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, OCTOBER 6, 2009 – 6:00 P.M.**

Next Resolution # 4622
Next Ordinance # 1434

6:00 P.M. SESSION

CALL TO ORDER

ROLL CALL

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

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

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

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

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Government Code §54956.9(b): -0- potential case (no further public statement is required at this time); Initiation of litigation pursuant to Government Code §54956.9(c): -1- matter.

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

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

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, OCTOBER 6, 2009 - 7:00 P.M.

Next Resolution # 4622
Next Ordinance # 1434

7:00 P.M. SESSION
CALL TO ORDER
INVOCATION – Pastor Roger Kinsey, Pacific Baptist Church
PLEDGE OF ALLEGIANCE – Council Member Bill Fisher
PRESENTATIONS

a. Presentation by the El Segundo Library introducing the “One City, One Book” event during October and November.
b. Presentation of Certificates of Commendation for the efforts and teamwork which saved the life of a swim participant at the Urho Saari Swim Stadium on August 27, 2009.
c. Proclamation announcing the month of October 2009 as “Family History Month”
d. Proclamation announcing October 4th through 10th as Fire Prevention Week.

ROLL CALL

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

A. PROCEDURAL MOTIONS

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

B. SPECIAL ORDERS OF BUSINESS (PUBLIC HEARING)

1. Consideration and possible action to conduct a Public Hearing on the operating and capital outlay requests up to $75,000 in the existing Citizens Option for Public Safety (COPS) Supplemental Law Enforcement Services Fund (SLESF) account by the Chief of Police. The grant requires that expenditures will be utilized to supplement “front line law enforcement” (includes hiring officers, funding special enforcement details, and purchasing equipment). (Fiscal Impact: $75,000 from COPS grant fund)
Recommendation – (1) Open Public Hearing to consider funding requests from the Chief of Police; (2) Discussion; (3) Adopt Resolution approving the use of COPS grant funds to purchase equipment related to supplementation of “front line law enforcement”; (4) Alternatively discuss and take other action related to this item.
C. UNFINISHED BUSINESS

2. Consideration and possible action regarding directing staff to draft another proposed change to the City’s film Ordinance (El Segundo Municipal Code Section 4-11) to include allowing potentially unlimited filming days in commercial and industrial areas that are not within 275 feet of residential properties. (Fiscal Impact: None)

Recommendation – (1) Consideration and possible action to direct staff to draft a proposed change to the ESMC filming Ordinance to include allowing potentially unlimited filming days in commercial and industrial areas that are not within 275 feet of residential properties; (2) Alternatively, discuss and take other action related to this item.

D. REPORTS OF COMMITTEES, COMMISSIONS AND BOARDS

E. CONSENT AGENDA

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

3. Warrant Numbers 2573723 to 2574038 on Register No. 24 in the total amount of $6,869,291.89 and Wire Transfers from 09/04/09 through 09/24/09 in the total amount of $2,635,721.23.

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

4. Regular City Council Meeting Minutes of September 15, 2009 and Special City Council Meeting Minutes of September 17, 2009.

Recommendation – Approval.

5. Consideration and possible action to waive the first reading and introduce Ordinance No. 1433 adding a new Chapter 10-5 to the El Segundo Municipal Code ("ESMC") regulating water conservation methods. (Fiscal Impact: None)

Recommendation – (1) Waive first reading and introduce Ordinance No. 1433; (2) Alternatively discuss and take other action related to this item.
6. Consideration and possible action regarding the acceptance of $158,486 in grant funding from the U.S. Department of Homeland Security, through the Office of Grants and Training, under Fiscal Year 2008 Urban Areas Security Initiative (UASI) to pursue training and breathing equipment. (Fiscal Impact: $158,486)

Recommendation – (1) Authorize the acceptance of $158,486 in grant funds from the UASI 2008 grant program; (2) Authorize the City Manager to sign an Agreement with the City of Los Angeles who will serve as grant administrator; (3) Alternatively discuss and take other action related to this item.

7. Consideration and possible action to allow a banner from the El Segundo High School Alumni Association to be hung over Main Street at no cost. (Fiscal Impact: $178)

Recommendation – (1) Approve the request from the El Segundo High School Alumni Association regarding its banners; (2) Alternatively, discuss and take other action related to this item.

8. Consideration and possible action regarding the modification of an existing Alcoholic Beverage Control (ABC) license for on-site sale and consumption of alcohol (Type 41 – On-Sale Beer and Wine) at an existing restaurant located at 223 Richmond Street (Second City Bistro), EA No. 828 for AUP No. 09-01. In addition, consideration regarding whether to issue an encroachment permit for 223 Richmond Street in accordance with El Segundo Municipal Code § 9-2-6. Applicant: Scott Reed c/o Second City Bistro (Fiscal Impact: N/A)

Recommendation – (1) Receive and file this report without objecting to the modification of a Type 41 ABC license at 223 Richmond Street; (2) Issue an encroachment permit in accordance with El Segundo Municipal Code ("ESMC") § 9-2-6, relating to the encroachment into public right-of-ways; (3) Alternatively, discuss and take other possible action related to this item.

9. Consideration and possible action to approve a Professional Service Agreement with RRM Design Group for Architectural and Engineering Service to develop conceptual and final design plans for construction of a new Beach Lifeguard Station at the El Segundo Beach (south end of the beach parking lot, at the end of Grand Avenue on Vista Del Mar) with storage, and public restrooms including a shower and drinking fountain. (Fiscal Impact: $294,554.00)

Recommendation – (1) Approve a Professional Service Agreement with RRM Design Group; (2) Authorize the City Manager to execute the agreement in a form as approved by the City Attorney; (3) Alternatively, discuss and take other possible action related to this item.
10. Consideration and possible action regarding the Adoption of Plans and Specifications and authorization to advertise for bid the Seismic Strengthening of the 3.1 Million Gallon Water Reservoir at 400 Lomita Street – Project No. PW 09-13 (Fiscal Impact: $1,500,000.00)
Recommendation – (1) Adopt Plans and Specifications; (2) Authorize staff to advertise the project for receipt of construction bids; (3) Alternatively, discuss and take other action related to this item.

11. Consideration and possible action regarding the acceptance of the Douglas Street Gap Closure Project PW 05-06. (Fiscal Impact: None)
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.

