" (cited by Staff), was a parcel delineated on a plat recorded in the office of the county recorder. The second definition of "lot" (also
cited by Staff), was a parcel delineated on a survey recorded with the county recorder. It is the third (and final) definition of the word “lot” under the City’s zoning law in effect as of October 1962 (not cited by Staff) which potentially applies in this case: A parcel of real property not delineated on a recorded survey or map, and containing not less than the minimum square footage required in the zone in which it is located, nor more than one acre, which abuts at least one public street. Thus, even assuming that the definition of the word “lot,” as found in the City’s zoning law, could somehow be used to support an alleged violation the subdivision law, the zoning ordinance in effect as of October 1962 (i.e., the year by which Staff’s report tests the legality of the lot division) was broad enough to encompass the 711 property as a legal “lot”. See also “Zoning and Subdivision Regulations of the City of El Segundo” (1969), at Section 20.08.270 (defining a “lot” under the Zoning Code as (1) a parcel shown on a recorded plat map, (2) a parcel defined by a recorded survey, or (3) a parcel neither identified on a recorded plat map, nor defined by a recorded survey, but containing the minimum square footage for the zone in which it is located and abutting a public road).

It should also be noted that Section 1523 of the City’s original zoning ordinance (enacted on July 22, 1957) expressly permitted, without any requirement for recordation, divisions of lots which contained more than the minimum required area: “When any lot or parcel in any zone contains a greater area than the required minimum lot area of the zone in which it is located, then each unit of the required minimum areas contained in such lot or parcel may be utilized as a separate lot, provided that all other requirements of the zone in which it is located are met, and that any such division does not result in four or more lots”. See Ordinance No. 507. Section 1523 was amended, by Ordinance No. 545 on July 27, 1959, to permit such utilizations so long as the original lot contained “two or more times the minimum lot area required for the zone” in which it was located.

3. The City’s Subdivision Law Contained A Different Definition Of “Lot.”
Even if there were a basis to predicate a violation upon the definition of the word “lot” as it appeared in the zoning law (which there is not), Chapter 28 of the City’s Code, relating to and governing “subdivisions,” has never defined a “lot” in the same manner as the zoning code. Rather, the definitions of the word “lot,” as found in the City’s subdivision ordinance, are all concerned with a parcel’s width and depth, an issue of no importance or even relevance here. See Ordinance No. 379 (1957), enacting City’s subdivision law, at Section 28.12 (defining “lot” by means of minimum area and width).

4. In 1967, California’s Subdivision Map Act, And By Extension The City’s Subdivision Ordinance, Did Not Regulate The Division Of Land Into Fewer Than Five Parcels.

As Staff concedes in its report, the 1967 division resulted in only two parcels. It is true that, under the current SMA, a “subdivision” is defined as a division of land into two or more parcels for the purpose of sale, lease, or finance. California Government Code, Section 66424. However, at the time of the “division” in 1967, the SMA did not purport to regulate, and had no impact on the division of land into five or fewer parcels. The SMA therefore had no application to the facts of this case.

The history of the SMA was summarized in the recent case of Van’t Rood v. County of Santa Clara, 113 Cal. App. 4th 549 (2003). As the Court there explained, the first SMA was enacted in 1893. Subsequent versions were enacted in 1907, 1929, 1937, 1943 and 1974. All versions enacted after the first contained a “grandfather” clause which exempted from current SMA requirements those subdivisions which had been established in compliance with the laws in effect at the time of the earlier subdivision. Id., at 563. See also 9 Miller & Starr, California Real Estate (3d ed. 2007) (hereinafter “Miller & Starr”), Section 25:13 (“Each version of the Subdivision Map Act since 1907, initiating the modern Act, contains a grandfather provision...[After 1907] the Map Act was amended on several occasions, and in each case each Act provided that it did not apply to divisions that occurred prior to the effective date. [Accordingly] a division of land
actually accomplished by deed prior to the effective date of any regulation for the division of land, or occurring in compliance with the subdivision laws in effect at the time of the division, remains valid”); Government Code, Section 66499.30(d) (current SMA does not apply to any parcel that was sold or leased in compliance with or exempt from any map act or local ordinance regulating subdivision design and improvement in effect at the time the subdivision was established, and certificate of compliance not required for any such parcel). Before 1974, the statutory definition of a “subdivision” expressly applied only to divisions that resulted in five (5) or more parcels. Van’t Rood, supra, at 565-566.

In Fishback v. County of Ventura, 133 Cal. App. 4th 896, 901, 904 (2005), the Court observed that Government Code Section 66499.30 is a “grandfather” clause which protects subdivisions that were either already approved by local agencies, or were deemed exempt under the subdivision laws in effect, at the time the subdivision was established. The Court also noted that before 1972, the SMA did not require a parcel map for a division of land into less than five parcels. Id., at 902, n.3.

The City’s original subdivision law adopted the same definitions and terms as the SMA. See Ordinance No. 379 at Section 28.1 (all terms of the City’s subdivision ordinance “shall have the same meanings as ascribed thereto in the Subdivision Map Act”). Similarly, the new subdivision law enacted by the City in 1967 clearly stated that the City had adopted the same definition of “subdivision” as was contained in the SMA. Ordinance No. 675 repealed Ordinance No. 379 and restated the City’s subdivision law. It defined a “subdivision” as follows: “A subdivision is a division of real property as defined by the Subdivision Map Act. All subdivisions within the definition of the Subdivision Map Act shall be subject to the terms and provisions of this Chapter.” Accordingly, at the time of the division of the 711 property from the 555 property in 1967, neither the SMA nor the City’s subdivision law applied. Because the SMA did not apply to divisions of land into five or fewer parcels, neither did the City’s subdivision law, and there was nothing improper about the lot split which occurred between the subject properties in 1967.
Finally, because there was no SMA or related requirement at the time of the 1967 "subdivision," the current SMA has no application either. See California Government Code, Section 66499.30(d)(SMA requirements do not apply to parcels that were in compliance with or exempt from any law regulating the design and improvement of subdivisions in effect at the time the subdivision was established); Gardner v. Sonoma, 29 Cal. 4th 990, 999 (2003); Miller & Starr, Section 25:13 ("A parcel created by a subdivision of four or fewer parcels prior to March 4, 1972, is conclusively presumed to be created lawfully if at the time of the subdivision it complied with any local ordinance in effect which regulated divisions of fewer than five parcels, or there was no local ordinance at the time of the division"). See also Stell v. Jay Hales Dev. Co., 11 Cal.App.4th 1214 (1992).

5. The City Permitted The Division Of The Subject Property Without Requiring The Recordation Of Any Survey Or Map.

The Planning Commission’s analysis hinged upon the absence of a recorded map or survey. However, no such recordation was necessary where, as here, the lot division resulted in fewer than five parcels.

As enacted in 1957 by Ordinance No. 379, the City’s subdivision law (Chapter 28) was “supplemental” to the SMA, and of course applied only to “subdivisions.” See Ordinance No. 379, Section 28.1 (provisions are “supplemental” to those of SMA). As previously explained, the division of land into fewer than five parcels was not considered a “subdivision” under the SMA before 1972, and therefore could not have been considered to be a “subdivision” under the City’s municipal code. See Ordinance No. 675, repealing Ordinance No. 379 in late 1967, and stating: “A subdivision is a division of real property as defined by the Subdivision Map Act. All subdivisions within the definition of the Subdivision Map Act shall be subject to the terms and provisions of this Chapter.” Under Government Code Section 66412.6(a), a parcel created before March 4, 1972 is conclusively presumed to have been lawfully created if it resulted from a division of land in which less than five parcels resulted and the applicable local ordinance did not regulate the division of land creating fewer than five parcels.
The City was undoubtedly aware of the division of the 711 property from the 555 property at the time it approved construction of the office building on the 711 property in 1967. On December 8, 1965, the developer of the M-1 building on the 555 property submitted his Application for Building Permit. That application reflected the submission of multiple sets of plans. The “legal description” of the property to be developed was “Lot 10, 11, 12, 13, 35”. On July 14, 1967, the developer of the 711 property submitted his Application for Building Permit, which again reflected that multiple sets of plans accompanied the application. The “legal description” of the property to be developed was “Lot 1, 2, 3, 4 & 30, 31, 32, 35”. Even a cursory examination of these applications, submitted for adjoining properties, shows that the parcel designated as “Lot 35” was being split between the two developments. Yet, the City issued the requested building permits and allowed the construction to proceed, all as requested and without condition.


It is evident that neither the State nor the Municipal subdivision laws applied to the property development which occurred in 1967, and that the City’s zoning laws would have no application in any event. However, even if the alleged “subdivider” of the properties had violated some law in 1967 (which he did not), that violation could not, as a matter of law, be held against a subsequent purchaser of the property like X-Factor.

In this regard, and as explained in X-Factor’s March 7, 2008 appeal, Government Code Section 66412.6(b) states, in relevant part:

“For purposes of this division or of a local ordinance enacted pursuant thereto, any parcel created prior to March 4, 1972, shall be conclusively presumed to have been lawfully created if any subsequent purchaser acquired that parcel for valuable consideration without actual or constructive knowledge of a violation of this division or the local ordinance. Owners of parcel or units of land affected by the provisions of this
subdivision shall be required to obtain a certificate of compliance or a conditional certificate of compliance pursuant to Section 66499.35 prior to obtaining a permit or other grant of approval for development of the parcel or unit of land.”

Accord, Miller & Starr, Section 25:13 (“It is conclusively presumed that any parcel created prior to March 4, 1972, was lawfully created in favor of a bona fide purchaser for value who did not have actual or constructive knowledge of the violation of the Map Act or local ordinance”). Government Code Section 66412.6(b) became operative on January 1, 1995 and governs the parties here.

Under Section 66412.6(b), X-Factor cannot be held in violation of the SMA, and the City cannot properly record a notice of violation, if: (1) the parcel was created before March 4, 1972; (2) X-Factor acquired the property for valuable consideration; and (3) X-Factor did not have actual or constructive knowledge of a subdivision violation at the time it purchased the property.

It is true that, under the foregoing statute, the City could require X-Factor to obtain a certificate of compliance if X-Factor sought a permit for development. However, X-Factor seeks no such permit. See Keizer v. Adams, 2 Cal. 3d 976, 979-980 (1970) (“The Subdivision Map Act is designed to restrict activities of the subdivider—the one ‘who causes the land to be divide into a subdivision.’...The act does not require the innocent purchaser to suffer for a violation by his grantor, of which he has neither knowledge nor the means of discovery.”)

7. The City Should Be Estopped To Deny X-Factor’s Compliance With Applicable Laws.

The subject improvements, and the division of the properties at issue, have all been in place without objection for more than 40 years. There is something viscerally wrong with a belated attack on the status quo, particularly one which is highly technical and non-substantive, after so many years.

Here, the City issued a building permit in July 1967. Because no permit for building may be issued in conflict with the zoning code, the City’s issuance of
building and occupancy certificates is substantial evidence of the developer’s compliance with the laws which governed at the time. See Zoning Code, Section 34.183. There is no evidence that the improvements at the 711 property failed in any respect to meet the requirements imposed by the City. Indeed, the City also issued certificates of occupancy in December 1968 and again in May 1976. Copies of these certificates are part of the public record. Each such certificate stated:

“This certificate is issued pursuant to the requirements of the City of El Segundo Building Code and Zoning Ordinance certifying at the time of its issuance this structure is in compliance with the various codes of the City regulating building construction or use.”

This was the state of the public record when X-Factor purchased the 711 property in 2003. X-Factor relied on these public records of legality and conformity of the property to the City’s laws when it made the decision to buy the 711 property, and the City should now be equitably estopped from adopting a contrary position. See California Evidence Code, Section 623 (“[w]henever a party has, by his own statement or conduct, intentionally and deliberately led another to believe a particular thing true and to act upon such belief, he is not, in any litigation arising out of such statement or conduct, permitted to contradict it”). See also Long Beach v. Mansell, 3 Cal. 3d 462, 496 (1970) (“[t]he government may be bound by an equitable estoppel in the same manner as a private party when the elements requisite to such an estoppel against a private party are present and, in the considered view of a court of equity, the injustice which would result from a failure to uphold an estoppel is of sufficient dimension to justify any effect upon public interest or policy which would result from the raising of an estoppel”); Lentz v. McMahon, 49 Cal. 3d 393, 400 (1989); Kieffer v. Spencer, 153 Cal. App. 3d 954, 963 (1984).

