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

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

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

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

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

REGULAR MEETING OF THE EL SEGUNDO CITY COUNCIL
TUESDAY, AUGUST 19, 2008 - 5:00 P.M.

Next Resolution # 4564
Next Ordinance # 1420

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:

None

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- matter

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): 1- potential case (no further public statement is required at this time); Initiation of litigation pursuant to Government Code §54956.9(c): 1- matter.

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

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

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

SPECIAL MATTERS: 0- matter
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.

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REGULAR MEETING OF THE EL SEGUNDO CITY COUNCIL
TUESDAY, AUGUST 19, 2008 - 7:00 P.M.

7:00 P.M. SESSION

CALL TO ORDER

INVOCATION – Father Robert Victoria, St. Anthony Catholic Church

PLEDGE OF ALLEGIANCE – Council Member Don Brann

Next Resolution # 4564
Next Ordinance # 1420
PRESENTATIONS

ROLL CALL

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

C. UNFINISHED BUSINESS

D. REPORTS OF COMMITTEES, COMMISSIONS AND BOARDS

E. CONSENT AGENDA

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

1. Warrant Numbers 2567130 to 2567341 on Register No. 21 in the total amount of $3,711,133.75 and Wire Transfers from 7/25/2008 through 8/07/2008 in the total amount of $1,406,882.58.

Recommendation – Approve Warrant Demand Registers and authorize staff to release. Ratify: Payroll and Employee Benefit checks; checks released early due to contracts or agreement; emergency disbursements and/or adjustments; and wire transfers.


Recommendation – Approval.
3. Consideration and possible action regarding $13,000 of 2008-2009 Community Development Block Grant (CDBG) funds allocated to the Juvenile Diversion Project to be reprogrammed into another CDBG project, transfer $13,000 from General Funds in order to continue the City of El Segundo’s Juvenile Diversion Project, and transfer the delivery of counseling at-risk youth services from the City of Redondo Beach/South Bay Youth Project to the South Bay Children’s Health Center (SBCHC), a non-profit children’s health care provider, in an amount not to exceed $13,000. Contract period: July 1, 2008 through June 30, 2009. (Fiscal Impact: $13,000)

Recommendation – (1) Approve the transfer of General Funds in an amount not to exceed $13,000 to continue the City’s Juvenile Diversion Project for the period July 1, 2008 through June 30, 2009, increase the total General Fund allocation for CDBG during FY 2008-2009 from $65,000 to $78,000, and reprogram $13,000 of CDBG funds into another CDBG project; (2) Authorize the City Manager to execute an amendment to the existing Professional Services Agreement between the City of Redondo Beach/South Bay Youth Project transferring the provision of Juvenile Diversion services to the SBCHC utilizing General Funds in an amount not to exceed $13,000; (3) Alternatively, discuss and take other action related to this item.

4. Consideration and possible action regarding the acceptance of the Biological Wastewater Closed Loop System at 400 Sepulveda Blvd. – Project No. PW 08-01. (Fiscal Impact: $71,930.00)

Recommendation – (1) Accept the work as complete; (2) Authorize the City Clerk to file a Notice of Completion in the County Recorder’s Office; (3) Alternatively, discuss and take other action related to this item.

5. Consideration and possible action to approve an employment agreement with Jack Wayt for the position of City Manager effective October 1, 2008.

Recommendation – (1) Authorize the Mayor to execute the attached agreement; (2) Alternatively, discuss and take other action related to this item.

CALL ITEMS FROM CONSENT AGENDA

F. NEW BUSINESS

6. Consideration and possible action to approve a resolution identifying deposit requirements for work conducted in the public right-of-way. (Fiscal Impact: None)

Recommendation – (1) Approve the proposed resolution identifying security deposit requirements for work conducted in the public right-of-way; (2) Alternatively, discuss and take other action related to this item.
7. Consideration and possible action regarding acceptance of up to a $5,000,000 grant from the Federal Aviation Administration (FAA) to be used for the Residential Sound Insulation (RSI) Program.

Recommendation – (1) City Council accepts FAA Grant Agreement for Project No. AIP 3-06-0139-52; (2) Authorize the Mayor to execute the FAA Grand Agreement; (3) Alternatively, discuss and take other action related to this item.

8. Consideration and possible action to introduce and waive first reading of an ordinance amending the El Segundo Municipal Code (ESMC) with regard to local campaign financing and signs.

Recommendation – (1) Introduce and waive first reading of an Ordinance amending the ESMC §§ 1-9-2, 1-9-3, 1-9-5, and 15-18-10(G); (2) Alternatively, discuss and take other action related to this item.

G. REPORTS – CITY MANAGER

H. REPORTS – CITY ATTORNEY

I. REPORTS – CITY CLERK

J. REPORTS – CITY TREASURER

K. REPORTS – CITY COUNCIL MEMBERS

Council Member Brann –

Council Member Fisher –

Council Member Jacobson –
Mayor Pro Tem Busch –

Mayor McDowell –

9. Consideration and possible action to adopt a resolution opposing AB2427 (Eng); a bill limiting local governments' power to enforce regulations protecting the public health, safety and welfare. (Fiscal Impact: None)

Recommendation – (1) Adopt the attached resolution opposing AB2427; (2) Authorize appropriate legislative advocacy to oppose passage of the bill; (3) Alternatively, discuss and take other action related to this item.

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

MEMORIALS –

CLOSED SESSION

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

REPORT OF ACTION TAKEN IN CLOSED SESSION (if required)

ADJOURNMENT

POSTED:
DATE: 8/13/08
TIME: 8:32 p.m.
NAME: Mischia Jennings
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**TOTAL WARRANTS** $3,711,133.75

**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:** 8/11/08

**DATE:** 8/13/08
CITY OF EL SEGUNDO
PAYMENTS BY WIRE TRANSFER
7/25/2008 THROUGH 8/07/2008

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1,406,882.58

DATE OF RATIFICATION: 8/19/08
TOTAL PAYMENTS BY WIRE: 1,406,882.58

Certified as to the accuracy of the wire transfers by:

[Signatures]

Deputy Treasurer  Date
Director of Finance Date
City Manager Date

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, AUGUST 5, 2008 - 5:00 P.M.

5:00 P.M. SESSION

CALL TO ORDER – Mayor McDowell at 5:00 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.

SPECIAL ORDER OF BUSINESS:

None

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) item was a threat of exposure to litigation known to the public generally and the (c) item was Los Angeles Airport’s noise variance proceeding before the California Department of Transportation.

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)) - 2- matter

City of El Segundo vs. City of Los Angeles, et. al. LASC No. BS094279
Solomon v. City of El Segundo, LASC No. BC 372401

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Government Code §54956.9(b): -1- potential case (no further public statement is required at this time); Initiation of litigation pursuant to Government Code §54956.9(c): -1- matter.

DISCUSSION OF PERSONNEL MATTERS (Gov't Code §54957): - 1- matter
1. Public Employee Appointment/Public Employment. Title: City Manager

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

City Negotiator: City Attorney – Unrepresented Employee: City Manager

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, AUGUST 5, 2008 - 7:00 P.M.

7:00 P.M. SESSION

CALL TO ORDER – Mayor McDowell at 7:00 p.m.

INVOCATION – Pastor Wes Harding, El Segundo Foursquare Church

PLEDGE OF ALLEGIANCE – Mayor Pro Tem Eric Busch

PRESENTATIONS

ROLL CALL

Mayor McDowell - Present
Mayor Pro Tem Busch - Present
Council Member Brann - Present
Council Member Fisher - Present
Council Member Jacobson - Present

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George Hoops, Resident; spoke regarding sewer fees and the amount charged.

Liz Garnholz, Resident; spoke regarding Consent Item E10, and the revenue generated by the El Segundo Urho Sarri swim stadium.

Lt. Raymond Garcia, El Segundo Police Officer; On behalf of Det. Scott O’Conner and himself thanked the elected officials, employees of the city and the community for the support during their recent injury and recovery.

A. PROCEDURAL MOTIONS

Consideration of a motion to read all ordinances and resolutions on the Agenda by title only.
MOTION by Council Member Brann, SECONDED by Council Member Jacobson to read all ordinances and resolutions on the Agenda by title only. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

B. SPECIAL ORDERS OF BUSINESS (PUBLIC HEARING)

1. Consideration and possible action to open a Public Hearing and adopt Resolution finding the City to be in conformance with the annual Congestion Management Program (CMP) and adopting the annual CMP Local Development Report, in accordance with California Government Code Section 65089.

Mayor McDowell stated this is the time and place hereto fixed for a public hearing regarding adoption of a Resolution finding the City to be in conformance with the annual Congestion Management Program (CMP) and adopting the annual CMP Local Development Report, in accordance with California Government Code Section 65089. Clerk Mortesen stated that proper notice was completed and no written communications were received by City Clerk’s Office.

Gary Chicots, Planning and Building Safety Director, gave a report.

MOTION by Mayor ProTem Busch, SECONDED by Council Member Fisher to close the public hearing. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

Mark Hensley, City Attorney, read by title only:

RESOLUTION NO. 4561

A RESOLUTION FINDING THE CITY OF EL SEGUNDO IN LOS ANGELES COUNTY, CALIFORNIA TO BE IN COMPLIANCE WITH THE 2004 CONGESTION MANAGEMENT PROGRAM AND ADOPTING THE LOCAL DEVELOPMENT REPORT PURSUANT TO GOVERNMENT CODE § 65089

MOTION by Council Member Brann, SECONDED by Council Member Fisher to adopt Resolution No. 4561 finding the City of El Segundo to be in compliance with the 2004 Congestion Management Program and adopting the Local Development Report pursuant to Government Code § 65089. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

C. UNFINISHED BUSINESS

2. Consideration and possible action to award a Standard Public Works Contract to Armand Gonzales Inc. dba Gonzales Construction for construction of a Fire Station at 2261 East Mariposa Avenue. Approved Capital Improvement Program. Project No.: PW 08-06 (Fiscal Impact: $7,206,298.00)

Stephanie Katsouleas, Interim Public Works Director, gave a report.
MOTION by Mayor ProTem Busch, SECONDED by Council Member Brann to (1) Waive a minor irregularity in the bid received from Armand Gonzales, Inc. dba Gonzales Construction and Reject the bid protest received from bidder Griffith Company; (2) Add the following options to the contract for a total of $684,283: (a) 8" concrete precast band ($52,034), (b) brick veneer ($55,940), (c) built in desk, nightstand and bed frames ($67,000), (d) ceiling tile above showers ($1,000), (e) gypsum board ceilings ($10,000), (f) epoxy flooring ($5,000), (g) photovoltaic collector panels ($355,000), (h) seismic early warning system ($37,450), (i) precast concrete caps ($21,400), (j) day tank for generator ($4,000), (k) 8" vehicular concrete paving ($50,459), (l) Plymovent vehicle exhaust system ($25,000); (3) Authorize the City Manager to execute Standard Public Works Contract No. 3843 in a form approved by the City Attorney with Gonzales Construction, Inc. for $6,211,443 (Base Bid) plus $684,283 (Options), for a total of $6,895,726; (4) Authorize a construction contingency in the amount of $310,572 for unforeseen additional work. With the amendment to install the backbone system and delay the purchase of the photovoltaic collector panels at a reduced cost. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

3. Consideration and possible action to introduce and waive first reading of an Ordinance amending the El Segundo Municipal Code's regulation of filming within the City of El Segundo. ITEM PULLED FROM THE AGENDA

D. REPORTS OF COMMITTEES, COMMISSIONS AND BOARDS

4. Consideration and possible action to receive and file the Annual Report of the Capital Improvement Program Advisory Committee (CIPAC). Oral presentation will be made by CIPAC Chairman Mr. Jason Aro. (Fiscal Impact: None)

Crista Binder presented the Capital Improvement Program for Fiscal Year 2008-2009

Council consensus to receive and file the Annual Report of CIPAC.