12. Consideration and possible action to extend the City’s agreement with Cassidy & Associates through September 30, 2010, for the provision of legislative advocacy services in Washington, D.C., and approve federal work plan. (Fiscal Impact: $160,000 for FY 2009-2010)
Recommendation – (1) Authorize the Mayor to execute the attached agreement with Cassidy & Associates; (2) Approve the federal advocacy work plan as outlined in Cassidy & Associates Memorandum of September 22, 2009; (3) Authorize an additional appropriation of $20,000 from unappropriated reserves; (4) Instruct the City Manager, affected departments, and the City’s Washington, D.C. advocate to work with the Congressional staff and local government associations to pursue the City’s federal funding and program objectives; (5) Alternatively, discuss and take other action related to this item.

13. Consideration and possible action to extend the City’s agreement with MWW Group through September 30, 2010, for consultant and advocacy services related to the City’s interests and efforts concerning Los Angeles International Airport. (Fiscal Impact: $87,000)
Recommendation – (1) Authorize the Mayor to execute the attached agreement with the MWW Group; (2) Alternatively, discuss and take other action related to this item.
14. Consideration and possible action to amend the City's agreement with Shute, Mihaly & Weinberger, for legal services to the City of El Segundo in connection with Los Angeles International Airport. (Fiscal Impact: $125,000)

Recommendation – (1) Authorize the Mayor to execute an amendment to Contract No. 3649 with Shute, Mihaly & Weinberger, in a form approved by the City Attorney; (2) Alternatively, discuss and take other action related to this item.

15. Consideration and possible action authorizing the recording of the Notices of Completion and authorizing the City Manager to accept completion of work for 27 homes related to the City's Residential Sound Insulation Program's Group 29 (Project No. RSI 08-17) (Final Contract Amount: $502,655.89)

Recommendation – (1) Authorize the City Clerk to file the City's Planning and Building Safety Director's Notice of Completion in the County Recorder's Office; (2) Authorize the City Manager, or designee, to close out Project No. RSI 08-17; (3) Alternatively discuss and take other action related to this item.

CALL ITEMS FROM CONSENT AGENDA

F. NEW BUSINESS

16. Consideration of whether to deny a proposal to allow: 1) the construction of a six-story, 71,005 square-foot, 152-guest suite hotel in-lieu of a six-story, 61,104 square-foot, 167-room hotel involving a change in brand from an Aloft Hotel to a Cambria Suites Hotel; and 2) a Specific Plan to allow a maximum floor area ratio (FAR) of 0.92 at 101 Continental Boulevard. Applicant: JF El Segundo Owner, LLC (Fiscal Impact: N/A)

Recommendation – (1) Consider whether to deny a request by JF El Segundo Owner, LLC to allow for the construction of a 71,005 square-foot, 152-guest suite hotel with a 0.92 FAR; (2) Alternatively, receive and file this report. If the City Council does not deny the request, the applicant may submit an application, including, without limitation, environmental documentation to comply with the requirements of the California Environmental Quality Act (“CEQA”), a Conditional Use Permit, and a Specific Plan; (3) Alternatively, discuss and take other possible 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 –

17. Consideration and possible action regarding introduction and first reading of an Ordinance amending El Segundo Municipal Code § 1-4-4 to allow City Council meetings scheduled for the same date as any regular or special election as defined by Election Code § 318 to be held on election day. (Fiscal Impact: None)

Recommendation – (1) Introduce and waive first reading of the Ordinance; (2) Schedule second reading and adoption of the Ordinance on October 20, 2009; (3) Alternatively discuss and take other action related to this item

Mayor Pro Tem Busch –

18. Consideration and possible action to direct staff to prepare necessary documents to return the Transient Occupancy Tax to the pre-1996 rate of 10% on the April 2010 ballot. (Fiscal Impact: Approximately $1,053,000)

Recommendation – (1) Alternatively, discuss and take other action related to this item.

Mayor McDowell –

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MEMORIALS –

CLOSED SESSION

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

REPORT OF ACTION TAKEN IN CLOSED SESSION (if required)

ADJOURNMENT

POSTED:

DATE: Sept. 30, 2009

TIME: 4:00 p.m.

NAME: [Signature]
Proclamation
City of El Segundo, California

WHEREAS, within our Nation’s libraries, genealogical societies and archives lie the treasured records that detail the history of our Nation, our States, our communities and our citizens; and

WHEREAS, an ever-growing number of people in our Nation, and in other nations, are collecting, preserving and sharing genealogies, personal documents and memorabilia that detail the life and times of families around the world; and

WHEREAS, the study of family history gives individuals a sense of their heritage and a sense of responsibility in carrying out a legacy that their ancestors began; and

WHEREAS, interest in our personal family history transcends all cultural and religious affiliations; and

WHEREAS, the involvement of national, State, and local officials in promoting genealogy and in facilitating access to family history records in archives and libraries are important factors in the successful perception of nationwide camaraderie, support and participation.

NOW, THEREFORE, the Mayor and Members of the City Council of the City of El Segundo, California, hereby proclaim the month of October 2009 as “Family History Month” and call upon members of the community to observe the month with appropriate ceremonies and activities.

Mayor Kelly McDowell
Mayor Pro Tem Eric H. Busch
Council Member Carl Jacobson
Council Member Bill Fisher
Council Member Don Brennan
b. Presentation of Certificates of Commendation for the efforts and teamwork which saved the life of a swim participant at the Urho Saari Swim Stadium on August 27, 2009.
c. Proclamation announcing the month of October 2009 as "Family History Month"
Proclamation

City of El Segundo, California

WHEREAS, Approximately 80% of all United States fire deaths occur in the home, and every three hours someone loses their life in a home fire, with cooking, heating and electrical fires representing the three leading causes of home fires; and

WHEREAS, The vast majority of home fires can be prevented by taking simple safety precautions; and

WHEREAS, The El Segundo Fire Department, which is dedicated to the safety of life and property from the devastating effects of fires and other emergencies, is joined by concerned citizens of our community, as well as businesses, the school district, service clubs and other organizations, in its fire safety efforts.

NOW, THEREFORE, the Mayor and Members of the City Council of the City of El Segundo, California, in commemoration of the great Chicago Fire of 1871, which killed 250 persons, left 100,000 homeless, and destroyed more that 17,400 buildings, and in order to raise the awareness in the community of the importance of practicing fire prevention and fire safety to avoid needless loss of property and life, do hereby proclaim the week of October 4 through October 10, 2009 as:

FIRE PREVENTION WEEK.

FURTHER, The Mayor and Members of the City Council join Fire Chief Kevin Smith in inviting the El Segundo community to observe Fire Prevention Week by practicing fire prevention and fire safety year-round and heeding the message "Stay Fire Smart! Don't Get Burned".