D. CONCLUSION

There is no legitimate showing that X-Factor has violated any law or regulation. Nor does X-Factor seek any relief, remedy or benefit from the City. X-Factor has not applied for a building permit or other license, and X-Factor has
no current intention of further developing the property. It is now, and has always been, a “passive” owner. It simply seeks to operate the property it purchased in 2003 as it has been continuously operated, without objection from the City, for the past 40 years. Yet, as a result of Xerox’s unauthorized pursuit of building entitlements, X-Factor now finds itself in the unenviable position of facing public citation for an alleged violation which purportedly occurred 35 years before X-Factor purchased the property.

The only correct response to these issues is the fair and obvious one. The City Council should recognize that there has been no violation of any law, and reverse the Planning Commission’s adoption of Resolution No. 2629.

Respectfully submitted,

LAW OFFICE OF RICHARD S. HESSENIUS

By: Richard S. Hessenius
Attorney at Law
APPENDIX OF DESIGNATED ADDITIONAL CITY RECORDS

X-Factor hereby designates, and requests the City Planning Department to include, the following materials from the City's files, for the purpose of supplementing the record of this proceeding.


7. Ordinance No. 675 (1967).


9. Building Permit issued for 555 property.

RESOLUTION NO. _____

A RESOLUTION AFFIRMING THE FEBRUARY 28, 2008 PLANNING COMMISSION DETERMINATION THAT REAL PROPERTY LOCATED AT 711 SOUTH AVIATION BOULEVARD (LOT 31, A PORTION OF LOT 32 AND A PORTION OF LOT 35 OF TRACT 26557; APN NO. 4138-009-015) VIOLATES THE SUBDIVISION MAP ACT AND DIRECTING RECORDATION OF A NOTICE OF VIOLATION.

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

SECTION 1: The City Council finds and declares that:

A. On February 28, 2008, the Planning Commission adopted Resolution No. 2629 which is attached as Exhibit “A,” and incorporated by this reference (“Decision”);

B. As set forth more completely within the Decision, the Planning Commission determined that real property located at 711 South Aviation Boulevard (the “Property”) was illegally subdivided and directed the Planning and Building Safety Director to record a Notice of Violation on the property in conformance with Government Code § 66499.36;

C. On March 7, 2008, the Property’s owner, X-Factor, LP (“X-Factor”), timely appealed the Decision pursuant to El Segundo Municipal Code (“ESMC”) § 15-25-3;

D. Pursuant to a tolling agreement executed on or about March 25, 2008, the City and X-Factor agreed to schedule a public hearing before the City Council on June 4, 2008 regarding X-Factor’s appeal;

E. On June 4, 2008, the City Council opened a public hearing to consider the Decision, X-Factor’s appeal, the administrative record upon which the Planning Commission rendered the Decision, and such additional testimonial and documentary evidence that the City Council chose (at its discretion and in accordance with ESMC § 15-25-4) to admit into the record;

F. This Resolution, including its findings, conclusions, and determinations, is adopted based upon the evidence set forth in the entire record including, without limitation, documentary and testimonial evidence; the staff report; and such additional information set forth in the administrative record that is too voluminous to reference.

SECTION 2: Factual Findings. The City Council incorporates the factual findings in the Decision as if fully set forth in this Resolution.
SECTION 3: Affirmation of the Decision. For the reasons set forth in the Decision, which are incorporated into this Resolution by reference, the City Council affirms the Decision. The Property violates Government Code §§ 66410, et seq., specifically Government Code §66412.6, and the ESMC for the reasons set forth in the Decision. The Planning and Building Safety Director is directed to record a Notice of Violation in conformance with the Decision.

SECTION 4: Administrative Record. The following items are not part of the administrative record considered by the City Council since they were either untimely, irrelevant, or substantially duplicative of existing evidence: a document entitled "Supplemental Memorandum" received by the City on May 28, 2008 from X-Factor.

SECTION 5: Reliance on Record. Each and every one of the findings and determinations in this Resolution are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the Decision. The findings and determinations constitute the independent findings and determinations of the City Council in all respects and are fully and completely supported by substantial evidence in the record as a whole.

SECTION 6: Summaries of Information. All summaries of information in the findings, which precede this section, are based on the substantial evidence in the record. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

SECTION 7: The City Clerk is directed to mail a copy of this Resolution to X-Factor and to any other person requesting a copy.

SECTION 8: This Resolution becomes effective immediately upon adoption and constitutes the City's final decision.

PASSED, APPROVED AND ADOPTED this 4th day of June 2008.

_________________________________
Kelly McDowell, Mayor
I, Cindy Mortesen, City Clerk of the City of El Segundo, California, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Resolution No. ____ was duly passed and adopted by said City Council, approved and signed by the Mayor, and attested to by the City Clerk, all at a regular meeting of said Council held on the 4th day of June, 2008, and the same was so passed and adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

______________________________
Cindy Mortesen, City Clerk

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

By:
Karl H. Berger, Assistant City Attorney
AGENDA DESCRIPTION: Consideration and possible action regarding the announcement of the appointments of candidates to the following Committees, Commissions and Boards (CCBs): Recreation & Parks Commission; Senior Citizen Housing Corporation Board.

RECOMMENDED COUNCIL ACTION:

(1) Announce the appointees to the CCBs, if any, and terms of office;
(2) Announce that recruitment continues for positions on remaining CCBs: Environmental Committee; Planning Commission, Library Board of Trustees and interviews will be scheduled for June 17, 2008;
(3) Alternatively, discuss and take other action related to this item.

BACKGROUND & DISCUSSION:

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ATTACHED SUPPORTING DOCUMENTS: N/A

FISCAL IMPACT: N/A

ORIGINATED: Date: 5/27/08

Mishia Jennings, Executive Assistant

REVIEWED BY: Date: 5/28/08

Jack Wayt, Interim City Manager
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**TOTAL WARRANTS**

$1,787,295.85

**STATE OF CALIFORNIA**
**COUNTY OF LOS ANGELES**

Information on actual expenditures is available in the Director of Administrative Services office in the City of El Segundo.

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

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

**CODES:**

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

For Ratification:

- **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:** 5/27/08

**DATE:** 5/27/08

**VOID CHECKS DUE TO ALIGNMENT:**

N/A

**VOID CHECKS DUE TO INCORRECT CHECK DATE:**

**VOID CHECKS DUE TO COMPUTER SOFTWARE ERROR:**

**NOTES**
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<td>5/16/2008</td>
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<td>Vantage 457</td>
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<td>5/16/2008</td>
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<td>1,153.24</td>
<td>Child support withholdings</td>
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<td>Weekly claims</td>
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<td>5/21/2008</td>
<td>Federal Reserve</td>
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<td>Employee EE Bonds</td>
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<td>5/21/2008</td>
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<td>Employee I Bonds</td>
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<td>5/21/2008</td>
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<td>ABAG Payment</td>
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<td>5/21/2008</td>
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<td>5/21/2008</td>
<td>Lane Donovan Golf Ptr</td>
<td>21,029.51</td>
<td>Payroll Transfer</td>
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<td>5/9-5/22/08</td>
<td>Workers Comp Activity</td>
<td>28,723.33</td>
<td>SCRMA checks issued</td>
</tr>
</tbody>
</table>

1,634,544.95

DATE OF RATIFICATION: 6/03/08  
TOTAL PAYMENTS BY WIRE: 1,634,544.95

Certified as to the accuracy of the wire transfers by:

Deputy Treasurer

Director of Finance

City Manager

Information on actual expenditures is available in the City Treasurer's Office of the City of El Segundo.
REGULAR MEETING OF THE EL SEGUNDO CITY COUNCIL
TUESDAY, MAY 20, 2008 - 6:00 P.M.

6:00 P.M. SESSION

CALL TO ORDER – Mayor McDowell at 6:00 p.m.

ROLL CALL

Mayor McDowell - Present
Mayor Pro Tem Busch - Present
Council Member Brann - Present
Council Member Fisher - Present
Council Member Jacobson - Present

PUBLIC COMMUNICATION – (Related to City Business Only – 5 minute limit per person, 30 minute limit total) Individuals who have received value of $50 or more to communicate to the City Council on behalf of another, and employees speaking on behalf of their employer, must so identify themselves prior to addressing the City Council. Failure to do so shall be a misdemeanor and punishable by a fine of $250.

The City Attorney stated that Council would be meeting in closed session pursuant to items identified on the agenda and Government Code §54956.9(b) items were threats of litigation regarding Henry Radio, Claim No. 07-48, Siegel, Claim No. 07-43, Verizon, Claim 07-49, DTC Compliance Order, Carson Landfill and exposure to litigation known to the public generally.

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

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Gov’t Code §54956.9(a)) – -1- matters

1. City of El Segundo vs. City of Los Angeles, et. al. LASC No. BS094279

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Government Code §54956.9(b): -5- potential case (no further public statement is required at this time); Initiation of litigation pursuant to Government Code §54956.9(c): -2- matter.

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

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

SPECIAL MATTERS: -0- matter

Council recessed at 6:50 p.m.
REGULAR MEETING OF THE EL SEGUNDO CITY COUNCIL
TUESDAY, MAY 20, 2008 - 7:00 P.M.

7:00 P.M. SESSION

CALL TO ORDER – Mayor McDowell at 7:00 p.m.

INVOCATION – Pastor John Svendsen, First Baptist Church

PLEDGE OF ALLEGIANCE – Mayor Pro Tem Eric Busch

PRESENTATIONS

a. Certificates of Commendation for volunteer services of the AARP Volunteer Tax Preparers for senior citizens of El Segundo.

ROLL CALL

<table>
<thead>
<tr>
<th>Mayor McDowell</th>
<th>Present</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mayor Pro Tem Busch</td>
<td>Present</td>
</tr>
<tr>
<td>Council Member Brann</td>
<td>Present</td>
</tr>
<tr>
<td>Council Member Fisher</td>
<td>Present</td>
</tr>
<tr>
<td>Council Member Jacobson</td>
<td>Present</td>
</tr>
</tbody>
</table>

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.

Jack Axelrod, resident:

1. Pursuant to the procedures set forth on the first page of this Agenda, resident Jack Axelrod has requested that the following items be placed on the City Council Agenda for possible discussion and action by the Council. The Council is not required to discuss or take action on these items.

a. Replace all the U.S. flags on Grand Ave. with flags designed by the elementary school children of El Segundo. Emphasis should be on designs promoting peace and a healthy environment.
b. Prepare a resolution calling upon Rep. Harmon immediately to initiate Impeachment Proceedings against the President and the Vice President on the basis of war crimes as well as domestic crimes.

c. Prepare a resolution calling upon House Speaker Pelosi to (A) get HR-4102 to the floor with all speed, and (B) to reject all new appropriations for funding a hideous, immoral and illegal war and occupation.

d. Prepare a resolution calling upon Senate Majority Leader Reid to (A) bring about the immediate withdrawal of all U.S. military forces from Iraq, and (B) demand the closing of at least 300 of our 700 military bases (including the Air Force base here in El Segundo) around the world, and (C) begin reductions of our nuclear weapons stockpiles.

Mr. Stevens, resident at Park Vista, spoke regarding his vehicle being towed from the City parking lot behind Joslyn Center for a 72 hour parking violation and associated fine.

Dave Burns, resident, spoke regarding Item Number 16 campaign contribution limits and the limiting of a candidate's freedom of speech. He requested Council consider setting the contribution limit at $750. Also spoke regarding paper waste generated by unsolicited "free" newspapers.

Rod Spackman, Chevron, gave a presentation regarding the recent Coker "Hot Spot" Event at Chevron.

Loretta Frye, resident, spoke in favor of continued distribution of the El Segundo Herald, Beach Reporter, Easy Reader and other free papers.

Council requested staff check City public parking lots for 72 hour posting. The City Attorney stated that the Police Department had a process in place for an individual to file an administrative complaint.