E. CONSENT AGENDA

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

5. Approved Warrant Numbers 2566585 to 2566837 on Register No. 20 in the total amount of $2,508,937.28 and Wire Transfers from 7/4/2008 through 7/24/2008 in the total amount of $1,987,225.72. 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.

6. Approved Regular and Special City Council Meeting Minutes of July 15, 2008.

7. ITEM PULLED FROM THE AGENDA
8. Adopted Resolution No. 4562 authorizing the establishment of a Public Agency Retirement System (PARS) Supplemental Retirement Plan for eligible members of the El Segundo Supervisory and Professional Employees Bargaining Unit, to be administered by Phase II Systems, PARS Trust Administrator.

9. Approved the examination plans for the Personnel Merit System job classifications of Street Maintenance Supervisor. (Fiscal Impact: None)

10. PULLED FOR DISCUSSION BY MAYOR MCDOWELL PER PUBLIC REQUEST

11. Adopted a Conflict of Interest Code required by The Political Reform Act (Government Code Section 81000 et. seq.) rescinding Resolution No. 4448 and adopted Resolution No. 4563 approving a new Conflict of Interest Code.

12. Received and filed a determination that the City Council does not object to issuance of a new Type 47 ABC license at 2361 Rosecrans Avenue A No. 792 and AUP No. 06-02. Applicant: Continental Development Corporation – Alex J. Rose (Fiscal Impact: None).

13. PULLED FOR DISCUSSION BY COUNCIL MEMBER JACOBSON

14. Authorize the Purchasing Agent to issue a purchase order to Oldcastle Precast for utility pull boxes that will serve as junction points for the City’s fiber optic cable installation project. (Fiscal Impact: $15,285.00).

15. Adopted plans and specifications for the slurry sealing of the streets in the area bounded by Sheldon Street, Mariposa and Imperial Avenues and the west City Limits. Project No.: PW 08-09. (Fiscal Impact: $169,905) Authorized staff to advertise the project for receipt of construction bids.

16. Accepted all work as complete for the project for the Replacement of the windows at the Urho Saari Swim Stadium (plunge), located at 219 W. Mariposa Avenue. (Fiscal Impact: $68,680.00) Authorized the City Clerk to file a Notice of Completion in the County Recorder’s Office.

17. Authorized staff to solicit bids for the installation of risers on the Stevenson Field Bleachers in El Segundo’s Recreation Park at 339 Sheldon Street. Approved Capital Improvement Program Project No. PW 08-07. (Fiscal Impact: $26,000 General Fund)

18. As per municipal code § 1-7-12 regarding emergency purchases, approved use of Nations Bus Corporation and the funds needed to lease shuttle buses to be used for current City shuttle service programs until existing City-owned vehicles are repaired. (Fiscal Impact: $11,158)
19. Approved the purchase of a computerized bar code evidence management system and desktop computer for tracking evidence and property in the police department’s property room. (Net Fiscal Impact to City $17,500.00 from Police Department’s Asset Forfeiture Account)

20. PULLED FOR DISCUSSION BY COUNCIL MEMBER FISHER

21. Accepted the work as complete for construction related to the City’s Residential Sound Insulation Program Group 20 (21 Homes). Project No. RSI 07-02. (Final contract total = $1,288,700). Authorized the City Clerk to file the City Planning and Building Safety Director’s Notices of Completion in the County Recorder’s Office.

MOTION by Mayor ProTem Busch, SECONDED by Council Member Fisher to approve Consent Agenda Items 5, 6, 8, 9, 11, 12, 14, 15, 16, 18, 19, and 21. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

CALL ITEMS FROM CONSENT AGENDA

7. PULLED FROM THE AGENDA BY THE CITY ATTORNEY - Consideration and possible action to retain Bob Murray & Associates to conduct an Executive Search for the position of City Manager. Fiscal Impact: Not to Exceed $25,000.

10. Consideration and possible action to waive the formal bidding process pursuant to the El Segundo Municipal Code §1-7-10 and authorize the Fire Department to purchase a replacement paramedic rescue ambulance manufactured by Emergency Vehicle Group, Inc. on a sole source basis. (Fiscal Impact: $203,455)

MOTION by Mayor ProTem Busch, SECONDED by Council Member Fisher to waive the formal bidding process pursuant to the El Segundo Municipal Code §1-7-10 and authorize the Fire Department to purchase a replacement paramedic rescue ambulance manufactured by Emergency Vehicle Group, Inc. on a sole source basis. (Fiscal Impact: $203,455)

13. Consideration and possible action for second reading and adopt Ordinance for: (1) the rezoning of approximately 4.25 acres of property at 1700 E. Grand Avenue from Medium Manufacturing (MM) Zone to the Grand Avenue Commercial (GAC) Zone; (2) an amendment to the Smoky Hollow Specific Plan to further limit permitted uses with the Grand Avenue Commercial (GAC) Zone for the property at 1700 E. Grand Avenue, to general Office and Medical-Dental Office uses only, and; (3) technical changes to the Smoky Hollow Specific Plan (SHSP) relating to the environmental review requirements to make the SHSP consistent with the law (SEQA). Applicant: Mar Canyon Grand, LLC. (Fiscal Impact: None)
A new map was distributed to Council, the Ordinance was introduced with the accurate legal description and map, but the wrong map was inadvertently placed in the agenda packet.

Council Member Jacobson stated he was did not feel that the proposed re-zoning was proper zoning for the property.

MOTION by Mayor ProTem Busch, SECONDED by Council Member Fisher to waive second reading and adopt Ordinance No. 1419 for Zone Change No. 07-01 and Specific Plan Amendment No. 08-02 for the "MEPS" Project site rezoning to Grand Avenue Commercial (GAC) Zone with limited uses pursuant to the SHSP. MOTION PASSED BY THE FOLLOWING VOICE VOTE. AYES: BUSCH, BRANN, AND FISHER, NOES: MCDOWELL AND JACOBSON

20. Consideration and possible action to pay $250,000.00 to Radio Communications Association in accordance with a fee sharing arrangement relating to the sale of City radio frequency rights. (Net Fiscal Impact to City - $250,000 from Police Department's Asset Forfeiture account.)

MOTION by Council Member Fisher, SECONDED by Council Member Jacobson to approve the payment of $250,000.00 to Radio Communications Association in accordance with a fee sharing arrangement relating to the sale of City radio frequency rights. MOTION PASSED BY UNANIMOUS VOICE VOTE.

F. NEW BUSINESS

G. REPORTS – CITY MANAGER - NONE

H. REPORTS – CITY ATTORNEY - NONE

I. REPORTS – CITY CLERK - NONE

J. REPORTS – CITY TREASURER - NONE

K. REPORTS – CITY COUNCIL MEMBERS

Council Member Brann – Commended the Chamber of Commerce for number of new memberships. Reported on the Historical Society report on the Urho Sarri Swim Stadium.

Council Member Fisher – Thanked the Chamber of Commerce for Dodger Day.

Council Member Jacobson – Spoke regarding the plunge and designation of the building as a local historic building.
Mayor Pro Tem Busch – Spoke on the “Movie in the Park” event. Stated that El Segundo was third in the number of patents that California Cities had applied for. Also spoke on the Recreation and Parks program “Damn Yankees” production.

Mayor McDowell – Announced the “re-use-it” program being promoted. Spoke regarding the fire on Arena Street, and the superb job done by the El Segundo Fire Department and the other outside agencies that assisted under the mutual aid agreement.

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

Bill Mason thanked the Council for their nice compliments on Dodger Day. Also stated that Dodger Day was an effort by the Chamber to show thanks to the members of the Air Force Base.

Liz Garnholtz, Resident; Spoke regarding Viennese Nights recently held at the High School. Also spoke regarding the power plant.

MEMORIALS – Terry Brunette and George O. Wiley.

CLOSED SESSION - NONE

ADJOURNMENT at 8:10 p.m.

Cindy Mortesen, City Clerk
EL SEGUNDO CITY COUNCIL
AGENDA ITEM STATEMENT
AGENDA DESCRIPTION:

Consideration and possible action regarding $13,000 of 2008-2009 Community Development Block Grant (CDBG) funds allocated to the Juvenile Diversion Project to be reprogrammed into another CDBG project, transfer $13,000 from General Funds in order to continue the City of El Segundo's Juvenile Diversion Project, and transfer the delivery of counseling at-risk youth services from the City of Redondo Beach/South Bay Youth Project to the South Bay Children's Health Center (SBCHC), a non-profit children's health care provider, in an amount not to exceed $13,000. Contract period: July 1, 2008 through June 30, 2009 (Fiscal Impact: $13,000).

RECOMMENDED COUNCIL ACTION:

1. Approve the transfer of General Funds in an amount not to exceed $13,000 to continue the City's Juvenile Diversion Project for the period July 1, 2008 through June 30, 2009, increase the total General Fund allocation for CDBG during FY 2008-2009 from $65,000 to $78,000, and reprogram $13,000 of CDBG funds into another CDBG project;

2. Authorize the City Manager to execute an amendment to the existing Professional Services Agreement between the City of Redondo Beach/South Bay Youth Project transferring the provision of Juvenile Diversion services to the SBCHC utilizing General Funds in an amount not to exceed $13,000; and/or,

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

BACKGROUND & DISCUSSION:
For more than ten years, the City of El Segundo has contracted with the South Bay Youth Project (through the City of Redondo Beach) to provide counseling services to El Segundo at-risk youth ranging in ages from 2 to 18 years old. Annually, approximately thirty to forty

ATTACHED SUPPORTING DOCUMENTS:
City of Redondo Beach/South Bay Youth Project letter transferring services to the South Bay Children's Health Center.

FISCAL IMPACT: $13,000

Operating Budget: $13,000
Amount Requested: $13,000 (Transfer from General Fund; increase FY 2008-2009 CDBG General Fund support from $65,000 to $78,000)

Account Number: 
Project Phase: None
Appropriation Required: X Yes  No

ORIGINATED:
Gary Chicots, Director of Planning and Building Safety

DATE: 8-13-08

REVIEWED BY:
Jack Wayt, Interim City Manager

DATE: 8/13/08
EL SEGUNDO CITY COUNCIL
BACKGROUND AND DISCUSSION

El Segundo youth receive over 300 individual, private counseling sessions staffed by trained professionals. This project is funded under the federal Community Development Block Grant (CDBG) Program.

On June 23, 2008 the City of Redondo Beach notified the City of El Segundo that cost containment measures required the transfer of services from the City of Redondo Beach/South Bay Youth Project (SBYP) to the South Bay Children's Health Center (SBCHC), effective July 1, 2008. Currently, the City of El Segundo is in the third year of a three-year contract cycle with the City of Redondo Beach/South Bay Youth Project.