Mayor Kelly McDowell  
Mayor Pro Tem Eric K. Busch  
Council Member Bill Fisher  
Council Member Carl Jacobson  
Council Member Don Brann
EL SEGUNDO CITY COUNCIL  
AGENDA STATEMENT  

MEETING DATE: October 6, 2009  
AGENDA HEADING: Special Orders of Business

AGENDA DESCRIPTION:

Consideration and possible action to conduct a Public Hearing on the operating and capital outlay requests up to $75,000 in the existing Citizens Option for Public Safety (COPS) Supplemental Law Enforcement Services Fund (SLESF) account by the Chief of Police. The grant requires that expenditures will be utilized to supplement “front line law enforcement” (includes hiring officers, funding special enforcement details, and purchasing equipment). (Fiscal Impact: $75,000 from COPS grant fund)

RECOMMENDED COUNCIL ACTION:

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

ATTACHED SUPPORTING DOCUMENTS:

Draft Resolution

FISCAL IMPACT: Included in Adopted Budget

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ORIGINATED BY: Bob Turnbull, Captain
REVIEWED BY: David Cummings, Chief
APPROVED BY: Jack Wayt, City Manager

BACKGROUND AND DISCUSSION:

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

In May 2009, the City was awarded $25,000 and approved for acceptance at the August 4, 2009 council meeting. In late August, 2009, we received notification from the County of Los Angeles, Administrator of the COPS Grant, that our Annual report was due. During the audit of the El Segundo COPS account to complete the annual report, it was discovered that two unexpected additional payments in $25,000 increments were deposited during fiscal year 08/09.
Additionally, the City was advised by the grant administrator that the City should be awarded an additional $25,000 prior to the end of September, totaling the $100,000 requirement by statute. All listed funds are for FY 09/10.

All funds received under this grant must be utilized to supplement law enforcement activities and cannot be used to supplant existing funding. In the past, the funds have been used to purchase equipment directly used in “front line law enforcement.” This includes replacement handguns for all officers, less-than-lethal shotguns, tasers, DUI enforcement, and mobile data computers.

It is anticipated that a portion of these funds will be utilized during the fiscal year to purchase similar equipment. Proposed purchases of equipment or use of these funds must be approved by Council. Staff recommends the following items as four possible approved utilisations to be made with the COPS grant funds.

1. Replace/upgrade station video monitoring and recording system.
2. Purchase a PIPS Automated License Plate Recognition System
3. Overtime funding for special enforcement details.
4. Overtime costs associated with training recruit police officers.
RESOLUTION NO. _____

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

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

SECTION 1: The City Council finds as follows:

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

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

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

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

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

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

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

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

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

SECTION 5: This Resolution will become effective immediately upon adoption and will remain
effective unless repealed or superseded.
SECTION 6: 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 7: This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

PASSED AND ADOPTED this ___ day of _____________, 2009.

_________________________________
Kelly McDowell,
Mayor

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

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 ________________, 2009, 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

MEETING DATE: October 6, 2009

AGENDA STATEMENT

AGENDA HEADING: Unfinished Business

AGENDA DESCRIPTION:

Consideration and possible action regarding directing staff to draft another proposed change to the City’s film Ordinance (El Segundo Municipal Code Section 4-11) to include allowing potentially unlimited filming days in commercial and industrial areas that are not within 275 feet of residential properties. (Fiscal Impact: None)

RECOMMENDED COUNCIL ACTION:

1. Consideration and possible action to direct staff to draft a proposed change to the ESMC filming Ordinance to include allowing potentially unlimited filming days in commercial and industrial areas that are not within 275 feet of residential properties.

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

ATTACHED SUPPORTING DOCUMENTS:

FISCAL IMPACT: None

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ORIGINATED BY: Steve Jones, Business Services Manager

REVIEWED BY: Deborah Cullen, Director of Finance

APPROVED BY: Jack Wayt, City Manager

BACKGROUND AND DISCUSSION:

Subsequent to the September 17, 2009 Special City Council Meeting that was held to discuss proposed changes to the current filming Ordinance, Council Member Fisher contacted staff regarding adding another proposed change to the City’s filming Ordinance. In short, the current ordinance places a 20 day filming maximum on all of El Segundo neighbors when the intent of the subcommittee was only to put a maximum number of filming days on a resident location. This amendment would provide no filming day limits for industrial and commercial zones (given that they are not within 275 feet of a residential property). The currently proposed revisions to the Ordinance would place a 25 day limit on filming unless it is considered no impact filming. Under the proposed change, neighboring commercial and industrial properties would still have the right to object to and potentially prevent such filming based upon the protest procedures set forth in the Section 4-11-21 of the ESMC (more than a 50% protest prevents low impact filming, one protest prevents filming when street closures are required for filming, and more than a 10% protest by properties located within 275 feet of a filming site prevents filming other than low or no impact filming).
While City staff has not identified all of the commercial and industrial properties that would benefit from this change, it is believed that because of the proximity of homes to the downtown commercial areas and homes being located throughout most of the Smokey Hollow area, that the vast majority of the properties that would be affected by this proposed change are located east of Sepulveda and south of El Segundo Boulevards.

Upon receiving direction on this issue, staff will prepare a draft ordinance for consideration by the Council at its November 17, 2009 Council Meeting. This will allow sufficient time for the City to provide 30 days notice of the proposed changes to the California Film Commission as required by law.
## CITY OF EL SEGUNDO
### WARRANTS TOTALS BY FUND

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<td>AIR QUALITY INVESTMENT PROGRAM</td>
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<td>116</td>
<td>HOME SOUND INSTALLATION FUND</td>
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<td>117</td>
<td>HYPERSON MITIGATION FUND</td>
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<td>118</td>
<td>TDA ARTICLE 3 - SB 621 BIKeway FUND</td>
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<td>119</td>
<td>MTA GRANT</td>
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<td>121</td>
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<td>130</td>
<td>C.O.P.S. FUND</td>
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<td>122</td>
<td>L.A.W.A. FUND</td>
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<td>301</td>
<td>CAPITAL IMPROVEMENT FUND</td>
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<td>302</td>
<td>INFRASTRUCTURE REPLACEMENT FUND</td>
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<td>WATER UTILITY FUND</td>
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<td>WASTEWATER FUND</td>
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<td>GOLF COURSE FUND</td>
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<td>EXPENDABLE TRUST FUND - DEVELOPER FEES</td>
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<td>OUTSIDE SERVICES TRUST</td>
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**TOTAL WARRANTS**: $6,869,291.89

---

**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

- **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**: [Signature]  
**DATE**: 9/28/09