Staff to contact newspapers to see if they have an "opt out" program for an individual to ask that unsolicited newspapers not be delivered to their residence.

A. PROCEDURAL MOTIONS

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

MOTION by Council Member Jacobson, SECONDED by Council Member Fisher to read all ordinances and resolutions on the Agenda by title only. MOTION PASSED BY UNANIMOUS VOTE. 5/0

B. SPECIAL ORDERS OF BUSINESS
C. UNFINISHED BUSINESS

2. Consideration and possible action regarding: (1) The approval of a Contract Change Order to the existing Public Works Contract with SEMA Construction, Inc. in conjunction with the construction of the Douglas Street Gap Closure Project. (Fiscal Impact: $674,659.43, Change Order); (2) An Amendment No. 3464 C to the existing Professional Services Agreement with Caltrop Corporation (Fiscal Impact: $73,930.00, Amendment Amount); (3) An amendment to the existing Professional Services Agreement with the Dardanelle Group, Inc. (Fiscal Impact: $25,000.00, Amendment Amount)

Stephanie Katsouleas, Interim Public Works Director, gave a report.

MOTION by Mayor Pro Tem Busch, SECONDED by Council Member Fisher to authorize the City Manager, or designee, to execute Change Order Number 32 to the existing Public Works Contract with SEMA Construction, Inc. in the total amount of $674,659.43; Authorize the City Manager, or designee, to execute an amendment to Contract No. 3464 with Caltrop Corporation, in a form approved by the City Attorney, in the amount of $73,930.00; Authorize the City Manager, or designee, to execute an amendment to a contract with the Dardanelle Group, Inc., in a form approved by the City Attorney, in the amount of $25,000.00. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

3. Consideration and possible action to receive and file the staff report pertaining to operations at Campus El Segundo Athletic Fields located at 2201 East Mariposa. (Fiscal Impact: $95,950)

Richard Brunette, Recreation and Parks Director, gave a report.

Council consensus to receive and file the staff report regarding Campus El Segundo Athletic Fields safety options.

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.

4. Approved Warrant Numbers 2565657 to 2565907 on Register No. 15 in the total amount of $1,033,290.90 and Wire Transfers from 4/25/2008 through 5/8/2008 in the total amount of $1,126,447.51. 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.

5. Approved Regular City Council Meeting Minutes of May 6, 2008 and Special City Council Meeting of April 29, 2008.
6. Approved the examination plan for the Personnel Merit System job classification of Human Resources Manager. (Fiscal Impact: None)

7. PULLED FOR DISCUSSION BY MAYOR MCDOWELL.

8. PULLED FOR DISCUSSION BY MAYOR PRO TEM BUSCH.

9. Accepted a cash contribution from Chevron Products Company, donated to the El Segundo Fire Department in support of Super CPR Saturday (Cardio-Pulmonary Resuscitation instruction; $1,000) and Suppression Training ($4,000). (Fiscal Impact: $5,000) Authorized the City Manager to transfer the monies into the CPR General Fund account and Suppression Training account.

10. Approved two professional service agreements in excess of $10,000 for Accounting, Tax and Advisory of Orange County, L.L.C. (CBIZ), Agreement No. 3822, and Macia Gini & O'Connell L.L.P. (formerly Moreland & Associates), Agreement No. 3823, in support of the Finance Department. (Fiscal Impact $75,000 off-set with salary savings of $75,000.) Authorized the City Manager to approve/amend Professional Services Agreements on behalf of the City for temporary professional accounting services with CBIZ in the amount of $38,000 and Macia Gini & O'Connell L.L.P. in the amount of $37,000 for an amount not to exceed $75,000, as approved to form by the City Attorney.

11. Adopted Resolution No. 4558 to release liens on 19 affected properties identified in the 1986 Assessment District No. 73 for Sewer Improvements. (Fiscal Impact: None) Authorized the City Clerk to File Notice of Discharge of Assessment Lien with the County Recorder.

12. Accepted the work as complete for construction related to the City's Residential Sound Insulation Program Group 15 (25 Homes). Project No. RSI 06-15. (Final contract total: $1,268,124.30) Authorized the City Clerk to file the City Planning and Building Safety Director's Notices of Completion in the County Recorder's Office.

13. Accepted the work as complete for construction related to the City's Residential Sound Insulation Program Group 16 (30 Homes). Project No. RSI 06-16. (Final contract total: $1,272,830.93) Authorized the City Clerk to file the City Planning and Building Safety Director's Notices of Completion in the County Recorder's Office.

14. Awarded Contract No. 3824 to S&L Specialty Contracting, Inc. for construction related to Group 27 (36 residences) of the Residential Sound Insulation (RSI) Program. (Estimated construction cost and retention: $975,040) Authorized the City Manager to execute a construction contract in a form approved by the City Attorney.

MOTION by Council Member Brann, SECONDED by Council Member Jacobson to approve Consent Agenda Items 4, 5, 6, 9, 10, 11, 12, 13 and 14. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0
7. Consideration and possible action regarding the status on staffing and workload issues in the Planning and Building Safety Department. (Fiscal Impact: $30,000)

Council consensus to receive and file status on staffing and workload issues in the Planning and Building Safety Department. (Fiscal Impact: $30,000)

8. Consideration and possible action to authorize the City Manager to purchase two new alternative fuel vehicles at a cost not to exceed $60,000 for use by the Planning and Building Safety Department. (Fiscal Impact: $60,000.00)

MOTION by Mayor Pro Tem Busch, SECONDED by Council Member Fisher to authorize the City Manager to purchase two new alternative fuel vehicles at a cost not to exceed $60,000 for use by the Planning and Building Safety Department. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

CALL ITEMS FROM CONSENT AGENDA

F. NEW BUSINESS


Deborah Cullen, Finance Director, gave a report.

Council consensus to receive and file Fiscal Year 2007-2008 Midyear Financial presentation.

MOTION by Council Member Fisher, SECONDED by Council Member Jacobson, to authorize the allocation of Fiscal Year 2006-2007 surplus of $970,000 for GASB45, to fully fund year one of the annual required contribution, designate $900,000 for estimated increase in liability claims expense and increase the General Fund Unreserved, Undesignated fund balance as of September 30, 2007 by the cost of living adjustment which would total $590,000. Directed Staff to proceed with Fiscal Year 2008-2009 Budget Calendar. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

G. REPORTS – CITY MANAGER

H. REPORTS – CITY ATTORNEY

I. REPORTS – CITY CLERK – Announced that due to the State election on Tuesday, June 3rd, the next regular City Council meeting would be held on Wednesday, June 4th at 7:00 p.m.

J. REPORTS – CITY TREASURER – Reported on recent conference in San Francisco.

K. REPORTS – CITY COUNCIL MEMBERS

Council Member Fisher – NONE
Council Member Jacobson – Announced May 31st as Super CPR Saturday and also on that day the Education Foundation would be having a Car Show at the Auto Museum.

Council Member Brann – Spoke on the recent Police and Fire Open House. Also spoke regarding the Tree Muskateers event, State of the City presentation by the Mayor and Elderfest.

Mayor Pro Tem Busch –

16. Consideration and possible action regarding providing direction to staff to prepare an ordinance amending Title 1, Chapter 9 – “Campaign Contributions and Disclosures,” of the El Segundo Municipal Code (“ESMC”) with regard to campaign finance regulations for consideration by the Council at a future Council Meeting.

Council consensus to direct staff to prepare an Ordinance amending Title 1, Chapter 9 of the ESMC to consider raising the campaign contribution limit and to eliminate the limit on how much a candidate could contribute to his own campaign.

City Attorney to report back on legality of City placing a limit on when signs could be placed before an election and requiring committee number and contact phone number on campaign signs.

Also requested that a time limit on putting signs up before an election be included with the voluntary policy limiting signs to one per property frontage.

Mayor McDowell –

17. Consideration and possible action regarding the assignments of Council Members to various intergovernmental agencies, other local agencies and subcommittees.

Mayor McDowell announced the following Council Committee Assignments effective May 20, 2008 through April 6, 2010:

Aviation Safety & Noise Abatement Committee (Liaison), Council Member Carl Jacobson, Delegate, Council Member Bill Fisher Alternate; City Selection Committee, Mayor Kelly McDowell, Delegate, Proxy as Needed, Alternate; Hyperion Citizens Forum, Council Members Don Brann and Carl Jacobson, Delegates; Independent Cities Association (ICA), Mayor Kelly McDowell, Delegate; Independent Cities Risk Management Authority (ICRMA), Mayor Kelly McDowell, Delegate; League of California Cities, Council Member Don Brann, Delegate, Council Member Bill Fisher, Alternate; Los Angeles County Sanitation District 5 and South Bay Cities District, Mayor Kelly McDowell, Delegate, Council Member Carl Jacobson, Alternate; Municipal Area Express Transportation (MAX), Council Member Carl Jacobson, Delegate, Council Member Bill Fisher, Alternate; Reach Out Against Drugs (ROAD), Mayor Pro Tem Eric Busch, Delegate; Santa Monica Bay Restoration Project, Mayor Pro Tem Eric Busch, Delegate; Senior Citizen Housing Corporation Board (Liaison), Council Member Carl Jacobson, Delegate, Council Member Don Brann, Alternate; South Bay Cities Council of Governments (COG), Mayor Kelly McDowell, Delegate, Mayor Pro Tem Eric Busch and Council Members Bill Fisher, Carl Jacobson, Don Brann, Alternates; South
Bay Economic Development Partnership, Council Member Don Brann, Delegate, Council Member Bill Fisher, Alternate; South Bay Youth Project, Council Member Don Brann, Delegate, Council Member Bill Fisher, Alternate; Southern California Association of Governments, Council Member Don Brann, Delegate, Mayor Kelly McDowell, Alternate; Southern California Cities Joint Powers Consortium, Council Member Bill Fisher, Delegate; West Basin Water Association, Council Member Don Brann, Delegate.

Standing and Ad Hoc Committees:

City/School Affairs Subcommittee, Mayor Kelly McDowell and Council Member Don Brann, Delegates; Technology Subcommittee, Council Members Bill Fisher and Carl Jacobson, Delegates; Disaster Council, Mayor Kelly McDowell and Mayor Pro Tem Eric Busch, Delegates; Downtown Subcommittee, Mayor Kelly McDowell, Delegate; Golf Committee, Council Members Carl Jacobson and Bill Fisher, Delegates; Business Recruitment Task Force, Mayor Kelly McDowell and Mayor Pro Tem Eric Busch, Delegates; LA County West Vector Control District, Sandra Jacobson, Delegate; Water conservation Subcommittee, Mayor Kelly McDowell and Mayor Pro Tem Eric Busch, Delegates.

Council consensus to approve and implement attached assignments.

Announced the upcoming Author Fair at the Library June 1st, 12:45 p.m. to 4:45 p.m.

Free "water brooms" being distributed by the City to local businesses.

Congratulated Lt. General John Sheridan on assumption of command at the Los Angeles Air Force Base and General Michael Hammel on his retirement.

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MEMORIALS – NONE

ADJOURNMENT at 8:28 p.m.