On July 9, 2008, consultant staff met with the SBCHC to discuss CDBG programmatic and financial requirements necessary to implement the Juvenile Diversion Project. The SBCHC demonstrated the programmatic capability and integrity to provide at-risk youth counseling services, however, their very limited CDBG grant accounting and management experience suggests that significant technical assistance will be required to bring the agency into compliance with the CDBG Program. Start-up consultant time necessary to assist the SBCHC to establish acceptable grant accounting practices and procedures, coupled with severe restrictions placed upon agencies that are awarded CDBG funds, and the anticipation of demanding audits performed by the Los Angeles County Community Development Commission (the federal CDBG pass-through governing agency) may result in costs that far exceed the value of the annual $13,000 CDBG grant allocation.

Thus, Staff recommends that the City Council use General Funds to continue to provide El Segundo at-risk youth counseling services through the SBCHC. SBCHC will still be held to appropriate and acceptable accounting standards and will be reviewed by City consultant staff. However, SBCHC will avoid the restrictive limits placed upon a CDBG-funded recipient, and the City will eliminate the risk of future, potential disallowed costs for non-compliance with CDBG requirements.

CDBG funds ($13,000) originally allocated to FY 2008-2009 CDBG Juvenile Diversion will be reprogrammed into another FY 2008-2009 CDBG project. Staff will return to the City Council, at a later date, to request approval to reprogram these CDBG funds into a more viable CDBG project.
June 23, 2008

Mr. Jack Wayt
Interim City Manager
City of El Segundo
350 Main Street
El Segundo, CA 90245

Dear Mr. Wayt:

The purpose of this letter is to give you formal written notification of the transfer of South Bay Youth Project (SBYP) to the South Bay Children’s Health Center (SBCHC) effective July 1, 2008. We also request that the Community Development Block Grant – Professional Service Agreement (#3603) and the Public Service Agreement – Youth Counselor (#07-090) be transferred to the SBCHC.

The following will provide some background to this request.

The City of Redondo Beach has served as the administrative and fiscal agency for the South Bay Youth Project (SBYP) for over thirty years. During that time, the SBYP has provided tens of thousands of youth and their families counseling and related services for nine South Bay Cities: Redondo Beach, El Segundo, Manhattan Beach, Hermosa Beach, Lomita, Rolling Hills, Rolling Hills Estates, Rancho Palos Verdes, and Palos Verdes Estates.

In the past few years, the cost to provide these services has been greater than the funding available from grants and the participating cities. A structural change in the operation of the SBYP was necessary to continue to provide these services in the future.

On April 15, 2008, the City Council authorized staff to explore alternative operating options for the South Bay Youth Project. Staff developed five options for Council consideration at the May 20, 2008 City Council meeting. At that meeting, Council asked staff to develop a transition schedule and MOU with SBCHC before taking formal action to approve the operation transfer.

Since that time, City staff members have met with the South Bay Children’s Health Center on numerous occasions and have been impressed by the SBCHC’s dedication to their clientele and the similarity of SBCHC’s mission to
that of the SBYP. The SBCHC Board and staff are committed to maintaining the SBYP’s integrity of services and multi-city brand and have offered to open seats on their Board to allow for new members from the Friends of the SBYP and former SBYP administrators. City and SBCHC staff members have analyzed a variety of transition issues to ensure a smooth transfer of counseling clients and have gone through every grant contract and associated expenditure reimbursement process to address any potential financial concerns.

At the June 17, 2008 Redondo Beach City Council meeting the Council approved a Memorandum of Understanding (MOU) transferring South Bay Youth Project Operations to the South Bay Children’s Health Center (see attached).

SBCHC will be the new administrative and fiscal agent for the SBYP. Christina Harris is the Executive Director of the South Bay Children’s Health Center and is available to answer any questions (310-316-1212).

Please let me know if you have any questions or concerns. My phone number is 310-372-1171 x 2791.

Dan Smith, is also working with the SBCHC to ensure a smooth transition and is available for any specific SBYP concerns. His phone number is 310-318-0639.

Sincerely,

Bill

Bill Workman
City Manager

cc: Gary Chicots, Director of Planning and Building Safety
Kimberly Christensen, Planning Manager
Richard Burnette, Director of Parks and Recreation
Judy Andoe, Parks Superintendent
Consideration and possible action regarding the acceptance of the Biological Wastewater Closed Loop System at 400 Sepulveda Blvd. – Project No. PW 08-01. (Fiscal Impact: $71,930.00).

RECOMMENDED COUNCIL ACTION:

(1) Accept the work as complete; (2) Authorize the City Clerk to file a Notice of Completion in the County Recorder’s Office; and (3) Alternatively, discuss and take other action related to this item.

BACKGROUND & DISCUSSION:

On March 18, 2008, City Council awarded a contract to Pacific Construction, Inc. in the amount of $71,930.00 for the installation of a Biological Wastewater Closed Loop System at 400 Sepulveda Blvd. Pacific Construction has since constructed the wash rack and installed the Biological Wastewater Closed Loop System at the Golf Courses Maintenance Yard. All required work has been completed to the satisfaction of the City.

ATTACHED SUPPORTING DOCUMENTS:

Notice of Completion

FISCAL IMPACT: $71,930.00

Operating Budget: N/A
Capital Improvement Program: $71,930.00
Amount Requested: N/A
Account Number: 503-400-5301-8103
Project Phase: Accept the work as complete
Appropriation Required: No

ORIGINATED BY: Stephanie Katsouleas, Director of Public Works 08/13/08

REVIEWED BY: Jack Wayt, City Manager 8/13/08
NOTICE OF COMPLETION OF CONSTRUCTION PROJECT

Project Name: Biological Wastewater Closed Loop System

Project No.: PW 08-01

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

1. The undersigned is an officer of the owner of 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 Park

5. A work of improvement on the property hereinafter described was field reviewed by the City Engineer on August 6, 2008. The work done was: Biological Wastewater Closed Loop System.

6. On August 19, 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: Pacific Construction, 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 Park.

9. The street address of said property is: 400 South Sepulveda Boulevard

Dated: ____________________________

Dan Garcia
Assistant City Engineer

VERIFICATION

I, the undersigned, say: I am the Assistant 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.

__________________________________________
Dan Garcia
Assistant City Engineer

Notice of Completion/PW 07-07
Consideration and possible action to approve an employment agreement with Jack Wayt for the position of City Manager effective October 1, 2008.

RECOMMENDED COUNCIL ACTION:

1) Authorize the Mayor to execute the attached agreement; 2) Alternatively, discuss and take other action related to this item.

BACKGROUND & DISCUSSION:

Jack Wayt has been the Interim City Manager for the City since May 5, 2008. The appointment discussions and contract negotiations were noticed on the closed session agenda of the August 5, 2008, Council Meeting. The City Attorney acted as the City’s contract negotiator. The employment agreement provides for an annual salary of $210,000 plus benefits that are currently provided to management level employees of the City (except deferred compensation benefits shall not be provided). The Agreement also provides that Jack Wayt shall transition from Interim City Manager to City Manager on October 1, 2008. The October 1 date was chosen to allow sufficient time for Jack Wayt to “un-retire” from the California Public Employee Retirement System. He cannot commence permanent employment with the City until this process is completed.

ATTACHED SUPPORTING DOCUMENTS:

Copy of draft Employment Agreement

FISCAL IMPACT: N/A

Operating Budget:
Amount Requested:
Account Number:
Project Phase:
Appropriation Required: _Yes X No

ORIGINATED BY: Mark Hensley, City Attorney

DATE: 08/13/08
EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT ("AGREEMENT") is entered into this 19th day of August, 2008, between the City of El Segundo ("CITY") and Jack Wayt ("EMPLOYEE").

SECTION 1. TERM

EMPLOYEE shall commence employment as city manager for CITY on October 1, 2008. Except as otherwise provided for in this AGREEMENT, EMPLOYEE’s employment with CITY shall be on an at-will basis and will continue until terminated as provided in this AGREEMENT. Employee shall receive the authority from the California Public Employees Retirement System ("PERS") to un-retire from the PERS retirement system for purposes of being able to serve as the city manager of the CITY as provided in this AGREEMENT. In the event that EMPLOYEE cannot un-retire from PERS prior to October 1, 2008, then this AGREEMENT shall be null and void and neither party hereto will have any rights or obligations under this AGREEMENT.

SECTION 2. DUTIES

EMPLOYEE shall perform to his best ability the duties and functions of the City Manager, as defined by California state law and CITY Ordinances, Resolutions and Personnel Rules and Regulations, including without limitation acting as the CITY’s highest ranking administrative officer and management employee, and shall perform such other legally permissible duties and acts as City Council may direct from time to time.

SECTION 3. TERMINATION OF EMPLOYMENT

(A) Through and including September 30, 2009, CITY may only terminate this AGREEMENT based upon (i) EMPLOYEE’s willful misconduct, including without limitation, intentionally failing to fulfill EMPLOYEE’s duties set forth in SECTION 2 of the AGREEMENT; or (ii) conviction of EMPLOYEE of a crime involving moral turpitude. The City shall have the right to terminate this Agreement such that the Agreement is terminated on October 1, 2009, or any date thereafter, with or without cause, by providing EMPLOYEE 30 days prior written notice of its intention to terminate this AGREEMENT;

(B) EMPLOYEE may terminate this AGREEMENT at any time upon thirty-days written notice to the Mayor of CITY. EMPLOYEE shall not be entitled to any compensation upon such a termination except as set forth in Section 3 (C);

(C) Upon any termination of this EMPLOYEE’s employment, CITY shall pay EMPLOYEE upon the effective date of such termination, an amount equal to the value of the employee’s accumulated, but unpaid and unused executive, vacation and sick leave, calculated at EMPLOYEE’s rate of pay on the date of termination.
SECTION 4. COMPENSATION

(A) EMPLOYEE's annual base salary is $210,000 which shall be paid in equal bi-weekly payments. Any increase in compensation must be in a writing and signed by the parties;

(B) CITY shall pay EMPLOYEE for professional membership dues and fees and attendance at conferences as such may be budgeted by the CITY. EMPLOYEE shall also be reimbursed upon presentation to CITY of verified receipts for sums necessarily incurred by EMPLOYEE in the performance of EMPLOYEE's duties or as otherwise budgeted for by CITY;

(C) EMPLOYEE shall be entitled to all other benefits of employment now in effect (excluding salary increases which are governed by Section 4 (A) above and deferred compensation benefits), or as hereafter approved by the City Council, which are provided to other management employees of the CITY. EMPLOYEE shall accrue executive, vacation and sick leave at the maximum rate provided for management employees.

SECTION 5. ENTIRE AGREEMENT AND AMENDMENTS

CITY and EMPLOYEE acknowledge that no representation, inducement, promise or agreement, oral or written, has been made or is being relied upon which is not set forth in this AGREEMENT. This AGREEMENT supersedes all prior agreements with respect to the subject matter hereof and, to the extent permitted by law, any and all CITY Ordinances, Resolutions or Personnel Rules and Regulations of CITY that have been or may be adopted. No amendment or modification to this AGREEMENT shall be effective unless such is in writing and signed by the parties.