**CITY MANAGER**: [Signature]  
**DATE**: [Signature]

---

**VOID CHECKS DUE TO ALIGNMENT**: N/A

**VOID CHECKS DUE TO INCORRECT CHECK DATE**: N/A

**VOID CHECKS DUE TO COMPUTER SOFTWARE ERROR**: N/A

**NOTES**: N/A
CITY OF EL SEGUNDO  
PAYMENTS BY WIRE TRANSFER  
09/4/09 THROUGH 09/24/09

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<th>Date</th>
<th>Payee</th>
<th>Amount</th>
<th>Description</th>
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<td>Health Comp</td>
<td>499.75</td>
<td>Weekly claims</td>
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<td>9/3/2009</td>
<td>Employment Development</td>
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<td>LTD</td>
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<td>9/4/2009</td>
<td>State of CA EFT</td>
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<td>9/4/2009</td>
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<td>Lane Donovan Golf Pte</td>
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<td>9/4-9/24/09</td>
<td>Workers Comp Activity</td>
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<td>SCRMA checks issued</td>
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DATE OF RATIFICATION: 10/06/09  
TOTAL PAYMENTS BY WIRE: 2,635,721.23

Certified as to the accuracy of the wire transfers by:

Deputy City Treasurer  
Date 9/23/09

Director of Finance  
Date 9/28/09

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, SEPTEMBER 15, 2009 – 5:30 P.M.

5:30 P.M. SESSION

CALL TO ORDER – Mayor ProTem Busch at 5:30 p.m.

ROLL CALL

Mayor McDowell - Present - arrived at 5:45 p.m.
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:

Mark Hensley, City Attorney, stated that Council would be meeting in Closed Session pursuant to items identified on the agenda and that the Government Code §54956.9(b) items related to Business License Processing Fees and Firefighter Association negotiations.

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) -0- matter

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Government Code §54956.9(b): -2- potential case (no further public statement is required at this time); Initiation of litigation pursuant to Government Code §54956.9(c): -0- matter.

DISCUSSION OF PERSONNEL MATTERS (Gov’t Code §54957): - 0- matters
CONFERENCE WITH CITY’S LABOR NEGOTIATOR (Gov’t Code §54957.6): -0 matters

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, SEPTEMBER 15, 2009 - 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 – Council Member Don Brann

PRESENTATIONS

a. Council Member Fisher presented a Proclamation announcing observance of the 33rd Annual Richmond Street Fair on Saturday, September 26, 2009.

b. Council Member Jacobson presented a Proclamation announcing week of September 20th through 26th as Volunteer Recognition Week.

c. Mayor McDowell read a Proclamation declaring September 17 through 23, 2009 as Constitution Week.

ROLL CALL

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

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

Denise Devasquali, South Bay Workforce Investment Group, gave a brief presentation regarding on the 2008-2009 4th quarter summary.

Gail Church, Resident; spoke regarding the water conservation ordinance.
Bill Watkins, Resident and Member of the Board of Education; spoke regarding the Joint Use Agreement. He stated that the State budget to schools was reduced approximately 18%. He thanked the Council for their past support and any future support they can accommodate.

Liz Garnholtz, Resident; spoke regarding the budget and City's in-kind support and funding for the schools.

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 (Continued Public Hearing) regarding the Fiscal Year 2009-2010 Budget (including all City Revenues and Expenditures), Five-Year Capital Improvement Plan and Adoption of Resolutions approving Appropriation Limit, Preliminary Budget as amended, and Capital Improvement Plan as amended. (Copies of the Fiscal Year 2009-2010 Preliminary Budget can be found in the Library, City Clerk’s office, and on the City’s website.) (Fiscal Impact: None)

   Mayor McDowell stated this is the time and place hereto fixed for a continued public hearing regarding the Fiscal Year 2009-2010 Budget (including all City Revenues and Expenditures), Five-Year Capital Improvement Plan and Adoption of Resolutions approving Appropriation Limit, Preliminary Budget as amended, and Capital Improvement Plan as amended. (Copies of the Fiscal Year 2009-2010 Preliminary Budget can be found in the Library, City Clerk’s office, and on the City’s website.). Clerk Mortesen stated that proper notice was completed and one written communication had been received by City Clerk’s Office and had been copied to Council and copies provided for the public.

Deborah Cullen, Finance Director, gave a presentation.

Chris Thomason, El Segundo Firefighter Association President; spoke regarding the proposed budget adoption and the reduction in staffing in the Fire Department.

MOTION by Council Member Jacobson, SECONDED by Council Member Brann to close the Public Hearing. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

Mark Hensley, City Attorney, read by title only:
RESOLUTION NO. 4615

A RESOLUTION ADOPTING THE 2009-2010 FINAL OPERATING BUDGET FOR THE CITY OF EL SEGUNDO AND ADOPTING THE 2009-2010 CAPITAL IMPROVEMENT BUDGET.

MOTION by Mayor Pro Tem Busch, SECONDED by Council Member Fisher to adopt Resolution No. 4615 adopting the 2009-2010 Final Operating Budget and Five-Year Capital Improvement Plan for the City of El Segundo, as amended in Section 4, to reduce expenditures in the General Fund by $230,000 at the discretion of the City Manager, and Section 5, transferring funds from the Capital Improvements Budget to the General Fund to maintain the current funding to the El Segundo Unified School District for Fiscal Year 2009-2010 at $400,000. MOTION PASSED BY THE FOLLOWING VOICE VOTE: AYES: MCDOWELL, BUSCH, FISHER, BRANN; NOES: JACOBSON. 4/1

Mark Hensley, City Attorney, read by title only:

RESOLUTION NO. 4616

A RESOLUTION OF THE EL SEGUNDO CITY COUNCIL SETTING ITS APPROPRIATIONS LIMIT FOR FISCAL YEAR 2009-2010 IN ACCORDANCE WITH ARTICLE XIIIB OF THE CALIFORNIA CONSTITUTION.

MOTION by Council Member Busch, SECONDED by Council Member Fisher to adopt Resolution No. 4616 setting its Appropriations Limit for Fiscal Year 2009-2010 in accordance with Article XIIIB of the California Constitution. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

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.

2. Approved Warrant Numbers 2573484 to 2573723 on Register No. 23 in the total amount of $686,552.61 and Wire Transfers from 08/21/09 through 09/03/09 in the total amount of $233,660.86. 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.

3. Approved Regular City Council Meeting Minutes of September 1, 2009.
4. Approved ongoing service agreements, amendments and issuance of blanket purchase orders for Fiscal Year 2009/2010 in excess of $25,000 for the City Manager's Office. (Fiscal Impact: $167,100) Authorized the City Manager to execute a contract amendment and/or purchase order with Tyler Technologies for maintenance of the existing Eden finance system, as approved to form by the City Attorney, not to exceed $27,100; Authorized the City Manager to execute a contract amendment and/or purchase order with Shannon David, Inc. for professional services with the City's business recruitment and marketing program, as approved to form by the City Attorney, not to exceed $140,000.