Cathy Domann, Deputy City Clerk
## COUNCIL COMMITTEE ASSIGNMENTS

**May 20, 2008 - April 6, 2010**

<table>
<thead>
<tr>
<th>AGENCIES/COMMITTEES</th>
<th>DELEGATE</th>
<th>ALTERNATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aviation Safety &amp; Noise Abatement Committee (Liaison)</td>
<td>Carl Jacobson</td>
<td>Bill Fisher</td>
</tr>
<tr>
<td>City Selection Committee</td>
<td>Kelly McDowell</td>
<td>Proxy as Needed</td>
</tr>
<tr>
<td>Hyperion Citizens Forum</td>
<td>Don Brann, Carl Jacobson</td>
<td>N/A</td>
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<tr>
<td>Independent Cities Association (ICA)-52 cities education/advocacy</td>
<td>Kelly McDowell</td>
<td>N/A</td>
</tr>
<tr>
<td>Independent Cities Risk Management Authority (ICRMA)</td>
<td>Kelly McDowell</td>
<td>N/A – (staff positions)</td>
</tr>
<tr>
<td>League of California Cities</td>
<td>Don Brann</td>
<td>Bill Fisher</td>
</tr>
<tr>
<td>Los Angeles County Sanitation District 5 and South Bay Cities District - (SanDat)</td>
<td>Kelly McDowell</td>
<td>Carl Jacobson</td>
</tr>
<tr>
<td>Municipal Area Express Transportation (MAX)</td>
<td>Carl Jacobson</td>
<td>Bill Fisher</td>
</tr>
<tr>
<td>Reach Out Against Drugs (ROAD)</td>
<td>Eric Busch, Pres. is ex officio</td>
<td>N/A</td>
</tr>
<tr>
<td>Santa Monica Bay Restoration Project- Bay Watershed Council (SMBRP)</td>
<td>Eric Busch</td>
<td>N/A</td>
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<tr>
<td>Senior Citizen Housing Corporation Board (Liaison)</td>
<td>Carl Jacobson</td>
<td>Don Brann</td>
</tr>
<tr>
<td>South Bay Cities Council of Governments (COG)</td>
<td>Kelly McDowell</td>
<td>Eric Busch, Bill Fisher, Carl Jacobson, Don Brann</td>
</tr>
<tr>
<td>South Bay Economic Development Partnership (SBEDP)</td>
<td>Don Brann</td>
<td>Bill Fisher</td>
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<tr>
<td>South Bay Youth Project</td>
<td>Don Brann</td>
<td>Bill Fisher</td>
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<tr>
<td>Southern California Association of Governments – General Assembly (SCAG)</td>
<td>Don Brann</td>
<td>Kelly McDowell</td>
</tr>
<tr>
<td>Southern California Cities Joint Powers Consortium</td>
<td>Bill Fisher</td>
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<tr>
<td>West Basin Water Association</td>
<td>Don Brann</td>
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<thead>
<tr>
<th>STANDING and *AD HOC COMMITTEES</th>
<th>DELEGATES</th>
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</thead>
<tbody>
<tr>
<td>City/School Affairs Subcommittee</td>
<td>Kelly McDowell and Don Brann</td>
</tr>
<tr>
<td>Technology Subcommittee</td>
<td>Bill Fisher and Carl Jacobson</td>
</tr>
<tr>
<td>Disaster Council</td>
<td>Kelly McDowell and Eric Busch</td>
</tr>
<tr>
<td>*Downtown Subcommittee (eff. Nov. 2005) re $250,000 exp.</td>
<td>Kelly McDowell</td>
</tr>
<tr>
<td>Golf Committee-Standing Committee reconstituted 10/05/04</td>
<td>Carl Jacobson and Bill Fisher</td>
</tr>
<tr>
<td>Business Recruitment Task Force</td>
<td>Kelly McDowell and Eric Busch</td>
</tr>
<tr>
<td>LA County West Vector Control District (by Council election in 2004)</td>
<td>Sandra Jacobs (4 yr term up in 2008)</td>
</tr>
<tr>
<td>Water Conservation Subcommittee</td>
<td>Kelly McDowell and Eric Busch</td>
</tr>
</tbody>
</table>
Consideration and possible action regarding the approval of the examination plans for the Personnel Merit System job classifications of Senior Building Inspector. (Fiscal Impact: None)

RECOMMENDED COUNCIL ACTION:

1) Approve the examination plans;
2) Alternatively, discuss and take other action related to this item.

BACKGROUND & DISCUSSION:

Section 1-6-9 of the El Segundo Municipal Code, entitled “Examinations”, provides that the Personnel Officer shall review and recommend to the City Manager, who in turn shall recommend to the City Council, an appropriate examination plan and weights for each portion of the examination for Personnel Merit System job classifications.

Approval of examination plans for Merit System job classifications in all City Departments has been required since the passage of initiative Ordinance No. 586 in April 1962.

(continued on next page)

ATTACHED SUPPORTING DOCUMENTS:

None

FISCAL IMPACT: None

Operating Budget:
Amount Requested:
Account Number: Various
Project Phase:
Appropriation Required: Yes  X  NO

ORIGINATED BY: DATE: May 21, 2008
Bob Hyland, Director of Human Resources

REVIEWED BY: DATE:
Jack Wayt, Interim City Manager

5-28-08
BACKGROUND & DISCUSSION:

For departments other than the Police and Fire Departments, the plan may consist of any one or combination of the following techniques:

1. Written;
2. Oral;
3. Demonstration;
4. Any evaluation of education, experience, or skills or physical fitness, which fairly evaluated the relative capacities of the applicants.

Police and Fire Departments:

The examination plan, for entrance or promotional, for the Police and Fire Departments, shall consist of a written examination and one or more of the following:

1. Oral;
2. Demonstration;
3. Any evaluation of education certification, experience, or skills or any test of manual skills or physical fitness, which fairly evaluates the relative capacities of the applicant.

**Senior Building Inspector**

<table>
<thead>
<tr>
<th>Component</th>
<th>Weight</th>
</tr>
</thead>
<tbody>
<tr>
<td>Structured, Technical Oral Interview</td>
<td>100%</td>
</tr>
</tbody>
</table>

(Closed Promotional) and (Open-Competitive)

The current testing process is a result of the retirement of the incumbent.
Consideration and possible action regarding: 1) the approval of a change order for additional painting at the Park Vista Senior Apartments, and 2) acceptance of all public works activities under Project No. PW 07-12, which includes painting at the Park Vista Senior Apartments (615 E. Holly Avenue), the Lakes Golf Course (400 S. Sepulveda Boulevard) and the El Segundo Police Department (348 Main Street). (Fiscal Impact: $14,300.00)

RECOMMENDED COUNCIL ACTION:

(1) Approve Change Order No. 2 in the amount of $14,300.00 for additional painting at the Park Vista Senior Apartments; (2) Accept all painting work under this contract as complete; (3) Authorize the City Clerk to file a Notice of Completion in the County Recorder's Office; (4) Alternatively, discuss and take other action related to this item.

BACKGROUND & DISCUSSION:

On February 6, 2008, the City Council awarded a contract in the amount of $49,950 for painting activities at three (3) public facilities in El Segundo, including the Park Vista Senior Apartments, The Lakes Golf Course, and the El Segundo Police Department.

(Background and Discussion provided on the following page)

ATTACHED SUPPORTING DOCUMENTS:

Notice of Completion

FISCAL IMPACT: $14,300.00

Amount Requested: $14,300.00
Account Number: 405-400-0000-6215($40,555)
503-400-5301-8104 ($13,700)
Park Vista Operating Budget ($41,785)
Project Phase: Accept the work as complete
Appropriation Required: No

ORIGINATED BY: M. Jones
Stephanie Katsoulas, Public Works Director

REVIEWED BY: W. Wayt
Jack Wayt, Interim City Manager
BACKGROUND & DISCUSSION: (continued)

On May 6, 2008, the City Council approved Change Order No. 1 for additional painting needs identified at The Lakes Golf Course and the El Segundo Police Department in the amount of $27,485.00.

After the painting commenced at the Park Vista Senior Apartments, an additional request was made by the Park Vista Housing Board to paint the stairways and residential doors, areas not included in the original scope of work. The additional work includes residential doors for $4,850 and seven (7) stairways for $9,450 (ceilings, walls, railing and doors). The recommended Change Order No. 2 ($14,300) will compensate the contractor for the additional work already completed.

All work associated with Project No. PW07-12 has now been completed to the satisfaction of the City and staff recommends acceptance of the complete project. Funding for the final contract in the amount of $91,045 is as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Park Vista Senior Housing Operating Budget</td>
<td>$41,785.00</td>
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<tr>
<td>Golf Course Bond Refinancing</td>
<td>$13,700.00</td>
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<tr>
<td>2007/08 Facility Maintenance</td>
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<tr>
<td><strong>Total Contract</strong></td>
<td><strong>$91,045.00</strong></td>
</tr>
</tbody>
</table>
NOTICE OF COMPLETION OF CONSTRUCTION PROJECT

Project Name: Painting of the Public Facilities in the City of El Segundo

Project No.: PW 07-12

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

1. The undersigned is an officer of the owner of the interest stated below in the property hereinafter described.

2. The full name of the owner is: City of El Segundo

3. The full address of the owner is: City Hall, 350 Main Street, El Segundo, CA, 90245

4. The nature of the interest of the owner is: Public Facilities

5. A work of improvement on the property hereinafter described was field reviewed by the City Engineer on May 19, 2008. The work done was: Painting of the Park Vista Senior Apartments, the Lakes Golf course and the El Segundo Police Department.

6. On June 4, 2008, City Council of the City of El Segundo accepted the work of this contract as being complete and directed the recording of this Notice of Completion in the Office of the County Recorder.

7. The name of the Contractor for such work of improvement was: Tony Painting, Inc.

8. The property on which said work of improvement was completed is in the City of El Segundo, County of Los Angeles, State of California, and is described as follows: Public Facility

9. The street address of said property is: 615 E. Holly Avenue, 400 S. Sepulveda Boulevard and 348 Main Street.

Dated: __________________________

Stephanie Katsouleas
Public Works Director

VERIFICATION

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

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

Executed on __________________, 2008 at El Segundo, California.

Stephanie Katsouleas
Public Works Director
AGENDA ITEM STATEMENT

Consideration and possible action to waive the formal bidding process and approve a contract with Tyler Technologies for the purchase of Eden Utility Billing software and related support services for the Water Division of Public Works. (Fiscal Impact: $69,095)

RECOMMENDED COUNCIL ACTION:

1) Pursuant to El Segundo Municipal Code Section 1-7-10, waive the formal bid process based on a sole source vendor for the purchase of Utility Billing Software and related support services for the Water Division.

2) Authorize the City Manager to execute a contract as approved by the City Attorney to purchase Eden Utility Billing Software and related support services from Tyler Technologies.

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

BACKGROUND & DISCUSSION:

In July 2003, the City was notified by its water billing service provider, Cal Water, that it would no longer provide billing services for the City of El Segundo at the end of the year. Staff subsequently began researching alternative water billing programs that could be operated and maintained by City employees. Ultimately, American Business Software was selected put into operation in December 2003.

(Background and Discussion continued on the next page)

ATTACHED SUPPORTING DOCUMENTS:

Proposal from Tyler Technologies

FISCAL IMPACT: $69,095

Operating Budget: none
Amount Requested: $69,095
Account Number: 601-400-7102-8104 ($34,000) 501-400-7103-8207 ($35,095)
Project Phase: N/A
Appropriation Required: No

ORIGINATED BY: 
Stephanie Katsouleas, Director of Public Works

REVIEWED BY: 
Bill Crowe, Assistant City Manager
BACKGROUND & DISCUSSION (continued)

While this software has provided the City with water billing capabilities for the past four years, staff has determined that the program has several significant weaknesses, such as:

- The database records are difficult to maintain by Information Services;
- Report and query capabilities for Finance are limited;
- Bills cannot be easily viewed before printing, making it difficult to catch billing errors before they are sent to residents;
- Day-to-day operation of the software has proved to be more cumbersome and time intensive than expected; and
- The system requires extensive custom programming to be able to provide adequate online payment capabilities to residents.

Given the need to seamlessly integrate water billing with the Water Division, Information Services, Finance and City Treasurer, these departments collectively began researching the replacement of American Business Software in mid 2007. This included contacting other local cities about the types of water billing software they use as well as water billing vendors about the types of software they offer. Ultimately, staff invited several vendors to submit proposals to the City.

In addition to being the lowest cost proposal submitted, staff determined that Tyler Technologies' Eden Utility Billing software would best meet the City's needs. It creates a single, compatible platform for the City by providing seamless and automated data integration with other Eden financial modules currently used by the City. The software overcomes the issues raised above, and it also gives staff the ability to utilize a software program that they are already familiar with, thereby minimizing the need for additional training. As with our current billing software, maintenance fees will be required. The annual charge is currently $6,245 and the cost of the first year is included in the proposal.