SECTION 6. EFFECT OF WAIVER/SEVERABILITY

Failure by either party to insist on strict compliance with any term or condition of this AGREEMENT shall not be deemed a waiver of such term or condition, nor shall any such failure be deemed a waiver of that right at any other time. If any provision of this AGREEMENT is held by a court of competent jurisdiction to be unenforceable, the remaining provisions shall remain in full force and effect.

SECTION 7. EMPLOYEE REPRESENTATION

EMPLOYEE represents that he has reviewed this AGREEMENT and has had the opportunity to consult with legal counsel of EMPLOYEE's own choosing with respect to this AGREEMENT.

SECTION 8. GOVERNING LAW

This AGREEMENT shall be governed by and construed in accordance with the laws of the State of California and the venue for any legal action relating to this
AGREEMENT shall be the Superior Court of the State of California, County of Los Angeles.

SECTION 9. COUNTERPARTS

This AGREEMENT may be executed in counterparts, which counterparts shall constitute the AGREEMENT.

IN WITNESS WHEREOF, CITY has caused this AGREEMENT to be executed on its behalf by its Mayor and duly attested by its City Clerk; and EMPLOYEE has executed this AGREEMENT on the date first written above.

CITY:

By: __________________________
   Kelly McDowell, Mayor

EMPLOYEE:

By: __________________________
   Jack Wayt

ATTEST:

By: __________________________
   Cindy Mortesen, City Clerk

APPROVED AS TO FORM:

By: __________________________
   Mark Hensley, City Attorney
EL SEGUNDO CITY COUNCIL
AGENDA ITEM STATEMENT

AGENDA DESCRIPTION:
Consideration and possible action to approve a resolution identifying deposit requirements for work conducted in the public right of way. (Fiscal Impact: None)

RECOMMENDED COUNCIL ACTION:
1) Approve the proposed resolution identifying security deposit requirements for work conducted in the public right-of-way; 2) Alternatively, discuss and take other action related to this item.

BACKGROUND & DISCUSSION:
Recently, The Gas Company filed for a City permit to pothole in 21 locations on El Segundo Blvd. in preparation for installing a new high pressure gas line. As part of permit issuance, the City required The Gas Co. to post a security deposit for $10,000, which was the same amount required by West Basin when it potholed 20+ locations before installing a new recycled water line on El Segundo Blvd. several years ago. However, The Gas Co. questioned the basis for the security amount and opposed the City’s policy of requiring any security for new construction in the public ROW, stating that it did not have a history of conducting poor restoration work. Historically, the City has not required security deposits from The Gas Co. for maintenance activities on existing facilities under the terms of its franchise agreement.

(Background and Discussion continued on the next page)

ATTACHED SUPPORTING DOCUMENTS:
Draft Resolution

FISCAL IMPACT: None

Operating Budget: N/A
Amount Requested: N/A
Account Number: N/A
Project Phase: N/A
Appropriation Required: No

ORIGINATED BY:        DATE:
Stephanie Katsouleas, Director of Public Works   08/19/08

REVIEWED BY:          DATE:
Jack Wayt, City Manager       08/19/08
Background & Discussion (continued)

The purpose of a security deposit, as identified in ESMC §9-2-2 (see attached), is to ensure that individuals or companies who conduct work in the public right-of-way restore the City’s affected streets, sidewalks, curbs and gutters according to City construction standards. Should a permittee fail to provide adequate restoration, then the security posted allows the City to perform the repairs to ensure that established standards are met without having to pursue legal avenues. Where restoration work is performed adequately, the security posted is fully refunded to the permittee within 21 days of completion of the work. Acceptable forms of security currently include a bond, cash deposit or letter of credit from a bank.

On March 20, 2001, City Council adopted Resolution 4211, which consolidated five previous resolutions addressing the fines and fees of the Public Works Department. However, security deposit requirements for work conducted in the public right-of-way were not identified in that resolution. Although Public Works currently requires a security be posted as a condition of permit issuance for individuals, private developers and public utilities, there is no codified structure in place identifying the deposit amount required relative to the type of work conducted in the public right-of-way. The proposed resolution (attached) would establish such a deposit structure for excavation for new or existing facilities, thereby removing any ambiguity regarding security deposit requirements and amounts.

The Public Works Department proposes the following security deposit requirements based on known construction costs or the option for a permittee to provide a security deposit for the actual cost of the work performed in lieu of the rates listed below.

<table>
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<th>Activity</th>
<th>Depth of Trench</th>
<th>Less than 6”</th>
<th>6” to 24”</th>
<th>24” to 48”</th>
<th>&gt; 48”</th>
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<tr>
<td>Potholing (street)</td>
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<tr>
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<td>$250.00/loc.</td>
<td>$500.00/loc.</td>
<td>$1000.00/loc.</td>
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<td>Surface Restoration</td>
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<td>Asphalt Pavement</td>
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<td>Concrete Pavement (street)</td>
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<td>Concrete Sidewalks</td>
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<tr>
<td>Landscaped Parkways</td>
<td></td>
<td>$5.00/ft²</td>
<td>$5.00/ft²</td>
<td>$7.00/ft²</td>
<td>$10.00/ft²</td>
</tr>
<tr>
<td>Parkway Drain</td>
<td></td>
<td>$325.00</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

City Service Utility Connections

<table>
<thead>
<tr>
<th>Sewer Connection Lateral Installation or Replacement:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential lateral to curb</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>Residential lateral to sewer main</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>Commercial lateral to curb</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>Commercial lateral to sewer main</td>
<td>$5,000.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Sewer Connection Main Installation or Replacement:</th>
<th>Actual Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sewer Manhole</td>
<td>$2,000</td>
</tr>
<tr>
<td>Activity</td>
<td>Deposit Rates</td>
</tr>
<tr>
<td>----------</td>
<td>---------------</td>
</tr>
</tbody>
</table>
| **Water Service Connection (lateral installation/replacement)** | $1000.00 for up to 2" lateral  
$1500.00 for 3" – 8" lateral |
| **Water Service Meter** | $1000.00 for up 2" meter  
$1500.00 3" and above |
| **Storm Drain Connection Installation or Replacement** | Actual Cost |
| **Traffic Signal** | Actual Cost |
| **Striping** | Actual Cost |
| **All other excavation not listed** | Actual Cost |

* The excavation deposit rates identified in this table are based on the latest annual Caltrans contracting rates for 2007 for the Southern California area. All other deposit rates are based on staff resource rates and recent contract and material costs incurred by the City for comparable excavation/restore projects.

For comparative purposes, other local cities have a variety of deposit requirements in place for individuals and private companies conducting right-of-way work, with rates varying from a flat fee structure to actual cost of the project (see below). The City Attorney’s office has opined that the deposit requirement should be implemented on a uniform basis. To the extent that City wants to exempt all public utilities from the deposit requirement, such approach may be acceptable. However, staff has concern about such an exemption based upon the number of telecommunications companies that may potentially perform work in the public right-of-way in the future. For utility companies specifically, some cities do not as a practice require deposits, others have bond requirements that are no longer enforced, some collect deposits for each job, and some require a permanent bond be on file.

**Public Right-of-Way Deposit Requirements of Other Local Cities**

<table>
<thead>
<tr>
<th>Activity</th>
<th>City of Hermosa Beach</th>
<th>City of Torrance</th>
<th>Manhattan Beach</th>
<th>Redondo Beach</th>
<th>El Segundo [Proposed]</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Comments</td>
<td>Bonds may be held up to one year due to sandy soils.</td>
<td>$500.00 min. deposit</td>
<td>All fees are flat rate. There is no scaling based on the size of the job.</td>
<td>Multiple deposits may apply depending on number of permits pulled.</td>
<td>No minimum deposit</td>
</tr>
<tr>
<td>Curb and Gutter Sidewalk</td>
<td>No bond requirement</td>
<td>$6.00/lf</td>
<td>$427.00 flat rate for curb, gutter, sidewalk and street excavation</td>
<td>Residential: $1000.00 deposit required for each permit issued regardless of scope of work.</td>
<td>$32.00/lf</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$1.00 ft²</td>
<td></td>
<td>Commercial: Deposit requirement based on size of project; $1000 minimum.</td>
<td>$13.00 ft²</td>
</tr>
<tr>
<td>AC Pavement w/ base</td>
<td></td>
<td>$1.50 ft²</td>
<td></td>
<td></td>
<td>$12.00 ft²</td>
</tr>
<tr>
<td>General trenching</td>
<td></td>
<td>&lt; 5 ft: $6.00/lf</td>
<td>$496.00</td>
<td></td>
<td>&lt; 4 ft: $12.00/lf</td>
</tr>
<tr>
<td>Sewer connection</td>
<td>$1,600 min. deposit; up to $20,000 based on actual costs.</td>
<td>$500.00</td>
<td></td>
<td></td>
<td>&gt; 4 ft: $20.00/lf</td>
</tr>
<tr>
<td>Manhole</td>
<td></td>
<td>$2,000.00</td>
<td></td>
<td></td>
<td>$2,000.00</td>
</tr>
</tbody>
</table>

29 L
9-2-1: WORK IN PUBLIC RIGHT OF WAY; PERMITS, FEES AND DEPOSIT:

A. Permit Required; Fees: Notwithstanding any of the other provisions of this Chapter, a permit shall be required for any work or encroachment in the public right of way, and the permittee shall pay to the City a permit fee, a fee for subdivision plan checks or USA underground alert service, as applicable. All fees shall be fixed and established by City Council from time to time by resolution.

B. Fees Additional To Deposit Or Bond: The fees shall be in addition to any cash deposit or bond for restoration which the permittee may be required to make or furnish.

C. Deposit; Inspection Cost; Refund: In addition, permittee will be required to provide a cash deposit sufficient to cover the cost of inspection and any unused portion thereof will be refunded to permittee.

D. Failure To Obtain Permit; Permit Fee Double: When work for which a permit is required by this Chapter is started and/or completed prior to obtaining such permit, a special investigation fee shall be charged which shall be double the normal permit fee for the work. The payment of such double fee shall not relieve any person from fully complying with the requirements of the permit. (Ord. 1130, 1-3-1989)

9-2-2: PERMIT ISSUANCE; BOND:

The Street Superintendent shall issue a permit to any person to perform any act referred to in this Chapter when the same is necessary for building or construction purposes or for the improvement of the street, alley, thoroughfare or place; provided, however, that no such permit shall be issued until the person has given the City a good and sufficient bond, to be approved by the Street Superintendent indemnifying the City against any damage that may arise by reason of the performance of any such acts and for any expense incurred by the City in restoring the street, alley, thoroughfare or place to its proper condition. (Ord. 10, 2-28-1917)
RESOLUTION NO. ________

A RESOLUTION ESTABLISHING SURETY AMOUNTS TO PROTECT PUBLIC STREETS AND RIGHTS-OF-WAY FROM DAMAGE RESULTING FROM VARIOUS ACTIVITIES IN ACCORDANCE WITH EL SEGUNDO MUNICIPAL CODE CHAPTER 9-2.

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

SECTION 1: The City Council finds as follows:

A. The City owns and controls a multitude of public streets, alleys, rights-of-ways, and service easements throughout the City's limits.

B. There are often instances where persons desire to encroach into such public property for various purposes including, without limitation, erecting improvements, construction work, and temporarily placing personal property.