5. Waived the formal bidding process pursuant to the El Segundo Municipal Code Section §1-7-10 and authorized the Fire Department to piggy back on a City of Orange Fire Department contract #78E45 for the purchase of a replacement fire engine from Seagrave Fire Apparatus, LLC. (Fiscal Impact: $566,421)

6. Authorized the El Segundo Fire Department to waive the bidding process per El Segundo Municipal Code §1-7-10 to purchase medical and pharmaceutical supplies, and piggyback on the City of Berkeley's Bound Tree Medical, Inc. ("Bound Tree") Bid #09-10348-C, and authorized issuance of a blanket purchase order to Bound Tree for FY 2009-2010 for medical and pharmaceutical supplies; Authorized the issuance of a blanket purchase order for FY 09-10 to UCLA Center for Pre-Hospital Care for continuing education, defibrillation training and AED program oversight.

7. Authorized staff to continue to purchase gasoline and diesel fuel for City vehicles and equipment through the use of spot market purchasing in an amount not to exceed $321,000; Authorized the issuance of a blanket purchase order to Metron Farrier & Actaris in an amount not to exceed $50,000 for the purchase of single jet water meters for the City's water system; Authorized the issuance of a blanket purchase order to Blue Diamond Materials, a division of Sully Miller Contracting Company in an amount not to exceed $50,000 for the purchase of asphalt paving materials for Street Maintenance Division projects.

8. Authorized the City Manager to extend ongoing service agreements with Baker & Taylor Information Services for supplying books and other library materials, and issuance of a blanket purchase order not to exceed $91,000; Authorized the City Manager to amend/extend Contract #2235 to Innovative Interfaces, Inc., for library computer network system maintenance and issuance of a blanket purchase order not to exceed $30,000.

9. Authorized the City Manager to amend/extend Contract #3907, for ongoing service agreements, as approved by the City Attorney, with U.S. Healthworks Medical group, for pre-employment physical examinations and protocols for the El Segundo Police Department (not to exceed $15,000), and occupational injury and illness services and related medical testing (not to exceed $30,000), and issuance of a Blanket Purchase Order, with a combined total not to exceed
$45,000; Authorized the City Manager to amend/extend Contract #3912, for ongoing service agreements, as approved by the City Attorney with Westchester Medical Group/Center for Heart and Health for employee’s Fitness for Duty Examinations (not to exceed $60,000) and Executive Physical examinations (not to exceed $10,000), and issuance of a Blanket Purchase Order, with the combined total not to exceed $70,000.

10. Adopted Resolution No. 4617 establishing Basic Monthly Salary Ranges for the job classifications of Community Cable Program Manager, Principal Engineer, Residential Sound Insulation Manager, Senior Network Assistant, and Senior Video Technician II (part-time); Adopted Resolution No. 4618 establishing new Hourly Pay Rates for the City’s unrepresented, Part-time, Temporary, job classifications; Approved the proposed Class Specifications for the job classifications of Network Assistant, Principal Engineer, Senior Network Assistant, and Senior Video Technician II; Approved the Examination Plan for Senior Network Assistant.

11. PULLED FOR DISCUSSION BY COUNCIL MEMBER BRANN

12. PULLED FOR DISCUSSION BY COUNCIL MEMBER BRANN

13. Authorized the issuance of a blanket purchase order to Lane Donovan Partners, LLC (Agreement # 3399) to provide management services for The Lakes at El Segundo municipal golf course for an amount not to exceed $108,000; Authorized the City Manager to enter into a contract for professional services with the South Bay Children’s Health Center Association for the South Bay Youth Project on-site counseling services at El Segundo Unified School District facilities for an amount not to exceed $33,018; Authorized the City Manager to amend/extend Agreement #3476 for ongoing maintenance agreement with Great Scott Tree Service Inc. The extension will be for two (2) years commencing on October 1, 2009 and ending on September 30, 2011 with three (3) one (1) year renewal periods to be renewed upon mutual consent of the parties ending September 30, 2014. Total cost for services not to exceed $100,000.

14. Waived second reading and adopted Ordinance No. 1432 for a zone change from the General Commercial (C-3) Zone to the Corporate Office (CO) Zone on the site located at 900, 950 and 960 Sepulveda and 901 and 915 Selby Street. Applicant: The Boeing Company (Fiscal Impact: None)

15. Approved a budget appropriation for $150,000 to provide building plan check consulting services; Authorized the City Manager to execute the Second Amendment to the Professional Services Agreement with J. Lee Engineering Inc. to provide building plan check consulting services for the Planning and Building Safety Department through September 30, 2010 for Fiscal Year 2009-10, in a form approved by the City Attorney, to increase the amount in the agreement and purchase order by $150,000 and to extend the term to expire on September 30, 2010.
16. Approved a budget appropriation for $100,000 to provide building plan check consulting services; Authorized the City Manager to execute the amendment to the existing agreement with JAS Pacific to provide building inspection consulting services in a form approved by the City Attorney, to increase the amount in the agreement and purchase order by $100,000 and to extend the term for one year through September 30, 2010.

17. Approved a budget appropriation for $50,000 to provide storm water plan review services and implementation support of the City’s Standard Urban Storm Water Mitigation Plan (SUSWMP) Ordinance No. 1329; Authorized the City Manager to execute the amendment to the existing agreement with John L. Hunter and Associates, Inc. to provide plan review and inspection services in compliance with SUSWMP Ordinance No. 1329 and extend the term for one year through September 30, 2010.

18. Approved a budget appropriation of $80,000 to provide planning consulting services; Authorize the City Manager to execute the Second Amendment to the Professional Services Agreement with Wildan, in a form approved by the City Attorney, to increase the amount in the agreement and purchase order by $80,000 and to extend the term to expire on September 30, 2010 for planning consulting services.

19. Authorized the City Manager to execute a one-year contract with the West Covina Service Group for Computer Aided Dispatching/Records Management System, Mobile Data Computer maintenance and operations, not to exceed $68,500; Authorized the City Manager to execute a one-year contract with Motorola for two-way radio repair and maintenance of the Communication Center’s radio assets and infrastructure, not to exceed $75,000; Authorized the City Manager to execute a one-year contract with Duncan Solutions (formerly Enforcement Technology Inc.) for processing of parking citations/collections, not to exceed $77,000; Authorized the City Manager to execute a one-year contract with AT&T Connection Services for communications related to mobile data computers and radio sites, not to exceed $27,500.