Tyler Technologies owns Eden software. It is proprietary and thus there are no third party vendors that can provide competitive pricing for the product, support and training. For this reason, staff recommends that City Council waive the formal bidding process and authorize the City Manager to award a contract to Tyler Technologies in the amount of $69,095 for the purchase of the Eden Utility Billing software.
ADDENDUM TO SOFTWARE LICENSE AND USE AGREEMENT

ORIGINAL AGREEMENT DATE: October 7, 1997

PARTIES: Tyler Technologies, Inc. ("Licensor"), and the City of El Segundo, California ("Licensee")

WHEREAS, Licensor and Licensee entered into a Software License and Use Agreement on the date set forth above (the "Agreement"); and

WHEREAS, Licensor and Licensee desire to modify the exhibits to the Agreement as set forth in this Addendum.

THEREFORE, Licensor and Licensee agree as follows:

1. Licensee agrees to purchase and receive and Licensor agrees to sell and deliver those products and services set forth in Exhibit A to this Addendum, which shall supplement the exhibits to the Agreement. Payment for such products and services shall be made in accordance with Exhibit B.

2. In the event of cancellation or termination of this Addendum, Licensee will make payment to Licensor for all products, services, and expenses delivered or incurred under this Addendum prior to such termination or cancellation.

3. Except as otherwise expressly set forth in this Addendum, the terms and provisions of the Agreement and its exhibits remain unchanged.

EFFECTIVE as of the last date set forth below.

Tyler Technologies, Inc. 

By: ________________________________  
Name: ________________________________  
Title: ________________________________  
Date: ________________________________

City of El Segundo

By: ________________________________  
Name: ________________________________  
Title: ________________________________  
Date: ________________________________
## Exhibit A - Investment Summary

<table>
<thead>
<tr>
<th>Products and Services</th>
<th>Application Fees</th>
<th>On-Site Trips</th>
<th>Training &amp; Installation Hours</th>
<th>Data Conversion Hours</th>
<th>Project Management Hours</th>
<th>Total Estimated Service Fees</th>
<th>Estimated Expenses</th>
<th>Total Cost</th>
<th>Year 1 Maintenance Fees</th>
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<td>Verification *</td>
<td>On First Day of Training</td>
<td>As Provided</td>
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<td>Year 1 Maintenance Fees</td>
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<td>$6,245 (100%)</td>
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* Not to exceed 90 days from delivery.
Consideration and possible action to approve Amendment No. 2 to a Memorandum of Understanding (MOU) between the City of El Segundo and the Los Angeles County Metropolitan Transportation Authority (MTA). The Amendment would change the scope of work to allow resurfacing the asphalt concrete pavement on Douglas Street between El Segundo Boulevard and Imperial Highway. Project No. PW 07-09. (Fiscal Impact: $478,785; MTA Grant Revenue of $236,766 and Traffic Mitigation fees $242,019).

RECOMMENDED COUNCIL ACTION:

(1) Authorize the Interim City Manager to execute Amendment No. 2 in a form approved by the City Attorney; (2) Authorize the Interim City Manager to execute all documents needed to receive the MTA funds, amend the City’s budget as appropriate, and spend the money; (4) Alternatively, discuss and take other action related to this item.

BACKGROUND & DISCUSSION:

(Background and Discussion continued on the next page)

ATTACHED SUPPORTING DOCUMENTS:

Draft of Amendment No. 2 to Memorandum of Understanding No. P0008079

FISCAL IMPACT: $478,785.00

Operating Budget:
Capital Improvement Program: $5,000,000
Amount Requested: $478,785
Account Number: 702-400-8141-8646 (Traffic Mitigation fees) $242,019
301-400-8203-8940 (MTA grant funds) $236,766
Project Phase: Approval of MOU
Appropriation Required: No

ORIGINATED BY: DATE:

Stephanie Katsouleas, Public Works Director

REVIEWED BY: DATE:

Jack Wayt, Interim City Manager

BACKGROUND & DISCUSSION: (continued)
BACKGROUND & DISCUSSION: (continued)

On February 21, 2006, the City Council approved a Memorandum of Understanding ("MOU") with the MTA to obtain grant funding for the Nash Street/Douglas Street One-way to Two-way Street Conversion Project. Pursuant to the MOU, the MTA granted $1,207,000 to the City and required a local match of $649,900 (35% of the grant). On January 25, 2007, the MTA Board approved supplemental funding for the project in the amount of $2,043,000, for an MTA total of $3,250,000. The required City match also increased to $1,750,000. On June 19, 2007, the City Council approved Amendment No. 1 to the MOU for the additional funding, bringing the total project budget to $5,000,000.

The project originally identified slurry sealing Nash and Douglas Streets. The MTA grant monies ordinarily cannot be used for slurry because MTA considers resurfacing routine maintenance by local agencies. However, the City has reevaluated the structural needs for Nash and Douglas Streets given that:

- Both streets are truck routes and secondary arterials.
- The asphalt concrete pavement on Douglas Street is deteriorated to an extent such that it is not cost effective to slurry coat the roadway and still meet anticipated traffic needs.
- Traffic volume is expected to increase substantially on both streets once the two-way conversion project is completed, in particular because there is now continuous access between the I-105 freeway from Rosecrans Avenue on Douglas, and additional development is expected adjacent to both Nash and Douglas.
- Traffic will be diverted from the north-south arterials of Aviation and Sepulveda Boulevards.

For these reasons, the City requested that MTA reconsider and approve the use of the grant funds for resurfacing of Douglas Street between E1 Segundo Boulevard and Imperial Highway and part of Nash Douglas.

On April 21, 2008, the City received a letter from MTA, approving the expenditure of an additional $238,766 in grant monies for "minor rehabilitation" of these streets. This amount represents MTA's share (65%) of the total revised project cost. As detailed below, a significant balance of funding will remain after anticipated construction cost for project completion.

**Funding Status:**

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<th>Available Grant Funds</th>
<th>$5,000,000</th>
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<th>$1,750,000</th>
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</thead>
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<td><strong>Projected Costs</strong></td>
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<td>$175,000</td>
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<td>Design</td>
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<td>$175,000</td>
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<tr>
<td>Inspection and testing</td>
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<tr>
<td><strong>Total Projected Costs</strong></td>
<td>$2,502,827</td>
<td>$1,626,838</td>
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<tr>
<td>Remaining Balance</td>
<td>$2,497,173</td>
<td>$1,623,162</td>
<td>$874,011</td>
</tr>
</tbody>
</table>

Upon completion of the Project, the balance of grant funding will be returned to MTA.
AMENDMENT No. 2 TO MEMORANDUM OF UNDERSTANDING
BETWEEN CITY OF EL SEGUNDO AND
THE LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

This Amendment No. 2 to Memorandum of Understanding (this "Amendment"), is dated as of May 19, 2008, by and between City of El Segundo ("Grantee"), and the Los Angeles County Metropolitan Transportation Authority ("LACMTA").

RECITALS:

A. Grantee and LACMTA entered into that certain Memorandum of Understanding No. MOU.P0008079 dated November 15, 2005, which was amended on May 2, 2007 (as amended, the "Existing MOU"), which Existing MOU provides for the Nash Street/Douglas Street One-Way to Two-Way Conversion, (the “Project”); and

B. Grantee sent a letter to LACMTA dated April 3, 2008, requesting the LACMTA to approve changing the slurry seal component of the original scope to resurfacing the asphalt concrete pavement on Douglas Street and Nash Street, located between El Segundo Boulevard and Imperial Highway, as part of the Nash/Douglas One-Way to Two-Way Conversion Call for Project.

C. The existing condition of the asphalt concrete pavement has deteriorated to an extent that was unanticipated when the Project was originally approved as part of the 2001 Call for Projects.

D. Under the System Preservation element of the 2007 Call for Project’s Regional Surface Transportation Improvements mode, a project that includes “minor rehabilitation, reconstruction, or resurfacing that is less than 15% of the project cost may be considered for funding”.

E. Whereas, Grantee’s proposed resurfacing of Douglas Street would cost $500,000 which would result in a new total project cost of $2,502,827. Of this new project cost, 15% or $375,424 would be an eligible expenditure for the resurfacing component. Of this amount, LACMTA’s proportionate share would be $244,025 (65%) and the Grantee will need to fund $131,398. Additionally, the City would need to fund the balance of $103,362 for a total Grantee contribution of $261,234.

F. Whereas, the expanded scope of the project can be absorbed within the existing project budget.

G. Whereas, the total project cost of $2,502,827.00 to complete the project was identified by the Grantee to be less than the existing project budget of $5,000,000.

H. Whereas, the amended and restated TOTAL Project funding by LACMTA,
includes all available grant and programmed funds for the project is $1,591,775 as provided in this MOU.

I. Grantee and LACMTA desire to amend the Existing MOU as provided herein.

AGREEMENT:

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. Attachment A-1 of the Existing MOU is hereby replaced by Attachment A-2, attached.

2. Attachment B-1 of the Existing MOU is hereby replaced by Attachment B-2, attached.

3. Attachment C of the Existing MOU is hereby replaced by Attachment C-1, attached.

4. Except as expressly amended hereby, the Existing MOU remains in full force and effect as originally executed. All rights and obligations of the parties under the Existing MOU that are not expressly amended by this Amendment shall remain unchanged.
IN WITNESS WHEREOF, the parties have caused this Amendment No. 2 to be duly executed and delivered as of the above date.

LOS ANGELES COUNTY
METROPOLITAN TRANSPORTATION AUTHORITY

By: ________________________________  Date: ____________________________
    Roger Snoble
    Chief Executive Officer

Approved as to form:

Raymond G. Fortner, Jr.
County Counsel

By: ________________________________  Date: ____________________________
    Deputy

CITY OF EL SEGUNDO

By: ________________________________  Date: ____________________________
    Jack Wayt
    Interim City Manager

By: ________________________________  Date: ____________________________
    Cindy Mortesen
    City Clerk

By: ________________________________  Date: ____________________________
    Mark Hensley
    City Attorney

Rev: 01.16.08
AGENDA DESCRIPTION:
Consideration and possible action regarding a new Alcoholic Beverage Control (ABC) license for on-site sale and on-site consumption of alcohol (Type 41 - On-Sale Beer and Wine) at a new restaurant located at 700 Allied Way, Suite A, EA No. 789 and AUP No. 08-01. Applicant: The Counter Restaurant c/o Fori and Paula Owurowa (Fiscal Impact: None).

RECOMMENDED COUNCIL ACTION:
1. Receive and file a determination that the City Council does not object to issuance of a new Type 41 ABC license at 700 Allied Way, Suite A; and/or,
2. Alternatively, discuss and take other action related to this item.

BACKGROUND & DISCUSSION:
At its April 4, 1995 meeting, the City Council directed staff to bring all future ABC licenses to it for review. ABC regulations require a 30-day review and comment period, for alcohol sales at restaurants, after notification of the local police and planning departments. The grounds of a protest should relate to public health, safety or welfare concerns. Restaurants with Type 41 licenses are specifically excluded from the ABC regulations, which require the City to make findings of public convenience of necessity in areas of "undue concentration" for off-site sale licenses. Based upon previous Council direction, staff is providing background information regarding this application.

(continued on next page...)

ATTACHED SUPPORTING DOCUMENTS:
1. Crime and Arrest Statistics by Reporting Districts (RD)
2. Police Reporting Districts Map
4. Approval Letter to Applicant dated May 6, 2008
5. Police Memorandum dated May 1, 2008

FISCAL IMPACT: None
Operating Budget: N/A
Amount Requested: N/A
Account Number: N/A
Project Phase: N/A
Appropriation Required: Yes No

ORIGINATED BY: Gary Chicots, Director of Planning and Building Safety
DATE: 5-27-08

REVIEWED BY: Jack Vart, Interim City Manager
DATE: 5-28-08
According to the most recent Crime and Arrest statistics report (June 2007 – December 2007, Exhibit 1) prepared by the Police Department, the proposed restaurant is located in Reporting District (RD) 318. Based on 2007 reported data prepared by the Police Department, the district had a total of 44 Part I crimes (criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft and arson) and 22 felony and misdemeanor arrests. The Police Department and the Department of Planning and Building Safety have no concerns regarding the issuance of a new ABC license for the proposed restaurant.