C. It is in the public interest for the City to regulate such activities to ensure not only that public safety and welfare is protected, but to establish uniform procedures to facilitate review and approval of certain activities within public rights-of-ways.

D. In accordance with El Segundo Municipal Code ("ESMC") § 9-2-2, the Superintendent of Streets ("Public Works Director") can determine the amount of bonds ("Surety Amounts") sufficient to protect public property and ensure restoration and rehabilitation of such property in the event of damage resulting from building or construction within the City's streets and public rights-of-way.

E. In regulating the use of its public rights-of-ways, the City recognizes the obligations of various public utilities to meet the utility needs of their customers. Accordingly, the City believes that it is in the public interest to facilitate the public utilities' use of public right-of-ways, when needed, to the greatest extent practicable. Such accommodation must be accomplished in accordance with the provisions of the ESMC, other applicable laws, and the utility company's franchise agreements.

F. At the recommendation of the Public Works Director and the City Manager, the City Council believes that it is in the public interest to establish the recommended Surety Amounts as set forth below.

SECTION 2: Surety Requirements. In accordance with ESMC § 9-2-2, the Public Works Director cannot issue a permit pursuant to ESMC Chapter 9-2 unless and until a permittee obtains and provides the City a surety bond or other security guaranteeing
permittee's performance of all duties and obligations under such permit including, in particular, the duty and obligation to restore the construction or work site to the same condition as it was before the work, or such modified condition as approved by the Public Works Director.

SECTION 3: **Amount of Security.** The surety bond or other security obtained and provided by a permittee must be in the amount set forth by this Resolution.

**SECTION 4: Form of Security.** The permittee's surety bond must be in a form approved by the City Attorney and conditioned upon the duties and obligations contained in the permit and set forth in the ESMC. In lieu of a surety bond, a permittee may obtain and provide to the City a cash deposit, certificate of deposit naming the City as the payee thereof or such other kind of security acceptable to the City Manager, or designee, provided such alternate security is accompanied by an agreement, in a form approved by the City Attorney, stating that the security is being pledged to guarantee performance of the permittee's duties and obligations under the permit issued to permittee pursuant to the ESMC.

**SECTION 5: Surety amounts.** The Surety amounts set forth below are approved and adopted:

<table>
<thead>
<tr>
<th>Activity</th>
<th>Deposit Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Depth of Trench Less than 6”</td>
</tr>
<tr>
<td>Potholing (street)</td>
<td>N/A</td>
</tr>
<tr>
<td>Potholing (non-street)</td>
<td>N/A</td>
</tr>
<tr>
<td>Surface Restoration</td>
<td></td>
</tr>
<tr>
<td>Asphalt Pavement</td>
<td></td>
</tr>
<tr>
<td>Concrete Pavement (street)</td>
<td></td>
</tr>
<tr>
<td>Concrete Driveway</td>
<td></td>
</tr>
<tr>
<td>Concrete Curb only</td>
<td></td>
</tr>
<tr>
<td>Concrete Curb/Gutter</td>
<td></td>
</tr>
<tr>
<td>Concrete Sidewalks</td>
<td></td>
</tr>
<tr>
<td>Concrete Curbed Ramp</td>
<td></td>
</tr>
<tr>
<td>Landscaped Parkways</td>
<td></td>
</tr>
<tr>
<td>Parkway Drain</td>
<td></td>
</tr>
</tbody>
</table>

**City Service Utility Connections**

<table>
<thead>
<tr>
<th>Sewer Connection Lateral Installation or Replacement:</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Residential lateral to curb</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>Residential lateral to sewer main</td>
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</tr>
<tr>
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<td>$2,000.00</td>
</tr>
<tr>
<td>Commercial lateral to sewer main</td>
<td>$5,000.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Sewer Connection Main Installation or Replacement</th>
<th>Actual Cost</th>
</tr>
</thead>
</table>

| Sewer Manhole                                         | $2,000              |

<table>
<thead>
<tr>
<th>Water Service Connection (lateral installation/replacement)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$1000.00 for up to 2” lateral</td>
</tr>
<tr>
<td></td>
<td>$1500.00 for 3” – 8” lateral</td>
</tr>
</tbody>
</table>

<p>| Water Service Meter                                     | $1000.00 for up 2” meter |</p>
<table>
<thead>
<tr>
<th>Activity</th>
<th>Deposit Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Storm Drain Connection Installation or</td>
<td>$1500.00 3&quot; and above</td>
</tr>
<tr>
<td>Replacement</td>
<td>Actual Cost</td>
</tr>
<tr>
<td>Traffic Signal</td>
<td>Actual Cost</td>
</tr>
<tr>
<td>Striping</td>
<td>Actual Cost</td>
</tr>
<tr>
<td>All other excavation not listed</td>
<td>Actual Cost</td>
</tr>
</tbody>
</table>

SECTION 6: This Resolution is exempt from review under the California Environmental Quality Act (Cal. Pub. Res. Code §§ 21000, et seq.; “CEQA”) and CEQA regulations (Cal. Code Regs. tit. 14, §§ 15000, et seq.) because it establishes, modifies, structures, restructures, or approves rates and charges for meeting operating expenses; purchasing supplies, equipment, and materials; meeting financial requirements; and obtaining funds for capital projects needed to maintain service within existing service areas. This Resolution, therefore, is categorically exempt from further CEQA review under Cal. Code Regs. tit. 14, § 15273.

SECTION 7: This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

SECTION 8: The City Clerk will certify to the passage and adoption of this Resolution; will enter the same in the book of original Resolutions of said City; and will make a minute of the passage and adoption thereof in the record of proceedings of the City Council of said City, in the minutes of the meeting at which the same is passed and adopted.

PASSED AND ADOPTED this ___ day of August, 2008.

__________________________
Kelly McDowell, Mayor
I, Cindy Mortesen, City Clerk of the City of El Segundo, California, hereby certify that the whole number of members of the City Council of the City is five; that the foregoing Resolution No. ________ was duly passed and adopted by said City Council, approved and signed by the Mayor of said City, and attested to by the City Clerk of said City, all at a regular meeting of said Council held on the ______ day of ______________, 2008, and the same was so passed and adopted by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

________________________________
Cindy Mortesen,
City Clerk

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

By: __________________________________
Karl H. Berger
Assistant City Attorney
EL SEGUNDO CITY COUNCIL

AGENDA ITEM STATEMENT

AGENDA DESCRIPTION:

Consideration and possible action regarding acceptance of up to a $5,000,000 grant from the Federal Aviation Administration (FAA) to be used for the Residential Sound Insulation (RSI) Program.

RECOMMENDED COUNCIL ACTION:

1) City Council accepts FAA Grant Agreement for Project No. AIP 3-06-0139-52; 2) Authorize the Mayor to execute the FAA Grant Agreement; and 3) Alternatively, discuss and take other action related to this item.

BACKGROUND & DISCUSSION:

On July 24, 2008, staff applied for additional $5,000,000 in FAA Grant Funding for the City’s RSI Program. On August 12, 2008, the FAA sent a letter of a Draft Grant Agreement for $5,000,000. This grant is contingent upon execution of a Grant Agreement on or before August 29, and therefore staff is recommending authorizing the Mayor to execute a Grant Agreement for $5,000,000 in new funding from the FAA.

The offer is in keeping with previous terms and conditions of previous FAA grants accepted by the City. To date, the City has accepted fourteen (14) FAA grants totaling $29,808,880 and this would be the City’s fifteenth (15th) FAA grant, bringing the total to $34,808,880.

(Continued on next page...)

ATTACHED SUPPORTING DOCUMENTS:

1. Draft Grant Agreement from FAA

FISCAL IMPACT: $5,000,000 to be received in RSI Grant Funds

Operating Budget:
Amount Requested:
Account Number:
Project Phase:
Appropriation Required: ___Yes X No

ORIGINATED: DATE: August 7, 2008

James S. O’Neill, Program Manager

REVIEWED BY: DATE: 8/13/08

Jack Wayt, Interim City Manager
BACKGROUND & DISCUSSION (cont)

The FAA has verbally informed staff that the attached Grant Agreement is a draft only, as they are awaiting final approval of the funding, however they do expect approval by August 19. Staff has included the most recent documents available related to this grant, and placed this item on the City Council agenda in order to meet the August 29th deadline set by the FAA.

Staff recommends that City Council accept the FAA Grant Agreement to continue the Residential Sound Insulation Program. To date, the City has completed RSI Improvements on 758 Dwellings. This new grant will be used after current FAA grants and LAWA grants have been expended and is expected to help fund Groups 41-45.
U.S. Department of Transportation
Federal Aviation Administration

GRANT AGREEMENT
Part I - Offer

Date of Offer:
Los Angeles International Airport/Planning Area
Project No. 3-06-0139-052-2008
DUNS No. 077-264679

TO: City of El Segundo
(herin called the "Sponsor")

FROM: The United States of America (acting through the Federal Aviation Administration, herein called the "FAA")

WHEREAS, the Sponsor has submitted to the FAA Project Application dated July 24, 2008 for a grant of Federal funds for a project at or associated with the Los Angeles International Airport/Planning Area which Project Application, as approved by the FAA, is hereby incorporated herein and made part hereof; and

WHEREAS, the FAA has approved a project for the Airport or Planning Area (herin called the "Project") consisting of the following:

Noise mitigation measures for residences within 65-69 DNL in the city of El Segundo (approximately 120 residential units).

all as more particularly described in the Project Application.
NOW THEREFORE, pursuant to and for the purpose of carrying out the provisions of Title 49, United States Code, as amended, herein called the "Act," and in consideration of (a) the Sponsor's adoption and ratification of the representations and assurances contained in said Project Application and its acceptance of this Offer as hereinafter provided, and (b) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the assurances and conditions as herein provided, THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay, as the United States share of the allowable costs incurred in accomplishing the Project, 80 percent of those eligible project costs.

The Offer is made on and subject to the following terms and conditions:

**Conditions**

1. The maximum obligation of the United States payable under this offer shall be $5,000,000.00.

   For the purposes of any future grant amendments which may increase the foregoing maximum obligation of the United States under the provisions of Section 47108(b) of the Act, the following amounts are being specified for this purpose:

<table>
<thead>
<tr>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ 0.00</td>
<td>for planning</td>
</tr>
<tr>
<td>$ 5,000,000.00</td>
<td>for airport development or noise program implementation</td>
</tr>
</tbody>
</table>

2. The allowable costs of the project shall not include any costs determined by the FAA to be ineligible for consideration as to allowability under the Act.

3. Payment of the United States share of the allowable project costs will be made pursuant to and in accordance with the provisions of such regulations and procedures as the Secretary shall prescribe. Final determination of the United States share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.

4. The Sponsor shall carry out and complete the Project without undue delays and in accordance with the terms hereof, and such regulations and procedures as the Secretary shall prescribe, and agrees to comply with the assurances which were made part of the project application.

5. The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the sponsor.

6. This offer shall expire and the United States shall not be obligated to pay any part of the costs of the project unless this offer has been accepted by the sponsor on or before August 29, 2008 or such subsequent date as may be specified in writing by the FAA.

7. The Sponsor shall take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner in any project upon which Federal funds have been expended. For the purposes of this grant agreement, the term "Federal funds" means funds however used or disbursed by the Sponsor that were originally paid pursuant to this or any other Federal grant agreement. It shall obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. It shall return the recovered Federal share, including funds recovered by settlement, order or judgment, to the Secretary. It shall furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share shall be approved in advance by the Secretary.