20. Received and filed the revised Public Hearing date of November 3, 2009, to consider proposed water service rate increases associated with providing water services to property located in the City of El Segundo. (Fiscal Impact: None)

21. Awarded Contract No. 3991 to The Jones Payne Group for Design and Testing Services related to the Residential Sound Insulation Program (Fiscal impact: $945,220); Authorized the City Manager to execute a contract in a form approved by the City Attorney.


24. PULLED FOR DISCUSSION BY COUNCIL MEMBER JACOBSON

24A. PULLED FOR DISCUSSION BY COUNCIL MEMBER JACOBSON

MOTION by Mayor Pro Tem Busch, SECONDED by Council Member Fisher to approve Consent Agenda items 2, 3, 4, 5, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

CALL ITEMS FROM CONSENT AGENDA

11. Consideration and possible action regarding two adoption of Resolutions providing for salary increases and benefit changes to Chapter 1A2 (Management-Confidential Series - includes all non-represented employees, except the City Manager) of the El Segundo Administrative Code. (Fiscal Impact: $130,965 Executive Management, Mid-Management/Confidential Employees, $92,300 Public Safety Management Employees. Total Fiscal Impact $223,265.)

MOTION by Mayor Pro Tem Busch, SECONDED by Mayor McDowell to adopt Resolution No. 4619, providing for salary and benefit changes to Chapter 1A2 Management-Confidential Series and Resolution No. 4620, adopting the Nationwide Retirement Solutions Governmental Deferred Compensation Matching Plan and Trust. MOTION PASSED BY THE FOLLOWING VOTE AYES: MCDOWELL, BUSCH, FISHER, JACOBSON; NOES: BRANN. 4/1

12. Adopted Resolution No. 4621 approving a three-year Memorandum of Understanding (Labor Agreement) No. 3994 between the City of El Segundo and California Teamsters Public, Professional and Medical Employees Union, Local 911, Supervisory and Professional Employees' Bargaining Unit. (Fiscal Impact: $162,470 in first year of Agreement.)

MOTION by Mayor Pro Tem Busch, SECONDED by Mayor McDowell to approve item 12. MOTION PASSED BY THE FOLLOWING VOTE: AYES: MCDOWELL, BUSCH, FISHER, JACOBSON; NOES: BRANN. 4/1

24. Consideration and possible action regarding the adoption of Ordinance No. 1433 adding a new Chapter 10-5 to the El Segundo Municipal Code ("ESMC") regulating water conservation methods and amending ESMC §§ 1-2A-1, 1-2A-2, and 1-2A-3 to enforce Chapter 10-5 with administrative citations. (Fiscal Impact: None)
24A. Supplemental staff report for Consent Agenda Item. No. 24 regarding consideration and possible action regarding the adoption of Ordinance No. 1433 adding a new Chapter 10-5 to the El Segundo Municipal Code ("ESMC") regulating water conservation methods and amending ESMC §§ 1-2A-1, 1-2A-2, and 1-2A-3 to enforce Chapter 10-5 with administrative citations. (Fiscal Impact: None)

Council consensus to direct staff to amend the Ordinance and return for introduction at the next regular meeting with a proposed plan for educating the public and a program for community education. The Ordinance to take effect on January 1, 2010.

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 –

Item 25 was discussed during the Public Hearing on the FY 2009-2010 Annual Budget.

25. Consideration and possible action to amend the City Manager's FY 2009-2010 Budget recommendation for City financial assistance to El Segundo Unified School District with a one-time budget augmentation of $150,000 above the base annual cash contribution of $250,000 provided under the terms of the Funding Agreement. (Fiscal Impact: Proposed Budget $250,000; Additional Request $150,000; Total $400,000)

Announced his availability to meeting with city residence on September 23, 2009, from 10:00 a.m. to 2:00 p.m. at City Hall.

Council Member Fisher –

Congratulated the Tree Musketeers on their Grand Opening and the Environmental Enhancement and Mitigation Grant they received that will allow for residents to receive a tree.
Council Member Jacobson –

Spoke regarding the SCE event he attended and the upgrades that they are implementing.

26. Consideration and possible action to direct staff to prepare an amendment to the General Plan and process the re-zoning of the property located at 1916 E. Imperial Highway. (Fiscal Impact: none)

MOVED by Council Member Jacobson, SECONDED by Mayor Pro Tem Busch to direct staff to prepare an amendment to the General Plan and process the re-zoning of the property located at 1916 E. Imperial Highway. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

Mayor Pro Tem Busch – NONE

Mayor McDowell –

Spoke regarding the Police and Fire Associations Pancake Breakfast held on Saturday, September 12th. He also spoke regarding the Star Party this Friday at Hilltop Park.

Congratulated Steve Bradford, Southern California Edison, on his recent election to the 51st State Assembly District.

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 Watkins, Resident and School Board Member, thanked the Council for their support of the Schools.

MEMORIALS – Birth of Preston Thomas Polis

CLOSED SESSION – NONE

ADJOURNMENT at 8:50 p.m.

Cindy Mortesen, City Clerk
SPECIAL MEETING OF THE EL SEGUNDO CITY COUNCIL
THURSDAY, SEPTEMBER 17 – 6:00 P.M.

City Hall
City Council Chamber
350 Main Street
El Segundo, California 90245

A. CALL TO ORDER - 6:00 P.M.

Mayor McDowell led the Pledge of Allegiance

ROLL CALL:

Mayor McDowell - Present
Mayor Pro Tem Busch - Absent – Not participating due to a potential conflict regarding his employer
Council Member Brann - Present
Council Member Fisher - Present
Council Member Jacobson - Present

B. PUBLIC COMMUNICATIONS (5 Minute Limit)

Jim Garza, Principal, El Segundo High School, and Resident; spoke in favor of changing the Ordinance to expand filming days from 20 to 40.

Laura Brown-Markle, Resident; spoke in favor of changing the Ordinance to expand filming days from 20 to 40.

Ray Gin, Resident and Teacher; spoke in favor of changing the Ordinance to expand filming days from 20 to 40.

Nancy Cobb, Resident and Teacher; spoke in favor of changing the Ordinance to expand filming days from 20 to 40.

Anna Zuke, Resident; spoke in favor of changing the Ordinance to expand filming days from 20 to 40.

Wade Stevens, Resident; spoke regarding enforcement issues and of changing the Ordinance to expand filming days from 20 to 40. He also supports the hiring of a monitor for each production.

Susanne Fuentes, Resident; encouraged the Council not to change the Ordinance and expand the number of allowable filming days.

Beth Murida, Resident; spoke in favor of changing the Ordinance to expand filming days from 20 to 40.

Dora Polk, Resident; spoke against the changing the Ordinance.
Robin Funk, Resident; spoke in favor of changing the Ordinance to expand filming days from 20 to 40. Suggested trying the expanded days for one year and then re-evaluate.