The approval of this license request would be for the convenience of serving alcoholic beverages to the customers to complement the food service at a proposed new restaurant. A request for a new license is required, since the applicant does not currently hold a Type 41 license, and there was no previous license issued for this address location. The applicant's proposed hours of alcohol sale are expected to be during the hours the restaurant is open. The restaurant's hours of operation will be limited to: Monday through Thursday from 11:00 a.m. to 10:00 p.m., Friday through Saturday from 11:00 a.m. to 11:00 a.m., and Sunday from 12:00 p.m. to 9:00 p.m. The outdoor patio would be open the same hours as the restaurant and there are no residential uses adjacent to the subject property.

On May 6, 2008, the Director of Planning and Building Safety Department approved an Administrative Use Permit application (EA No. 789, AUP No. 08-01) for 700 Allied Way, Suite A. The Director's decision was forwarded to the Planning Commission on May 22, 2008. On May 22, 2008, the Planning Commission chose to Receive and File the item with the conditions of approval.

The ABC license review is a separate application from the City's AUP process, which requires mandatory findings that are regulated by the Department of Alcoholic Beverage Control. The Department of Alcoholic Beverage Control (ABC) in addition to reviewing the City's AUP approval is responsible for running a complete background check on all alcohol license applicants, as well as conducting site inspections, before the issuance of any type of license.
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<th>PART I CRIMES (ONLY)</th>
<th>FELONY/MISD ARRESTS PART I (ONLY)</th>
<th>TOTAL</th>
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<td><strong>400</strong></td>
<td><strong>113</strong></td>
<td><strong>513</strong></td>
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</table>

Number of Reporting Districts = 52
Average # of Part I Crimes per Reporting District = 8
Average # of Felony/Misdemeanor Part I Crime Arrests per Reporting District = 2
Average # of Crimes and Arrests per Reporting District = 10
(Results from 07/01/2007 through 12/31/2007)

FORMULA: Add (Part I crimes + Felony/Misd Arrest) then subtract from the Average # of Crimes and Arrest per Rd, divided by the Average # of Crimes and Arrests per RD and multiply by 100.
Sample: 10+3=13-10=3/10=.3x100=30%
CITY OF EL SEGUNDO

PLANNING COMMISSION STAFF REPORT

PUBLIC HEARING: May 22, 2008

SUBJECT: Environmental Assessment No. EA-789
         Administrative Use Permit No. 08-01

APPLICANT: The Counter c/o Fori & Paula Owurowa

PROPERTY OWNER: PES Partners, LLC

REQUEST: A Request to allow the sale and consumption of
         alcohol at a new Restaurant with a (Type 41
         Alcoholic Beverage Control License)

PROPERTY INVOLVED: 700 Allied Way, Suite A

I. DESCRIPTION

The Planning and Building Safety Department received the above referenced
application for an Administrative Use Permit to allow the sale and consumption of
alcohol at a new restaurant currently under construction at a new commercial
shopping center (Plaza El Segundo) located at 700 Allied Way, Suite A in the
Commercial Center (C-4) Zone. The proposed project for permitting the sale and
consumption of alcoholic beverages is consistent with uses allowed in the recently
approved 425,000 square-foot shopping center on a 110-acre site. The
development was approved through Environmental Assessment No. 631,
Development Agreement No. 03-1, General Plan Amendment Nos. 03-4 & 03-5,
Zone Change Nos. 03-2 & 03-3, Zone Text Amendment No. 04-1, and Subdivision
No. 03-7 (Vesting Tentative Tract No. 061630) with conditions. A certified Final
Environmental Impact Report (EIR) was required and approved for the development
of the shopping center. The applicant is requesting a Type 41 license for the on-site
sale and on-site consumption of beer and wine in the restaurant from the California
Department of Alcoholic Beverage Control. The restaurant will consist of an indoor
dining area and one outdoor patio. The restaurant will be approximately 2,800
square feet in area. The restaurant will contain 56 seats in the general dining area
and 11 seats at the bar for a total of 67 seats inside the restaurant. A 301 square-
foot outdoor dining area is proposed immediately west of the building with direct
access from the interior of the restaurant and will contain 20 seats. The restaurant
will contain a combined total of 87 seats.

The following chart describes the proposed dining and seating areas as revised:

<table>
<thead>
<tr>
<th>PROPOSED RESTAURANT</th>
<th>PROPOSED SQUARE FOOTAGE</th>
<th>NUMBER OF SEATS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indoor Dining</td>
<td>2,800 SF</td>
<td>67 seats</td>
</tr>
<tr>
<td>Outdoor Patio (west)</td>
<td>301 SF</td>
<td>20 seats</td>
</tr>
<tr>
<td>Total</td>
<td>3,101 gross SF</td>
<td>87 seats</td>
</tr>
</tbody>
</table>

The Administrative Use Permit is required for the new restaurant since there is no previous business with a license at this location. Restaurants are a permitted use in this Zoning District in accordance with the Commercial Center (C-4) Zone and Section 4.1.5 of the Development Agreement by and between the City of El Segundo and Mar Ventures, Inc., developer of the Plaza El Segundo project. The proposed use (on-site sale and consumption of beer and wine) requires an Administrative Use Permit (AUP) in accordance with El Segundo Municipal Code § 15-5G-4(A).

The following chart is the parking analysis for the proposed uses:

<table>
<thead>
<tr>
<th>PROPOSED RESTAURANT</th>
<th>PROPOSED SQUARE FOOTAGE - REQUIRED PARKING RATIO</th>
<th>REQUIRED PARKING SPACES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indoor Dining and Bar</td>
<td>2,716 net SF – 1 Space/75 SF</td>
<td>36 Parking Spaces</td>
</tr>
<tr>
<td>Outdoor Patio (west)</td>
<td>301 SF – 1 Space/75 SF</td>
<td>4 Parking Spaces</td>
</tr>
<tr>
<td>Total</td>
<td>3,017 net SF</td>
<td>40 Parking Spaces</td>
</tr>
</tbody>
</table>


The proposed indoor dining area and food preparation area is 2,716 net square feet which requires 36 parking spaces. The proposed outdoor patio is greater than 200 total square feet and therefore would require 4 additional parking spaces. The total
required parking for the proposed restaurant is 40 parking spaces.

The restaurant dining hours of operation are proposed to be limited to: Monday through Thursday from 11:00 a.m. to 10:00 p.m., Friday through Saturday from 11:00 a.m. to 11:00 p.m., and Sunday from 12:00 p.m. to 9:00 p.m. The outdoor patio would be open the same hours as the restaurant. Any change to the hours of operation is subject to review and approval by the Director of Planning and Building Safety.

Planning staff reviewed the application and the Director made the necessary findings to grant an Administrative Use Permit. The attached letter specifies all of the required findings for the permit.

II. Inter-Departmental Comments

The project applications and plans were circulated to the Police Department and Building Division for review. The Police Department and Building Division's comments have been reviewed and incorporated in the conditions for the proposed project.

III. RECOMMENDATION

Receive and File.

IV. EXHIBITS

A. Administrative Use Permit Approval Letter, dated May 6, 2008
B. Administrative Use Permit application
E. Plans

Prepared by: Maria Balde negro, Assistant Planner

Kimberly Christensen, AICP, Planning Manager
Department of Planning & Building Safety

Gary Chicote, Director
Department of Planning & Building Safety

P:\Planning & Building Safety\PROJECTS\776-800\EA-789\EA-789.PC-SR.doc

3
May 6, 2008

Fori & Paula Owurowa
1912-B Perry Avenue
Redondo Beach, CA 90278

RE: Environmental Assessment No. EA-789 and Administrative Use Permit (AUP) No. 08-01
On-Site Sale and Consumption of Beer and Wine in Conjunction with the Operation of a Restaurant (The Counter) for a (Type 41 State of California Alcoholic Beverage Control License)
Address: 700-A Allied Way (Plaza El Segundo)

Dear Mrs. Owurowa:

I am pleased to inform you that, in accordance with El Segundo Municipal Code ("ESMC") Chapter 15-22, the Planning Division reviewed your application for the above-referenced project and the Director of Planning and Building Safety Department APPROVED Environmental Assessment No. EA-789 and Administrative Use Permit No. 06-01 for the on-site sale and on-site consumption of beer and wine at 700 Allied Way, Suite A. The following are the findings and facts in support of each finding for this decision:
FINDINGS AND FACTS IN SUPPORT OF FINDINGS:

Environmental Assessment No. EA-789

Finding 1

- The proposed project for permitting the sale and consumption of alcoholic beverages is consistent with uses allowed in the recently approved 425,000 square-foot shopping center on a 110-acre site. The development was approved through Environmental Assessment No. 631, Development Agreement No. 03-1, General Plan Amendment Nos. 03-4 & 03-5, Zone Change Nos. 03-2 & 03-3, Zone Text Amendment No. 04-1, and Subdivision No. 03-7 (Vesting Tentative Tract No. 061630) with conditions. A certified Final Environmental Impact Report (EIR) was required and approved for the development of the shopping center.

Facts in Support of Finding 1

1. The applicant proposes to provide for the sale of beer and wine for on-site consumption at a new restaurant. The California Environmental Quality Act (CEQA) does not require an environmental assessment if the project consists of permitting the sale of alcohol within a previously approved shopping center currently under construction. Additionally, no expansion of the building is proposed. The subject tenant will be located within the Plaza El Segundo shopping center, which has previously been approved under an EIR.

2. The 3,101 square-foot restaurant is located at 700 Allied Way, Suite A in a commercial shopping center that is under construction.

Administrative Use Permit 08-01

Finding 1

- There is compatibility of the particular use on the particular site in relationship to other existing and potential uses within the general area in which the use is proposed to be located.

Facts in Support of Finding 1

1. The applicant proposes to provide on-site sale and consumption of beer and wine in a new restaurant. The restaurant will be located in the Plaza El Segundo shopping center at 700 Allied Way, Suite A. The restaurant will be 3,101 square feet in area, including the 301 square-foot outdoor dining area. It will contain 56 seats in the general dining area and 11 seats at the bar for a total of 67 seats inside the restaurant. The outdoor dining area is proposed immediately west of
the building with direct access from the interior of the restaurant and will contain 20 seats. The restaurant will contain a combined total of 87 seats.

2. The minimum number of required parking spaces for the restaurant and patio (based upon the net building area and proposed uses) is 40 parking stalls on-site.

3. The surrounding land uses include: commercial retail and office uses, and light and heavy industrial uses. The proposed restaurant will be compatible with the surrounding uses which will include other restaurants, commercial retail and a grocery store that will sell and serve alcohol.

4. The restaurant must obtain the State of California Alcohol and Beverage Control (ABC) license for on-site sale and consumption of alcohol (Type 41).

5. The General Plan land use designation for the site is Commercial Center.

6. The zoning for the site is Commercial Center (C-4). Restaurants are a permitted use in this Zoning District in accordance with Section 4.1.5 of the Development Agreement by and between the City of El Segundo and Mar Ventures, Inc., developer of the Plaza El Segundo project. The proposed use (on-site sale and consumption of beer and wine at a restaurant) requires an Administrative Use Permit in accordance with ESMC §15-5G-4(A).

7. On May 22, 2008, the El Segundo Planning Commission is scheduled to Receive and File the Administrative Use Permit request.

Finding 2

- The proposed use is consistent and compatible with the purpose of the Zone in which the site is located.

Facts in Support of Finding 2

1. The General Plan land use designation for the site is Commercial Center.

2. The zoning for the site is Commercial Center (C-4). Restaurants are a permitted use in this Zoning District in accordance with Section 4.1.5 of the Development Agreement by and between the City of El Segundo and Mar Ventures, Inc., developer of the Plaza El Segundo project. The proposed use (on-site sale and consumption of beer and wine at a new restaurant) requires an Administrative Use Permit in accordance with ESMC § 15-5G-4(A).

3. The purpose of the Commercial Center (C-4) Zone is intended to provide for developing commercial establishments (retail and services) serving the City and
surrounding area. The proposed use is consistent with this purpose of the zone in that restaurants are an allowed use.

4. The proposed use is consistent with the Land Use Element in that the Commercial Center Land Use Category is intended to permit a mixture of community-serving retail, restaurants and other commercial service uses in an integrated shopping center design to serve a broad cross section of the City and surrounding area.

5. The proposed use is consistent with Land Use Element Goal LU4 in that it provides a stable tax base for the City through development of new commercial uses, primarily within a mixed-use environment, without adversely affecting the viability of Downtown.