8. The United States shall not be responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this grant agreement.

9. Buy American Requirement. Unless otherwise approved by the FAA, it will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States, to be used for any project for airport development or noise compatibility for which funds are provided under this grant. The sponsor will include in every contract a provision implementing this special condition.
10. It is understood and agreed by and between the parties hereto that this Grant Offer is made and accepted based on estimates for the described airport development or noise program implementation; and the parties hereby covenant and agree that within 90 days from the date of acceptance of this Grant Offer, the Sponsor shall receive bids for the approved project contained within the grant description.

11. No payment shall be made under the terms of this grant agreement for work accomplished on privately owned land until the sponsor submits the agreement with the owner of the property required by Assurance 5d of the Part V Assurances and such agreement is determined to be satisfactory. As a minimum, the agreement with the private owner must contain the following provisions:

11.1. The property owner shall subject the construction work on the project to such inspection and approval during the construction or installation of the noise compatibility measures and after completion of the measures as may reasonably be requested by the Secretary or the sponsor.

11.2. The property owner shall assume the responsibility for maintenance and operation of the items installed, purchased or constructed under this grant agreement. Neither the FAA nor the sponsor bears any responsibility for the maintenance and operation of these items.

11.3. If Federal funds for the noise compatibility measures are transferred by the sponsor to the owner of the private property, or the owner's agent, the property owner shall agree to maintain and make available to the Secretary or the sponsor, upon reasonable request, records disclosing the amount of funds received and the disposition of those funds.

11.4. The property owner's right to sue the owner of Los Angeles International Airport for adverse noise impact will be abrogated if the property owner deliberately or willfully acts to reduce or destroy the effectiveness of the noise compatibility measures during the useful life of such measures. This obligation shall remain in effect throughout the useful life of the noise compatibility measures, but not to exceed twenty (20) years from the date of the sponsor's acceptance of Federal aid for the project.

12. The Sponsor agrees to request cash drawdowns on the letter of credit only when actually needed for its disbursements and to timely reporting of such disbursements as required. It is understood that failure to adhere to this provision may cause the letter of credit to be revoked.

13. It is mutually understood and agreed that if, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by $25,000.00 or five percent (5%), whichever is greater, the maximum obligation of the United States can be unilaterally reduced by letter from the FAA advising of the budget change. Conversely, if there is an overrun in the total actual eligible and allowable project costs, FAA may increase the maximum grant obligation of the United States to cover the amount of the overrun not to exceed the statutory percent limitation and will advise the Sponsor by letter of the increase. It is further understood and agreed that if, during the life of the project, the FAA determines that a change in the grant description is advantageous and in the best interests of the United States, the change in grant description will be unilaterally amended by letter from the FAA. Upon issuance of the aforementioned letter, either the grant obligation of the United States is adjusted to the amount specified or the grant description is amended to the description specified.

14. The attached Assurances is incorporated hereto with the Grant Offer and is made a part hereof.
The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, as provided by the Act, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the assurances and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION

________________________________________________________________________
Brian Q. Armstrong
Manager, Los Angeles Airport District Office

Part II - Acceptance

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Project Application.

Executed this ____________ day of August, 2008.

__________________________
City of El Segundo
(Name of Sponsor)

__________________________
(Signature of Sponsor's Designated Official Representative)

(SEAL)

__________________________
By: ________________________
(Typed Name of Sponsor's Designated Official Representative)

__________________________
Title: ________________________
(Typed Title of Sponsor's Designated Official Representative)

Attest: ________________________

__________________________
Title: ________________________

CERTIFICATE OF SPONSOR'S ATTORNEY

I, ________________________, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of California. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper in accordance with the laws of the said State and the Act. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at ______________________ this ____________ day of August, 2008.

__________________________
(Signature of Sponsor's Attorney)
EL SEGUNDO CITY COUNCIL

AGENDA ITEM STATEMENT

AGENDA DESCRIPTION:
Consideration and possible action to introduce and waive first reading of an ordinance amending the El Segundo Municipal Code (ESMC) with regard to local campaign financing and signs.

RECOMMENDED COUNCIL ACTION:
(1) Introduce and waive first reading of an Ordinance amending ESMC §§ 1-9-2, 1-9-3, 1-9-5, and 15-18-10(G); (2) Alternatively, discuss and take other action related to this item.

BACKGROUND & DISCUSSION:
At the May 20, 2008 Council Meeting, the City Council requested that an ordinance be prepared to amend ESMC provisions regulating local elections. The City Council expressed its desire that campaign signs include the name and phone number of person(s) that paid for political signs; that the ESMC clarify that a candidate’s contribution of his/her funds to his/her own campaign is not regulated by the ESMC; to increase the cap on campaign contributions from $499 to $750; and to establish a time period before a local election for erecting campaign signs.

ATTACHED SUPPORTING DOCUMENTS:
Draft Ordinance.

FISCAL IMPACT: N/A
Operating Budget:
Account Number:
Amount Requested:
Project Phase:
Appropriation Required:

ORIGINATED:

Mark D. Hensley, City Attorney

REVIEWED BY:

Jack Wayt, Interim City Manager

MEETING DATE: August 19, 2008
AGENDA HEADING: New Business
BACKGROUND & DISCUSSION (CONTINUED):

The City’s Ability to Regulate Local Elections

The Political Reform Act of 19741 ("PRA") gives the City limited authority to regulate local elections: (1) the City may impose “additional requirements on any person if the requirements do not prevent the person from complying with [the PRA]...” ; and (2) the City may adopt “contribution limitations or prohibitions” for local elections if such regulations do not restrict non-public communications (that is, those that are not made for “general public advertising”) made to “members, employees, shareholders” or their families.” These latter communications are not considered “contributions” under the PRA.

It is the FPPC’s opinion that these provisions of the PRA make it “clear that the [PRA] is not intended to so occupy the field it regulates that … local government agencies are powerless to enact additional regulations.” Additionally, although the PRA establishes a uniform law regulating election financing, the FPPC believes that cities may “impose additional obligations [on local elections] or, in the context of local elections, completely different expenditure and contribution limits.” Any such local regulations, however, would still be subject to constitutional challenges based upon the United States or California Constitutions.

2008 City Council directed changes

As summarized below, the draft Ordinance addresses the issues identified by the City Council in May.

1. Name and Phone numbers on campaign signs

The ESMC already requires “campaign literature” to include the name, street address, and city of every person who contributes 25% or more of manufacturing costs associated with such campaign literature. Proposed changes to ESMC § 1-9-2 and 1-9-5 would clarify that “campaign literature” includes political signs for local elections. Additionally, a phone number would be required to be printed on campaign literature.

2. Candidates’ contribution of own funds

In Buckley v. Valeo (1976) 424 U.S. 1, the United States Supreme Court determined that limiting a candidate’s expenditure of his/her own money in support of his/her campaign was an unconstitutional infringement upon the candidate’s First Amendment rights. The draft ordinance would amend ESMC § 1-9-2 to clarify this issue.

3. Increasing the limit on contributions

The ESMC currently prohibits persons from making annual anonymous contributions of $500 or more to any candidate. At its May 20th meeting, the City Council asked that this limit be raised to contributions that exceed $750. This change is included in the draft ordinance.

4. Timing for erecting political signs

The draft ordinance adds a provision to ESMC § 15-18-10(G) that essentially prohibits more than two political signs from being erected more than 60 days before a local election. The

ESMC currently does not restrict the number of political signs that can be erected; its only limitation is that such signs be removed 48 hours after the local election.

Note that this proposed regulation may be vulnerable to a First Amendment challenge. A similar but potentially distinguishable restriction was held to be unconstitutional in City of Antioch v. Candidates’ Outdoor Graphic Service (1982) 557 F.Supp. 52 (a copy of which is attached with the staff report). The municipal code at issue in that case, however, generally banned all signs except for a 60 day window before a local election when it allowed campaign signs. In contrast, the ESMC currently allows two temporary signs (including political signs) to be erected as a matter of right year-round. During elections, the ESMC allows an unlimited number of campaign signs to be erected (the ESMC currently does not impose a time limitation before which campaign signs may not be erected). Accordingly, the proposed amendment would just clarify that 60 days prior to an election that only two signs (including political signs) are allowed on a parcel. Given that the City’s ordinance does allow political signs on a year-round basis and only restricts the number of political signs that are posted when there is no pending election, the proposed ordinance is distinguishable from that in the Antioch and may therefore be legally defensible since it provides a year-round opportunity for property owners to place political signs on their property.
ORDINANCE NO. ____

AN ORDINANCE AMENDING EL SEGUNDO MUNICIPAL CODE §§ 1-9-2, 1-9-3, 1-9-5, AND 15-18-10(G) RELATING TO LOCAL ELECTION REGULATIONS.

The city council of the city of El Segundo does ordain as follows:

SECTION 1: The city council finds and declares as follows:

A. The ability to contribute time and money to local political campaigns is a legitimate and important means of participating in the political process.

B. Large monetary contributions, however, may give at least the appearance that candidates for elective office may be unduly influenced through financial means.

C. It is in the public interest that the City have a means by which all persons within the community have a fair and equitable opportunity to participate in local government whether by elected office or through other means.

D. To assist with the goal of providing an even playing field to all candidates seeking elective office, and to engender public trust in the political process, the City Council enacted regulations for campaign contributions as set forth in Chapter 9 to Title 1 of the El Segundo Municipal Code ("ESMC") entitled Campaign Contributions and consisting of §§ 1-9-1 to 1-9-8.

E. When adopting this Ordinance, the City Council considered, among other things, the California Supreme Court's decision in Griset v. Fair Political Practices Commission (1994) 8 Cal.4th 851, cert. den. 15 S.Ct. 1794, and the cases cited therein. The regulations adopted by this Ordinance are intended to balance individual's First Amendment rights with the electorate's right to be fully informed and the public interest in preventing corruption in local elections.

F. By adopting these regulations, the City intends to fully inform voters regarding candidate and campaign viewpoints; to assist voters with
distinguishing between accurate and deceptive information; deter
defamatory statements; prevent corruption; and assist law enforcement.

G. The City has a compelling interest to promote an informed electorate;
deter corruption in local elections; and gather evidence to facilitate
enforcement of local election regulations. Accordingly, it is in the public
interest to adopt regulations imposing strict disclosure requirements upon,
among other things, unsolicited campaign literature that is distributed
during the course of local political campaigns.

SECTION 2: ESMC § 1-9-2 is amended to read as follows:

“1-9-2: Definitions. Except as otherwise stated below, the words and
phrases used in this Chapter generally have the same meanings as in the
California Election Code, the Political Reform Act, and those regulations
promulgated by the Fair Political Practices Commission. In addition, unless the
contrary is stated or clearly appears from the context, the following definitions will
govern the construction of the words and phrases used in this chapter:

A. “Campaign literature” means unsolicited circulars, pamphlets, letters,
posters, political signs, or other reproduced matter referring to an election,
candidate, or any ballot measure. Campaign literature does not include
other campaign paraphernalia such as, without limitation, pencils, buttons,
or similar items.