Stephanie Burns, Resident and Teacher; spoke in favor of changing the Ordinance to expand filming days from 20 to 40. Suggested trying the expanded days for one year and then re-evaluate.

C. BUSINESS

1. Consideration and discussion regarding the City's filming Ordinance and regulations. (Fiscal impact: None)

City Manager Jack Wayt expanded on the “filming day” definition.

1. MOTION by Council Member Brann, SECONDED, by Council Member Fisher to amend ESMC 4-11-2 to change the term “impact zone” to “proximity zone”. MOTION PASSED BY THE FOLLOWING VOICE VOTE: AYES: MCDOWELL, FISHER, AND BRANN; NOES: JACOBSON. 3/1

2. MOTION by Council Member Fisher, SECONDED, by Council Member Brann to amend ESMC 4-11-2 to change the definition “no impact filming” to be defined as filming that occurs pursuant to the terms of a valid permit that is conducted in a manner where light, sound, smell, or vibrations resulting from the filming, or activities ancillary to filming, is imperceptible to properties near the filming site. MOTION PASSED BY THE FOLLOWING VOICE VOTE; AYES, MCDOWELL, FISHER, AND BRANN; NOES: JACOBSON. 3/1

3. MOTION by Council Member Brann, SECONDED, by Council Member Fisher to amend ESMC 4-11-16 to authorize the City Manager to promulgate administrative policies and procedures which would require some film permittees to use particular types of equipment and utilize filming monitors. MOTION PASSED BY UNANIMOUS VOICE VOTE. 4/0

4. MOTION by Council Member Fisher to amend ESMC 4-11-17 to increase the maximum film days for a filming site from twenty days to forty days. There would be no maximum film days for no impact filming. If there are no neighbor protests, filming days could be added to a film permit. MOTION FAILED FOR LACK OF SECOND.

MOTION by Council Member Fisher, SECONDED by Council Member Brann to include that if no neighbor protests, filming days could be added to a film permit. MOTION PASSED BY THE FOLLOWING VOICE VOTE: AYES: MCDOWELL, FISHER, AND BRANN; NOES: JACOBSON. 3/1

MOTION by Council Member Fisher, SECONDED by Council Member Brann to amend ESMC 4-11-17 to increase the maximum film days for a filming site from twenty days to forty days. MOTION FAILED BY THE FOLLOWING VOICE VOTE: AYES: FISHER AND BRANN; NOES: MCDOWELL AND JACOBSON. 2/2
MOTION by Council Member Fisher, SECONDED by Council Member Brann to amend ESMC 4-11-17 to increase the maximum film days for a filming site from twenty days to thirty days. MOTION FAILED BY THE FOLLOWING VOICE VOTE: AYES: FISHER AND BRANN; NOES: MCDOWELL AND JACOBSON. 2/2

MOTION by Council Member Fisher, SECONDED by Council Member Brann to amend ESMC 4-11-17 to increase the maximum film days for a filming site from twenty days to twenty-five days. MOTION PASSED BY THE FOLLOWING VOICE VOTE: AYES: MCDOWELL, FISHER, AND BRANN; NOES: JACOBSON. 3/1

5. Amend ESMC 4-11-23 to require filming, and all ancillary activities, to cease at 9:00 p.m. and prohibit filming on weekends. NO ACTION TAKEN.

6. MOTION by Council member Jacobson, SECONDED by Council Member Brann to not prohibit or restrict filming in Library Park. MOTION PASSED BY UNANIMOUS VOICE VOTE. 4/0

7. MOTION by Council Member Jacobson, SECONDED by Council Member Fisher to reduce the range of the "proximity zone" from 300 feet to 275 feet. MOTION PASSED BY UNANIMOUS VOTE. 4/0

8. MOTION Council Member Jacobson, SECONDED by Mayor McDowell to redefine non-impact by separating residential from non-residential. Residential non-impact zones would be the portion of the zone outside of the 275 "proximity zone." MOTION PASSED BY UNANIMOUS VOICE VOTE. 4/0

9. MOTION by Council Member Jacobson, SECONDED by Council Member Fisher to prohibit filming activity after 9 p.m., except on strike days (when filming is complete and the company leaves location). MOTION PASSED BY UNANIMOUS VOICE VOTE. 4/0

10. MOTION by Council Member Jacobson, SECONDED by Council Member Fisher to closely define still photography and commercial still photography. MOTION PASSED BY UNANIMOUS VOICE VOTE. 4/0

11. Council consensus to have staff return to Council with a recommendation on adjusting the year so that it is uniform and easily applied.

12. MOTION by Council Members Jacobson, SECONDED by Council Member Fisher to allow no impact filming on weekends. MOTION PASSED BY UNANIMOUS VOICE VOTE. 4/0

13. MOTION by Council Member Fisher, SECONDED by Mayor McDowell to revise the notification procedures for impacted residents to be non-intrusive. MOTION PASSED BY UNANIMOUS VOICE VOTE. 4/0
14. MOTION by Council Member Jacobson, SECONDED by Mayor McDowell to establish a static central number to call for complaints that can directly forwarded to the film monitor on any project. MOTION PASSED BY UNANIMOUS VOICE VOTE. 4/0

D. ADJOURNMENT at 8:00 p.m.

Cindy Mortesen
City Clerk
AGENDA DESCRIPTION:
Consideration and possible action to waive first reading and introduce Ordinance No.1433 adding a new Chapter 10-5 to the El Segundo Municipal Code ("ESMC") regulating water conservation methods. (Fiscal Impact: None)

RECOMMENDED COUNCIL ACTION:
1- Waive first reading and introduce Ordinance 1433.
2- Alternatively discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
Ordinance No.1433
Council Staff Report (including attachments) for September 15, 2009
Supplemental Council Staff Report (including attachments) for September 15, 2009
Council Staff Report (including attachments) for September 1, 2009
Council Staff Report (including attachments) for April 21, 2009

FISCAL IMPACT: Included in Adopted Budget
Amount Budgeted: $NA
Additional Appropriation: N/A
Account Number(s):

ORIGINATED BY: Dana Greenwood, Director of Public Works
REVIEWED BY: Karl Berger, Assistant City Attorney
APPROVED BY: Jack Wayt, City Manager

BACKGROUND AND DISCUSSION:
During its September 1, 2009 meeting, the City Council considered an Ordinance that would add a new Chapter 10-5 to the Municipal Code. The Ordinance was introduced at that time and the second reading (incorporating requested changes) and adoption was scheduled for September 15, 2009.

At the September 15, 2009 City Council meeting, the City Council made additional changes to the previously introduced ordinance. These changes were incorporated into the draft ordinance. Consequently, the ordinance must be again introduced.