6. The proposed use is consistent with Land Use Element Objective LU4-1 in that it promotes the development of high quality retail facilities in proximity to major employment centers.

7. The surrounding land uses include: commercial retail, office, and light and heavy industrial uses. The proposed restaurant will be compatible with the surrounding uses.

Finding 3

• The proposed location and use and the conditions under which the use would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

Facts in Support of Finding 3

1. The restaurant will be located inside of a newly constructed building with parking provided on-site.

2. The surrounding land uses include commercial retail and office uses, and light and heavy industrial uses. The proposed restaurant includes two small outdoor patios.

3. The restaurant dining hours of operation are limited to: Monday through Thursday from 11:00 a.m. to 10:00 p.m., Friday through Saturday from 11:00 a.m. to 11:00 p.m., and Sunday from 12:00 p.m. to 9:00 p.m. The two outdoor patios would be open the same hours as the restaurant.
Finding 4

- Potential impacts that could be generated by the proposed use, such as noise, smoke, dust, fumes, vibration, odors, traffic, and hazards have been recognized and mitigated.

Facts in Support of Finding 4

1. The sale of alcohol will not create any new impacts that would not be normally associated with the operation of a restaurant with an indoor dining area and outdoor patio areas.

2. The proposed hours of operation for alcohol sales and the location of the proposed restaurant, which is located in a predominantly commercial zone that is not adjacent to any residential uses, will help to minimize impacts on surrounding uses.

3. The restaurant dining hours of operation are limited to: Monday through Thursday from 11:00 a.m. to 10:00 p.m., Friday through Saturday from 11:00 a.m. to 11:00 p.m., and Sunday from 12:00 p.m. to 9:00 p.m. The outdoor patio would be open the same hours as the restaurant. No residential uses are adjacent to the subject property. In addition, ample parking is being provided on the subject site. Therefore, there will be no identifiable impacts on residential uses in the City.

4. In addition to complying with the requirements of the City of El Segundo and the State of California Department of Alcoholic Beverage Control the restaurant is subject to County Health Department regulations that address and monitor impacts of fumes and odors.

Finding 5

- The State Department of Alcoholic Beverage Control has issued or will issue a license to sell alcohol to the applicant.

Facts in Support of Finding 5

1. The applicant must obtain a license from the State of California Department of Alcoholic Beverage Control (Type No. 41).

DIRECTOR OF PLANNING AND BUILDING SAFETY DEPARTMENT ACTION

Based on these findings and facts in support of these findings, the Director of Planning and Building Safety Department APPROVES the proposed project, subject to the following conditions:
1. The restaurant dining hours of operation are limited to: Monday through Thursday from 11:00 a.m. to 10:00 p.m., Friday through Saturday from 11:00 a.m. to 11:00 p.m., and Sunday from 12:00 p.m. to 9:00 p.m. The outdoor patio would be open the same hours as the restaurant. Food service must be available in the indoor dining area and the outdoor patio during the dining hours. Any change to the hours of operation or the hours that alcohol may be served is subject to review and approval by the Director of Planning and Building Safety.

2. The seating within the restaurant must be limited to 67 indoor dining seats, including a maximum of 11 bar seats and the outdoor patio area for dining cannot exceed 20 seats. The restaurant will contain a combined total of 87 seats.

3. Any subsequent modification to the project as approved must be referred to the Director of Planning and Building Safety for approval and a determination regarding the need for Planning Commission review of the proposed modification.

4. Any subsequent changes to the floor plan and areas where alcohol will be served must be reviewed and approved to the satisfaction of the Director of Planning and Building Safety Department.

5. The applicant must obtain and maintain all licenses required by the Alcoholic Beverage Control Act (Business & Professions Code §§ 23300 et seq.). The applicant must obtain and maintain a Type 41 license.

6. The restaurant operations must comply with ESMC §§ 7-2-1, et seq. regulating noise and vibration.

7. The Planning and Building Safety Department and the Police Department must be notified of any change of ownership of the approved use in writing within 10 days of the completion of the change of ownership. A change in project ownership may be cause to schedule a hearing before the Planning Commission regarding the status of the administrative use permit.

8. The applicant must comply with all regulations of the Alcoholic Beverage Control Act and the regulations promulgated by the Alcoholic Beverage Control Board including, without limitation, the regulations set forth in 4 Cal. Code of Regs. §§ 55, et seq.

9. The applicant must post a sign in a clear and conspicuous location listing a phone number at which a responsible party may be contacted during all open hours of the establishment to address any concerns of the community regarding noise in the restaurant, patio and parking lot. Said contact's name and phone number must also be available through the restaurant staff at all times.
10. The applicant must, at all times, display a Designated Driver sign of at least ten inches by ten inches (10" X 10") in the bar and restaurant dining areas at eye level. The sign must be worded in a way that reminds patrons who are consuming alcohol to designate a non-drinking driver.

11. There must be no exterior advertising of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages which are clearly visible to the exterior must constitute a violation of this condition.

12. All employees serving alcoholic beverages to patrons must enroll in and complete a certified training program approved by the State Department of Alcoholic Beverages Control (ABC) for the responsible sales of alcohol. The training must be offered to new employees on not less than a quarterly basis.

13. Any and all employees hired to sell alcoholic beverages must provide evidence that they have either:

   a. Completed training from the State of California Department of Alcoholic Beverage Control (ABC), Inglewood District Office administered Leadership and Education in Alcohol and Drugs (LEAD) Program in the form of an ABC-issued certificate; or,

   b. Completed an accepted equivalent by the ABC, Inglewood District Office to ensure proper distribution of beer, wine and distilled spirits to adults of legal age. If any prospective employee designated to sell alcoholic beverages does not currently have such training, then;

   c. The ABC-licensed proprietors must have confirmed with the Planning and Building Safety Department within fifteen (15) days of the Director’s decision, or by final project approval, that a date certain has been scheduled within the local ABC Office to complete the LEAD course.

   d. Within thirty (30) days of taking said course, the employees, or responsible employer must deliver each required certificate showing completion to the Police Department.

14. The licensee must have readily identifiable personnel to monitor and control the behavior of customers inside the building premises. Staff must monitor activity outside in the parking lot and any adjacent property under the establishment’s control to ensure the areas are generally free of people and are cleared of patrons and their vehicles one-half hour after closing.

15. If complaints are received regarding excessive noise, parking availability, lighting, building access, and the like associated with the restaurant and the outdoor patio
area, the city may, in its discretion, take action to review the Administrative Use Permit, including without limitation, adding conditions or revoking the permit.

16. The outdoor dining/seating area must comply with ESMC § 15-2-16.

17. The building must not be occupied by more persons than allowed by the California Building Code, as adopted by the ESMC.

18. The building and any outdoor seating must comply with California Building and Fire Code requirements, as adopted by the ESMC.

19. The Applicant agrees to indemnify and hold the City harmless from and against any claim, action, damages, costs (including, without limitation, attorney’s fees), injuries, or liability, arising from the City’s approval of Environmental Assessment No. 789 and Administrative Use Permit No. 08-01. Should the City be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of the City approval of EA-789 or AUP 08-01, the Applicant agrees to defend the City (at the City’s request and with counsel satisfactory to the City) and will indemnify the City for any judgment rendered against it or any sums paid out in settlement or otherwise. For purposes of this section “the City” includes the City of El Segundo’s elected officials, appointed officials, officers, and employees.

PLANNING COMMISSION

This determination was received and filed by the Planning Commission at its May 22, 2008 meeting. Please be advised that this does not conclude the review process. The City Council will determine whether or not to protest the issuance of the ABC License (Type 41) at its meeting on June 4, 2008.

Should you have any questions, please contact Maria Baldenegro, Assistant Planner, at (310) 524-2341.

Sincerely,

[Signature]
Gary Chicote, Director
Department of Planning and Building Safety
Baldenegro, Maria

From: Phipps, Max (Captain)  
Sent: Thursday, May 01, 2008 3:06 PM  
To: Baldenegro, Maria  
Subject: RE: ABC License for "The Counter" Restaurant

Maria:

The police department has no objection to the issuance of an On-Sale Beer and Wine ABC license for The Counter restaurant.

From: Baldenegro, Maria  
Sent: Thursday, May 01, 2008 12:04 PM  
To: Phipps, Max (Captain)  
Cc: Chicots, Gary; Christensen, Kimberly  
Subject: ABC License for "The Counter" Restaurant

Max,

An application request for an AUP (alcohol license) was recently routed to the Police Department and no comments were provided. I need an official statement that describes that the El Segundo Police Department will not object to the issuance of a new ABC license for this restaurant. The new restaurant will be located at 700-A Allied Way (Plaza El Segundo).

Please assist me in providing the statement for the record. I will need this statement for both the Planning Commission and City Council reports I am preparing. The application is scheduled to go before the Planning Commission on May 22, 2008. I will need the statement no later than Wednesday May 7, 2008. Thank you for assisting me in this case.

Regards,

Maria Baldenegro, Assistant Planner  
City of El Segundo  
Planning and Building Safety Department  
350 Main Street  
El Segundo, CA 90245  
t: (310) 524-2341  
f: (310) 322-4167  
e: mbaldenegro@elsegundo.org
Consideration and possible action regarding the approval of the release of retention to SEMA Corporation in connection with the Douglas Street Gap Closure Project - Public Works Project No. 05-06. (Retention Amount: approximately $1,038,067.68).

RECOMMENDED COUNCIL ACTION:

(1) Release the full retention currently held in an escrow account (approximately $1,038,067.68) to SEMA Corporation; and (2) Alternatively, discuss and take other action related to this item.

BACKGROUND & DISCUSSION:

On August 7, 2007, City Council approved sending 10% of the first half of the Douglas Street Gap Closure contract amount to an escrow account as a retainer to protect the City from potential liability associated with subcontractors hired by SEMA for the Douglas Gap Closure project. The base amount of $1,007,099 has accumulated interest and has grown to approximately $1,038,067.68. Determination of the exact amount held in escrow and released to SEMA will be based on the total interest accrued on the anticipated release date following council approval. Given that the project was completed three months ago, staff recommends the release of the full retention from the escrow account to SEMA Corporation.

ATTACHED SUPPORTING DOCUMENTS:

None

FISCAL IMPACT: N/A

Operating Budget: 0
Capital Improvement Program: 0
Amount Requested: 0
Account Number: 301-400-8203-8949
Project Phase: Retention Release
Appropriation Required: No

ORIGINATED BY: Stephanie Katsouleas, Public Works Director
DATE: 5/22/08

REVIEWED BY: Jack Wayt, City Manager
DATE: 5-28-08
AGENDA DESCRIPTION:
Consideration and possible action to award bid to Media Control Systems for purchase and installation of a new Cable TV Bulletin and Automation System. (Fiscal Impact: $39,668.25)

RECOMMENDED COUNCIL ACTION:
1) Award bid in the amount of $39,668.25 to Media Control Systems for a Cable TV Bulletin and Automation System; 2) Authorize the Interim City Manager to execute a Professional Services Agreement with Media Control Systems, in a form approved by the City Attorney; 3) Alternatively, discuss and take other action related to this item.

BACKGROUND & DISCUSSION:
On April 8, 2008, a Request for Bid was issued by the Purchasing Agent for acquisition and installation of a new Cable TV Bulletin and Automation System to replace Cable Division's obsolete Television Bulletin System. The bid submittal period closed on May 20th. Only one bid was submitted. Media Control Systems’ bid was reviewed and determined to be responsive. Additionally, the bid was below the estimated project cost of $42,000.

The existing system, which is scheduled for replacement, is limited to displaying static pictures only and has no playback automation or video storage capabilities. Technical advancement in digital technology allows the new system to playback moving or static video, digitally store video programming and automate our channels programming. Automating playback offers greatly enhanced programming capability that includes the option for 24-hour scheduling.