B. “Contribution” means a payment, loans and extensions of credit (other
than those made by financial institutions), a payment of a loan from a
financial institution by a third party, or an enforceable promise to make a
payment, except to the extent that full and adequate consideration is
received, unless it is clear from the surrounding circumstances that it is
not made for political purposes. An expenditure made at a candidate’s,
committee’s, or elected officer’s direction is a contribution to the
candidate, committee, or elected officer, unless full and adequate
consideration is received for making the expenditure.

1. “Contribution” includes purchasing tickets for events such as
dinners, luncheons, rallies, and similar fund-raising events; granting
discounts or rebates not extended to the public generally or
granting discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; and paying compensation by any person for the personal services or expenses of any other person if such services are rendered or expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration.

2. "Contribution" also includes any transfer of anything of value received by a committee from another committee. The term does not include amounts received under an enforceable promise to the extent such amounts were previously reported as a contribution. However, these amounts will be reported in the appropriate campaign statement.

3. "Contribution" does not include volunteer personal services or payments made by any individual for his or her own travel expenses if such payments are made voluntarily without any understanding or agreement that they will be directly or indirectly repaid to him.

4. In accordance with Buckley v. Valeo (1976) 424 U.S. 1, a candidate's direct contribution to his or her campaign is not regulated by this Chapter.

C. "Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, controlled committee, or committee.

SECTION 3: ESMC § 1-9-3 is amended to read as follows:

"1-9-3: Anonymous Contributions Prohibited; Contribution Limit.

A. It is unlawful for any person to make, and any candidate, controlled committee, or committee to solicit or accept, any anonymous contribution in a local election.

B. For local elections, it is unlawful for any person to make a contribution to a candidate, controlled committee, committee that exceeds seven hundred
fifty dollars ($750) in a calendar year."

SECTION 4: ESMC § 1-9-5 is amended to read as follows:

"1-9-5: Anonymous Mailings Prohibited:

A. It is unlawful for any person, candidate, or committee to send any unsolicited piece of mail supporting or opposing any candidate or ballot measure in a local election that does not comply with the requirements of Government Code section 84305 or, if a slate mailer, Government Code section 84305.5.

B. In addition to the requirements of Government Code section 84305 or, if applicable, Government Code section 84305.5, campaign literature including, without limitation, mailers, must include the name and telephone number of any person contributing twenty five percent (25%) or more of the cost for producing the campaign literature. The text identifying such persons must conform with the requirements of Government Code section 84305 or, if applicable, Government Code section 84305.5."

SECTION 5: ESMC § 15-18-10(G) is amended to read as follows:

"G. Political: Political signs are allowed in any zone subject to the following:

1. Such signs cannot exceed four (4) square feet in area.

2. Except as otherwise allowed by this Chapter, such signs cannot be erected more than sixty (60) days before the election or ballot measure for which they are intended.

3. Except as otherwise allowed by this Chapter, such signs must be removed not later than forty eight (48) hours after the election or ballot measure for which they are intended."

SECTION 6: If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the city council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.
SECTION 7: The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of El Segundo’s book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 8: This Ordinance will become effective thirty (30) days following its passage and adoption.

PASSED AND ADOPTED this ___ day of __________, 2008.

_____________________________________
Kelly McDowell, Mayor
ATTEST:

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

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 Ordinance No. ________ was duly introduced by said City Council at a regular meeting held on the _____ day of ________________, 2008, and 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 ____ day of ________________, 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
ORDINANCE NO. ____

AN ORDINANCE AMENDING EL SEGUNDO MUNICIPAL CODE §§ 1-9-2, 1-9-3, 1-9-5, AND 15-18-10(G) RELATING TO LOCAL ELECTION REGULATIONS.

The city council of the city of El Segundo does ordain as follows:

SECTION 1: The city council finds and declares as follows:

A. The ability to contribute time and money to local political campaigns is a legitimate and important means of participating in the political process.

B. Large monetary contributions, however, may give at least the appearance that candidates for elective office may be unduly influenced through financial means.

C. It is in the public interest that the City have a means by which all persons within the community have a fair and equitable opportunity to participate in local government whether by elected office or through other means.

D. To assist with the goal of providing an even playing field to all candidates seeking elective office, and to engender public trust in the political process, the City Council enacted regulations for campaign contributions as set forth in Chapter 9 to Title 1 of the El Segundo Municipal Code ("ESMC") entitled Campaign Contributions and consisting of §§ 1-9-1 to 1-9-8.

E. When adopting this Ordinance, the City Council considered, among other things, the California Supreme Court's decision in Griset v. Fair Political Practices Commission (1994) 8 Cal.4th 851, cert. den. 15 S.Ct. 1794, and the cases cited therein. The regulations adopted by this Ordinance are intended to balance individual's First Amendment rights with the electorate's right to be fully informed and the public interest in preventing corruption in local elections.

F. By adopting these regulations, the City intends to fully inform voters regarding candidate and campaign viewpoints; to assist voters with

Page 1 of 6

August 13, 2008
distinguishing between accurate and deceptive information; deter defamatory statements; prevent corruption; and assist law enforcement.

G. The City has a compelling interest to promote an informed electorate; deter corruption in local elections; and gather evidence to facilitate enforcement of local election regulations. Accordingly, it is in the public interest to adopt regulations imposing strict disclosure requirements upon, among other things, unsolicited campaign literature that is distributed during the course of local political campaigns.

SECTION 2: ESMC § 1-9-2 is amended to read as follows:

"1-9-2: Definitions. Except as otherwise stated below, the words and phrases used in this Chapter generally have the same meanings as in the California Election Code, the Political Reform Act, and those regulations promulgated by the Fair Political Practices Commission. In addition, unless the contrary is stated or clearly appears from the context, the following definitions will govern the construction of the words and phrases used in this chapter:

A. "Campaign literature" means unsolicited circulars, pamphlets, letters, posters, political signs, or other reproduced matter referring to an election, candidate, or any ballot measure. Campaign literature does not include other campaign paraphernalia such as, without limitation, pencils, buttons, or similar items.

B. "Contribution" means a payment, loans and extensions of credit (other than those made by financial institutions), a payment of a loan from a financial institution by a third party, or an enforceable promise to make a payment, except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes. An expenditure made at a candidate’s, committee’s, or elected officer’s direction is a contribution to the candidate, committee, or elected officer, unless full and adequate consideration is received for making the expenditure.

1. "Contribution" includes purchasing tickets for events such as dinners, luncheons, rallies, and similar fund-raising events; granting discounts or rebates not extended to the public generally or...
granting discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; and paying compensation by any person for the personal services or expenses of any other person if such services are rendered or expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration.

2. “Contribution” also includes any transfer of anything of value received by a committee from another committee. The term does not include amounts received under an enforceable promise to the extent such amounts were previously reported as a contribution. However, these amounts will be reported in the appropriate campaign statement.

3. “Contribution” does not include volunteer personal services or payments made by any individual for his or her own travel expenses if such payments are made voluntarily without any understanding or agreement that they will be directly or indirectly repaid to him.

4. In accordance with Buckley v. Valeo (1976) 424 U.S. 1, a candidate’s direct contribution to his or her campaign is not regulated by this Chapter.

C. “Person” means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, controlled committee, or committee.

SECTION 3: ESMC § 1-9-3 is amended to read as follows:

*1-9-3: Anonymous Contributions Prohibited; Contribution Limit.*

A. It is unlawful for any person to make, and any candidate, controlled committee, or committee to solicit or accept, any anonymous contribution in a local election.

B. For local elections, it is unlawful for any person to make a contribution to a candidate, controlled committee, committee that exceeds seven hundred deleted: totaling five hundred.
SECTION 4: ESMC § 1-9-5 is amended to read as follows:

"1-9-5: Anonymous Mailings Prohibited:

A. It is unlawful for any person, candidate, or committee to send any unsolicited piece of mail supporting or opposing any candidate or ballot measure in a local election that does not comply with the requirements of Government Code section 84305 or, if a slate mailer, Government Code section 84305.5.

B. In addition to the requirements of Government Code section 84305 or, if applicable, Government Code section 84305.5, campaign literature including, without limitation, mailers, **must include the name and telephone number** of any person contributing twenty five percent (25%) or more of the cost for producing the campaign literature. The text identifying such persons **must conform with the requirements of Government Code section 84305 or, if applicable, Government Code section 84305.5.**"

SECTION 5: ESMC § 15-18-10(G) is amended to read as follows:

"G. Political: Political signs are allowed in any zone subject to the following:

1. Such signs cannot exceed four (4) square feet in area.

2. **Except as otherwise allowed by this Chapter, such signs cannot be erected more than sixty (60) days before the election or ballot measure for which they are intended.**

3. **Except as otherwise allowed by this Chapter, such signs must be removed not later than forty eight (48) hours after the election or ballot measure for which they are intended.**"

SECTION 6: If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the city council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.
SECTION 7: The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of El Segundo's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 8: This Ordinance will become effective thirty (30) days following its passage and adoption.

PASSED AND ADOPTED this ___ day of __________, 2008.

______________________________
Kelly McDowell, Mayor

ATTEST:

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

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 Ordinance No. _________ was duly introduced by said City Council at a regular meeting held on the _______ day of ____________, 2008, and 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 _______ day of ____________, 2008, and the same was so passed and adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:
AGENDA DESCRIPTION: Consideration and possible action to adopt a resolution opposing AB2427 (Eng); a bill limiting local governments' power to enforce regulations protecting the public health, safety and welfare. (Fiscal Impact: None.)

RECOMMENDED COUNCIL ACTION: (1) Adopt the attached resolution opposing AB2427; (2) Authorize appropriate legislative advocacy to oppose passage of the bill; (3) Alternately, discuss and take other action related to this item.

BACKGROUND & DISCUSSION:
This bill was sponsored the California Veterinary Medicine Association as a consequence of a 2007 Appellate Court decision in a case filed by the Association against the City of West Hollywood. The Court found that state law did not prohibit the city from imposing a ban on certain veterinary procedures to prevent animal cruelty. Further, the Court found that while state law prohibits a local agency from imposing additional licensing requirements, the Legislature had not explicitly nor implicitly preempted local regulations deemed to be an incidental restriction.

Veterinarians and other state-licensed professionals think the court’s decision could allow cities and counties to ban a variety of medical practices and undermine the fundamental purpose of statewide licensing by substituting local authority for that of state regulators.

(Continued on next page)

ATTACHED SUPPORTING DOCUMENTS:
1. Copies of AB2427 (Eng), bill analysis and current bill status and history.
2. Resolution

FISCAL IMPACT:
Operating Budget:
Amount Requested:
Account Number:
Project Phase:
Appropriation Required:  _Yes  _No

ORIGINATED BY: Kelly McDowell, Mayor  DATE: Aug 12, 08

REVIEWED BY: Jack Wayt, Interim City Manager  DATE: 8/13/08
Background and Discussion (cont’d):

This measure is opposed by local government agencies and associations (including the California Contract Cities Association, League of California Cities, and California State Association of Counties) as an unnecessary intrusion into local governments’ power to enforce regulations protecting the public health, safety, and welfare.