ATTACHED SUPPORTING DOCUMENTS:
Bid #08-12 – Media Control Systems Proposal Document

FISCAL IMPACT: $39,668.25

Operating Budget: Equipment Replacement
Amount Requested: $ 39,668.25
Account Number: 601-400-6601-8104
Project Phase: Appropriation Required: _Yes  _No

ORIGINATED:
Bill Crowe

Bill Crowe, Assistant City Manager

REVIEWED BY:
Jack Wayt, City Manager

DATE: 5/20/08
DATE: 5/28/08

11
BACKGROUND & DISCUSSION: cont.

With the automated playback capability, part-time staff hours will no longer be required for playback operation and can be reassigned to program production. The new system's digital video storage capability will allow for more efficient editing with archiving capability of program production elements and photos. Digital storage of video and photos also reduces the physical media recording (printing) onto tapes/DVD's making this a more environmental-friendly alternative to current video storage capability.

Media Control Systems' bid was evaluated and found to be responsive to our proposal requirements that included: capability to schedule and playback video/audio files and programs; proven reliability at other local cable TV stations; integration capability for our existing playback/editing systems; local on-site tech support; ability to input/output multiple formats including dv; remote operation capability for monitoring channel operation; remote operation capability for changing outgoing programming; and a time-based user interface for program scheduling.

A number of Southern California cities, including Santa Monica, Lawndale, Glendale, Calabasas, and Costa Mesa, operate Cable TV bulletin and automation systems similar to the configuration bid by Media Control Systems. Given the vendor's track record of successful installations and experience with local government agencies, staff recommends bid award to Media Control Systems.

It is recommended that the City Council 1) Award bid in the amount of $39,668.25 to Media Control Systems for a Cable TV Bulletin and Automation System; 2) Authorize the Interim City Manager to execute a Professional Services Agreement with Media Control Systems, in a form approved by the City Attorney.
CITY OF EL SEGUNDO

REQUEST FOR BID
Cable TV Bulletin & Automation System

Date: April 8, 2008

Provide your bid ON THIS SHEET for the materials/services listed below in accordance with the terms and specifications noted.

*ALL BIDS SHALL BE F.O.B. DESTINATION and include all costs delivered to the City of El Segundo*

CLEARLY MARK & DELIVER BIDS TO: City of El Segundo City Clerk’s Office
                                    Cable Video Production Equipment
                                    350 Main Street, Rm. 5, El Segundo, CA 90245-3895

BIDS WILL BE RECEIVED UNTIL: 11:00 a.m., May 20, 2008

Any questions regarding this bid can be made to the Purchasing Agent, J. Richard Hogate @ (310) 524-2339
Any questions regarding equipment listed can be made to the Cable Manager, Dan O’Toole @ (310) 524-2719

The City of El Segundo has determined the following specifications for bid purposes. The specifications referenced are not intended to be restrictive but descriptive of the type and quality the City of El Segundo desires to purchase. Quotes for similar items of like quality will be considered if the bid is fully noted with the manufacturer’s brand name and model including a detailed listing of their specifications. The City of El Segundo reserves the right to determine products of equal value. Vendors will not be allowed to make unauthorized substitutions after award is made.

* SEE DESCRIPTION AND ATTACHED EQUIPMENT LIST

NOTE: Please expedite this bid and quote FIRM FIXED PRICES.
Prices to be good for a minimum of sixty (60) working days from bid closing date listed above.

| Tax 8.25% | $2,821.25 |
| TOTAL    | $39,668.25 |

Do you currently have equipment in stock? No

If not, when do you expect to take delivery(s)? 2 Weeks  Installation timeframe 4-6 Weeks

Bid Submitted by:
Company name: Media Control Systems
Authorized Company Bidder Signature: ____________________________

City / State / Zip: El Cajon. CA 92020  Date: 05-16-08  Ph:(619) 599-1050

PLEASE FILL IN TERMS & DELIVERY:

Terms: 1.0% per 10 days, net 30 days, or net 30 days

Delivery To be made on or before: 07-11-08  or 28 to 42 days after receipt of order

Please also fill in prices for individual items on the last page of this document.

See terms on the other side of this page.
CITY OF EL SEGUNDO

REQUEST FOR BID

Cable TV Bulletin & Automation System

Date: April 8, 2008

* Suggested Equipment List

The following list is intended to be representative of the type and quality of the equipment desired. Vendor may substitute equivalent equipment, but must provide full documentation demonstrating that the equipment is equivalent. The City will make the final determination if the proposed equipment is completely equivalent. Each item should be quoted separately. Any item(s) may be pulled from the final contact at the discretion of the City.

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<tr>
<th>ITEM</th>
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<th>DESCRIPTION</th>
<th>PRICE/UNIT</th>
<th>TOTAL</th>
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<tbody>
<tr>
<td>1</td>
<td>1</td>
<td>Tightrope Cablecast SX4. TV Automation System</td>
<td>$17,865</td>
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<tr>
<td></td>
<td></td>
<td>(Automation System with Built-in multi-format Video server, 4TB Storage, 4-Output and 2-Input, MPEG-2 Encoder to 50Mbs, Composite Video &amp; SDI. Balanced Stereo Audio)</td>
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<td>2</td>
<td>2</td>
<td>Tightrope Carousel Digital Message Player for SX Servers</td>
<td>$3,087</td>
<td>$6,174</td>
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<td>3</td>
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<td>Tightrope redundant Power for VS4 or SX Video servers</td>
<td>$675</td>
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<td>4</td>
<td>1</td>
<td>Tightrope Loose Video Hard Drive (spare hard drive for VS4 and SX servers)</td>
<td>$400</td>
<td>$400</td>
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<td>5</td>
<td>1</td>
<td>USB to 8-Port RS-232/422 Module (Provides control for 8 serial controlled devices, preset for 232 or 422)</td>
<td>$450</td>
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<td>Knox Routing Switcher. 8x8 Video &amp; Balanced Stereo Audio</td>
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<td></td>
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<td>(RS-232 and front panel keyboard)</td>
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<td>Honti TSG-50B. Test Signal Generator with Rack Mount Kit</td>
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<td></td>
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<td>(Video Colorbars, Audio Tone and Black-burst Sync Outputs)</td>
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<td>8</td>
<td>2</td>
<td>Hotronic AP-41SW Time Base Corrector - (Composite. Digital Comb Filter)</td>
<td>$1,102</td>
<td>$2,204</td>
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<td>Sony 400 Disk DVD Changer and Player (RS-232C. 400 Disk DVD Changer Player. control cable. requires shelf)</td>
<td>$950</td>
<td>$950</td>
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<td>Spyglass TV Channel Failure Detector</td>
<td>$995</td>
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<td>Viking Automatic Telephone Dialer/Message Playback (dials multiple phone numbers and plays back pre-programmed message)</td>
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<td>Behringer Dual Channel Audio Compressor Limiter</td>
<td>$145</td>
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<td>4-port KVM Switch, System Cables and Connectors</td>
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<td>Turnkey - System Integration Installation</td>
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<td>(Onsite System Integration. Installation, output to two separate channels and includes connecting to Final Cut Pro edit workstations)</td>
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<td>System Design and Engineering Documentation</td>
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<td>(Detailed System engineering and connections design)</td>
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<td>Training</td>
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<td>(Training provided for operation of installed system and components)</td>
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<td>Support</td>
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<td></td>
<td></td>
<td>(one year local system support)</td>
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</table>

Signature:

5-16-08
CITY OF EL SEGUNDO
REQUEST FOR BID
Cable TV Bulletin & Automation System

Date: April 8, 2008

TERMS:
The City of El Segundo reserves the right to reject any or all bids, or to accept separate items in bid unless this right is conditioned by the bidder.

In case of default, the City of El Segundo may procure its materials/services from other sources and shall hold the original bidder or contractor liable for resulting increased costs.

Quantities and optional items listed are the city's best estimate for Bid purposes, actual order quantities and options may vary.

Quote on each article separately. All or none bids may not be accepted.

During the performance of this contract, the vendor/contractor warrants that it will provide equal opportunities, and that the vendor/contractor and each subcontractor will take affirmative action to ensure that its employment practices, persons are employed and employees are treated equally and without regard to, or because of race, creed, color, national origin, sex, age, physical handicap, or medical condition. This provision applies to work or services performed or materials manufactured or assembled in the United States.

The vendor/contractor warrants that it possesses legally adequate Workers' Compensation Insurance.

5/16/08
CITY OF EL SEGUNDO
REQUEST FOR BID
Cable TV Bulletin & Automation System

Date: April 8, 2008

The system shall be assembled as a turnkey system to operate and perform within the following parameters:

About El Segundo

El Segundo currently broadcasts video on two separate cable channels (Channel 3 & 22) plus live video streaming on the web. The City has 5 Apple Final Cut edit bays producing content that are connected by Ethernet connections. The city also has live video/audio feeds coming in from City Council, School Board, and two additional feeds from an existing live switcher. Any two of these feeds should be scheduled for output on any of the system outputs, under control of the web based scheduling software.

Scheduling

The proposed system will be a television automation system that is completely operated by a web browser on any Apple or PC computer. The system will have the ability to create, schedule and display digital video, images and text, to perform an electronic community bulletin board function. After the information about a video segment or feed has been entered once, it can be dragged and dropped to multiple schedule locations. Programming schedules for server, once entered, will be able to be uploaded for display, to the web, and printed.

Each event may have a beginning and ending date/time specified for automatic insertion and removal. The system will warn of any gaps in programming, and use a default input or series of messages to fill gaps. Priority bulletins can be scheduled to interrupt regular programming for critical messages. The scheduling software will have the capability to schedule specific air time, add items to the bulletin board, publish a schedule to the City’s web site, send the schedule to TV Guide, and to generate programming reports.

Video Server

The proposed system will allow users of any of the edit bays to place content on the server in DV25, MPEG-2, MPEG-4, WMV or QuickTime for output on any cable channel or the City’s existing web streaming server. It will be able to store up to 4 Terabytes of digital content on Raid-5 disks, and also be able to play directly from external storage devices. The content must remain in its original digital format until it is sent to the output. The video server will have two encoder channels and four output channels, of MPEG-2 quality at up to 50 Mbps per channel.

Additional Devices

The scheduling software will also cause the server to control multiple Sony 400 disk DVD changers, Sony DSR-45 decks, and KNOX 8x8 routing switcher. One Sony 400 disk DVD changer and the KNOX routing switcher are included in this quote. The other devices are existing.

A video sync generator and time base correctors will be provided to allow all sources to be correctly synchronized for smooth switching. An automatic audio compressor / limiter will be provided for audio level correction. System will have a separate detector for loss of changing video on any of the 3 live channels, which will dial several telephone numbers and play back a message if live motion video is not detected.

Equipment provided will include a redundant power supply, a spare hard disk drive, a 4 port KVM & cables, and a test signal generator.

One-Channel of Spyglass failure detection is proposed. Additional channels may be purchased and added later at the same price per channel as proposed.
CITY OF EL SEGUNDO
REQUEST FOR BID
Cable TV Bulletin & Automation System

Date: April 8, 2008

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IW
5-14-08
**CITY OF EL SEGUNDO**
**RFP LOG**
City of El Segundo

**RFP 08-12**
Cable TV Bulletin & Automation System

Purchasing/Cable Department

<table>
<thead>
<tr>
<th>COMPANY NAME/ADDRESS</th>
<th>RFP</th>
<th>Grand Total</th>
<th>1 Original</th>
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<tbody>
<tr>
<td>1. Media Controls Systems</td>
<td></td>
<td>$39,668.25</td>
<td>✓</td>
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</table>

Staff Present: [Signature] City Clerk's Office
[Signature] City Clerk's Office
[Signature] Purchasing/Police Department

Consideration and possible action regarding cancellation of the July 1, 2008 City Council Meeting.

RECOMMENDED COUNCIL ACTION:

1) Approve cancellation of the July 1, 2008 City Council Meeting.
2) Alternatively, discuss and take other action related to this item.

BACKGROUND & DISCUSSION:

In the past, the City Council has cancelled the first meeting in July due to conflicts in schedules. It is requested that Council approve the cancellation of the July 1, 2008 regularly scheduled meeting.

ATTACHED SUPPORTING DOCUMENTS:

None

FISCAL IMPACT:

None

ORIGINATED BY:

Cindy Mortensen, City Clerk

REVIEWED BY:

Jack Wayt, Interim City Manager

DATE:

5-21-2008

5-28-08