It is recommended that the City Council adopt a resolution opposing AB2427.
An act to amend Section 460 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL’S DIGEST

AB 2427, as amended, Eng. Professions and vocations.
Existing law makes it unlawful for a city or county to prohibit a person, authorized by one of the agencies of the Department of Consumer Affairs to engage in a particular business, from engaging in that business, occupation, or profession or any portion thereof.
This bill would also make it unlawful for a city or county to prohibit that person or a group of those persons from engaging in any act or series of acts that fall within the statutory or regulatory definition of that business, occupation, or profession, but would prohibit construing this provision to prohibit the enforcement of a local ordinance effective prior to January 1, 2009, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 460 of the Business and Professions Code is amended to read:

460. No city or county shall prohibit a person or group of persons, authorized by one of the agencies in the Department of
Consumer Affairs by a license, certificate, or other such means to
engage in a particular business, from engaging in that business,
occupation, or profession or any portion thereof, or from engaging
in any act or series of acts that fall falls within the statutory or
regulatory definition of that business, occupation, or profession.

Nothing. However, nothing in this section shall be construed to
prohibit the enforcement of a local ordinance effective prior to
January 1, 2009, related to any act or series of acts that falls within
the statutory or regulatory definition of that business, occupation,
or profession. In addition, nothing in this section shall prohibit
any city or county or city and county from levying a business
license tax solely for revenue purposes nor any city or county from
levying a license tax solely for the purpose of covering the cost of
regulation.
CURRENT BILL STATUS

MEASURE : A.B. No. 2427
AUTHOR(S) : Eng.
TOPIC : Professions and vocations.
HOUSE LOCATION : SEN
LAST AMENDED DATE : 07/01/2008

TYPE OF BILL :
Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Non-Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 07/01/2008
LAST HIST. ACTION : Read second time, amended, and to third reading.
FILE : SEN THIRD READING
FILE DATE : 08/11/2008
ITEM : 97

COMM. LOCATION : SEN BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT

TITLE : An act to amend Section 460 of the Business and Professions Code, relating to professions and vocations.
COMPLETE BILL HISTORY

BILL NUMBER : A.B. No. 2427
AUTHOR : Eng
TOPIC : Professions and vocations.

TYPE OF BILL :
Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Non-Fiscal
Non-Tax Levy

BILL HISTORY
2008
July 1 Read second time, amended, and to third reading.
June 30 From committee: Amend, and do pass as amended. (Ayes 5. Noes 0.)

June 10 In committee: Hearing postponed by committee.
June 9 In committee: Hearing postponed by committee.
June 4 From committee: Do pass, and re-refer to Com. on B., P. & E.D.
Re-referred. (Ayes 4. Noes 0.)

May 1 Referred to Coms. on L.GOV. and B., P. & E.D.
Apr. 22 In Senate. Read first time. To Com. on RLS. for assignment.
Apr. 21 Read third time, passed, and to Senate. (Ayes 65. Noes 7. Page 4737.)
Apr. 10 Read second time. To third reading.
Apr. 9 From committee: Do pass. (Ayes 10. Noes 0.) (April 9).
Mar. 6 Referred to Com. on B. & P.
Feb. 22 From printer. May be heard in committee March 23.
Feb. 21 Read first time. To print.
THIRD READING

Bill No:  AB 2427
Author:  Eng (D)
Amended:  7/1/08 in Senate
Vote:  21

SENATE LOCAL GOVERNMENT COMMITTEE :  4-0, 6/4/08
AYES:  Cox, Harman, Kehoe, Machado
NO VOTERecordED:  Negrete McLeod

SENATE BUS., PROF. & ECON. DEVEL. COMMITTEE :  5-0, 6/23/08
AYES:  Aanestad, Denham, Florez, Harman, Yee
NO VOTERecordED:  Ridley-Thomas, Calderon, Corbett,
Simitian

ASSEMBLY FLOOR :  65-7, 4/21/08 - See last page for vote

SUBJECT :  Professions and vocations

SOURCE :  California Veterinary Medicine Association

DIGEST :  This bill restricts a city or county from
prohibiting a person, or group of persons, authorized by
one of the agencies in the Department of Consumer Affairs
by a license, certificate, or other such means to engage in
a particular business, from engaging in any act or series
of acts that falls within the statutory of regulatory
definition of that business, occupation, or profession.
This bill does not void local ordinances in effect prior to
January 1, 2009.

CONTINUED
ANALYSIS: The California Department of Consumer Affairs (DCA) issues statewide licenses in more than 100 business and 200 professional categories, including: architects, automotive repair facilities, contractors, cosmetologists, doctors, dentists, engineers, and veterinarians. Semi-autonomous boards, bureaus, commissions, and other regulatory entities, whose members are appointed by the Governor and the Legislature and which are administered by the DCA, establish minimum statewide qualifications and levels of competency for licensure and enforce occupational standards of practice.

Counties or cities may not prohibit a person authorized by an agency of the DCA to engage in a particular business, from engaging in that business, occupation, or profession, or any portion thereof (AB 2310 [Shoemaker], of 1967).

A 2007 appellate court decision in California Veterinary Medical Association (CVMA) v. City of West Hollywood found that state law does not preempt or otherwise prohibit a City of West Hollywood ordinance which, to prevent animal cruelty, imposed a ban on the performance of declawing procedures on any animal within the city. The court found that the language enacted by the 1967 Shoemaker bill only prohibits a local agency from imposing additional licensing requirements or qualifications on a state licensed profession. The court also found that, in the California Veterinary Medical Practice Act, the Legislature has neither explicitly nor implicitly preempted local regulations by occupying the field of regulating the practice of veterinary medicine. As a result, the court decided that West Hollywood's declawing ordinance was permissible as an incidental restriction on the manner in which veterinary medicine is practiced.

This bill restricts a city or county from prohibiting a person, or group of persons, authorized by one of the agencies in the Department of Consumer Affairs by a license, certificate, or other such means to engage in a particular business, from engaging in any act or series of acts that falls within the statutory of regulatory definition of that business, occupation, or profession. This bill does not prohibit the enforcement of a local ordinance effective prior to January 1, 2009.
Last year's California Veterinary Medical Association (CVMA) v. West Hollywood decision disrupted a balance between local regulatory power and the state power to license businesses and professions that had been maintained for nearly 40 years. Veterinarians and other state-licensed professionals think that the court's decision could allow cities and counties to ban a variety of medical practices, including elective cosmetic surgery, the use of mercury in dental fillings, and some fertility procedures. That result undermines the fundamental purpose of statewide licensing by substituting the judgment of local elected officials for that of state regulators. DCA's appointed regulatory bodies possess the necessary expertise to regulate the uniform statewide conduct of the professions. Granting such wide latitude to cities and counties could result in a patchwork of conflicting local standards for hundreds of different professions, confusing both licensees and consumers. This bill restores the equilibrium between the state's power to establish and enforce uniform occupational standards and local governments' power to enforce regulations protecting the public health, safety, morals, and general welfare.

Related legislation

AB 395 (Koretz), 2003, would have prohibited licensed veterinarians from performing or arranging surgical declawing, onychectomies and tendonectomies on any domestic or exotic cat. This bill was held in the Assembly Business and Professions Committee.

AB 1857 (Koretz) Chapter 876, Statutes of 2004, makes it a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, by a fine of $10,000, or by both, to declaw any cat that is a member of an exotic or native wild cat species, as defined.

SB 1548 (Figueroa) Chapter 467, Statutes of 2004, initially included language which would have made it a misdemeanor for any person to crop ears of any dog, or to procure the cropping of a dog's ears within the state of California, except for the treatment of disease or injury of the dog, as defined. Defined ear cropping as the surgical alteration of the pinna that is performed for the purpose of manipulating the ears of any dog for cosmetic procedures so the ears heal pointed. This language was removed from the bill in Assembly Appropriations because of major opposition from breeders. However, the CVMA was in
support of this language.

**FISCAL EFFECT**: Appropriation: No  Fiscal Com.: No  Local: No

**SUPPORT**: (7/8/08)

- California Veterinary Medicine Association (source)
- American Federation of State, County, and Municipal Employees
- American Nurses Association/California
- American Society of Landscape Architects
- California Association of Marriage and Family Therapists
- California Dental Association
- California Hospital Association
- California Land Surveyors Association
- California Optometric Association
- Veterinary Medical Board

**OPPOSITION**: (7/8/08)

- Action for Animals
- Animal Legal Defense Fund
- Animal Protection Institute
- Animal Switchboard
- Association of Veterinarians for Animal Rights
- Born Free USA united with Animal Protection Institute
- California Animal Association
- California Contract Cities Association
- California Federation for Animal Legislation
- California Municipal Revenue & Tax Association
- California State Association of Counties
- City of Santa Monica
- City of West Hollywood
- Give A Dog A Home
- League of California Cities
- Mayor Antonio R. Villaraigosa, City of Los Angeles

People for the Ethical Treatment of Animals
- San Diego Animal Advocates
- State Humane Association of California
- The City of West Hollywood
- The Human Society Veterinary Medical Association
- The Humane Society of the United States
- The League of Humane Voters
- The Paw Project
- United Animal Nations

**ASSEMBLY FLOOR**: AYES:  Adams, Aghazarian, Anderson, Bass, Beall, Benoit,
Berg, Blakeslee, Caballero, Charles Calderon, Carter, Cook, Coto, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Emmerson, Eng, Evans, Fuentes, Fuller, Furutani, Gaines, Galgiani, Garcia, Garrick, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jeffries, Jones, Karnette, Keene, La Malfa, Lieber, Lieu, Ma, Maze, Mendoza, Mullin, Nakanishi, Niello, Parra, Plescia, Portantino, Price, Sharon Runner, Salas, Silva, Smyth, Solorio, Spitzer, Strickland, Swanson, Torrico, Tran, Villines, Walters, Wolk, Nunez

NOES: Feuer, Hancock, Laird, Leno, Levine, Nava, Ruskin

NO VOTE RECORDED: Arambula, Berryhill, Brownley, Davis, Dymally, Krekorian, Saldana, Soto

AGB:do 7/8/08 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****
A RESOLUTION OF THE CITY OF EL SEGUNDO
OPPOSING AB 2427 (ENG) A BILL LIMITING LOCAL GOVERNMENTS' POWER TO ENFORCE REGULATIONS PROTECTING THE PUBLIC HEALTH, SAFETY AND WELFARE

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

SECTION 1: The City Council finds as follows:

A. While counties and cities may not prohibit a professional licensed by the California Department of Consumer services from engaging in that business, occupation or profession; nevertheless, state law does not and should not explicitly preempt local regulations;

B. Local government agencies have and should retain the authority and obligation to enact and enforce regulations that protect the health, safety and welfare of the public;

C. Special-interest sponsored legislative efforts - like AB2427 - which unreasonably restrict or intrude upon local governments' power to enforce regulations protecting the public health, safety and welfare should be opposed;

SECTION 2: The City of El Segundo opposes AB 2427 as it unreasonably limits and restricts local governments' power to enforce regulations protecting the public health, safety, and welfare.

SECTION 3: The Mayor, City Council Members and the City Manager are hereby authorized to communicate the City Council's policy position on this matter to members of the Legislature, the Governor and administrative agencies as necessary.

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

SECTION 5: This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.
PASSED AND ADOPTED this 5th day of August 2008.

___________________________
Kelly McDowell,  
Mayor

ATTEST:

___________________________
Cindy Mortesen,  
City Clerk

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

By: _________________________
   Karl H. Berger  
   Assistant City Attorney