The substantive changes to the ordinance include the following:

- A change to the definition of "responsible person";
- A change to Section 10-5-5, imposing a 15 minute limitation on watering;
• Adding Section 10-5-24 which requires that at least one written warning must be given to persons upon the first violation of the chapter;

• Direction to the city manager to institute a public education campaign regarding the new regulations; and

• Making the ordinance effective on January 1, 2010.
ORDINANCE NO. __________

AN ORDINANCE ADDING A NEW CHAPTER 10-5 TO THE EL SEGUNDO MUNICIPAL CODE ("ESMC") ESTABLISHING WATER CONSERVATION MEASURES IN ACCORDANCE WITH WATER CODE § 375 AND AMENDING ESMC §§ 1-2A-1, 1-2A-2, AND 1-2A-3 TO ENFORCE ESMC CHAPTER 10-5 WITH ADMINISTRATIVE CITATIONS.

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

SECTION 1: The City Council finds as follows:

A. Protecting, conserving, and managing water supplies is an issue of municipal concern. Contamination, drought, or damage to the City's potable water infrastructure can lead to a water emergency.

B. The City receives all of its water from the West Basin Municipal Water District ("WBMWD") and Metropolitan Water District of Southern California ("MWD"; collectively, "Districts").

C. It is in the public interest for the City to enact regulations for distribution and use of potable water including, without limitation, water conservation programs to encourage efficient water use and discourage waste.

SECTION 2: El Segundo Municipal Code ("ESMC") §§ 1-2A-1, 1-2A-2, and 1-2A-3 are amended to read as follows:

"1-2A-1: Purpose.

This chapter is adopted pursuant to the city's police powers and Government Code § 53069.4 for the purpose of making any violations of El Segundo Municipal Code §§ 5-4-1 to 5-4-13 (entitled "Storm Water and Urban Runoff Pollution Control") and §§ 10-5-1 to 10-5-23 (entitled "Water Conservation") subject to an administrative fine and to set forth the procedures for the imposition and collection of such fines.

1-2A-2: Applicability.

This chapter provides for administrative citations that are in addition to all other legal remedies, criminal or civil, which the city may pursue to address violations of the Storm Water Code and Water Conservation Code. The use of this chapter is at the sole discretion of the code enforcement officer.

1-2A-3: Definitions:

Unless the contrary is stated or clearly appears from the context, the following definitions govern the construction of the words and phrases used in this chapter:
"Water Conservation Code” means §§ 10-5-1 to 10-5-24 of the El Segundo Municipal Code and any federal, state, or local regulation enforced by and through the Water Conservation Code including, without limitation, pertinent provisions of Titles 13 and 15 of this Code."

SECTION 3: A new Chapter 10-5, entitled Water Conservation, is added to the ESMC to read as follows:

"CHAPTER 10-5

WATER CONSERVATION

10-5-1: Purpose.
10-5-2: Definitions.
10-5-3: Water Conservation Program.
10-5-4: Repair of Plumbing, Sprinkler and Irrigation System.
10-5-5: Watering/Irrigation.
10-5-6: Miscellaneous Restrictions.
10-5-7: Commercial Car Washes.
10-5-8: Washing of Equipment and Machinery.
10-5-9: Cleaning of Structures.
10-5-10: Cleaning of Surfaces.
10-5-11: Water Spillage.
10-5-12: Swimming Pools and Spas.
10-5-14: Cooling Systems.
10-5-15: Commercial Laundry Facilities.
10-5-16: Visitor-Serving Facilities.
10-5-17: Restaurants.
10-5-18: Construction.
10-5-19: Use of Hydrants.
10-5-20: Indiscriminate Use.
10-5-22: Water shortage contingency measures.
10-5-23: Relief from compliance.
10-5-24: Enforcement.

10-5-1: Purpose.

This Chapter is adopted pursuant to Water Code § 375 for the purpose of establishing water conservation requirements and implementing contingency measures in the event of water shortages.

10-5-2: Definitions.
Unless the contrary is stated or clearly appears from the context, the following definitions govern the construction of the words and phrases used in this Chapter.

“Impervious surface” means a constructed or modified surface that cannot effectively percolate water. The terms includes, without limitation, sidewalks, driveways, gutters, and roads.

“Person” means a natural or corporate person who receives potable water service from the City.

“Programmed” means a weather-based or sensor-based irrigation controller that was programmed in accordance with manufacturer’s instructions and site-specific conditions.

“Responsible person” means the person responsible for daily operations of each residential or commercial premises located within the City’s jurisdiction including, without limitation, the property owner.

“Sensor-based irrigation controller” means an irrigation controller that operates based upon input received from any combination of sensors such as rain, light, and soil moisture, installed within or around an irrigated landscape area.

“Weather-based irrigation controller” means an irrigation controller that operates based on evapotranspiration rates and historic or real-time weather data.

10-5-3: Water Conservation Program.

All water customers are required to adopt and put into use at the earliest possible date drought water conservation programs.

10-5-4: Repair of Plumbing, Sprinkler and Irrigation System.

Responsible persons must, as soon as practicable, but not later than forty-eight (48) hours after such person first discovers water leaks, commence repair of any leaking pipes, faucets, plumbing fixtures, other water service appliances, sprinklers, watering or irrigation systems, or distribution systems and promptly complete such repair work, unless a waiver is obtained from the City.

10-5-5: Watering/Irrigation.

Except as otherwise provided by this Section, it is unlawful for any person to water their lawn or landscaping or permit their lawn or landscaping to be
watered between the hours of nine (9:00) AM and five (5:00) PM. It is unlawful for any person to water their lawn or landscaping or permit their lawn or landscaping to be watered for a period longer than fifteen (15) minutes per station each day. Notwithstanding these prohibitions, the following is permitted:

A. Persons may operate an irrigation system between 9:00 AM and 5:00 PM for the purpose of installing, repairing or routine maintenance of the same;

B. Persons may water between the hours of 9:00 AM and 5:00 PM using any of the following methods:

1. Properly programmed weather-based and/or sensor-based irrigation controllers;

2. Drip irrigation;

3. By hand, using a bucket; or

4. By hand, using a hose with an automatic shutoff nozzle.

10-5-6: Miscellaneous Restrictions. The following are unlawful for any person:

A. Allowing grass, lawns, groundcover, shrubbery, and open ground to be watered at any time while it is raining.

B. Operating landscape irrigation system(s) that allow overspray or excess runoff onto impervious surfaces (such as sidewalks, driveways, v-ditches, gutters and roadways).

C. To use a water hose to wash any vehicle including, without limitation, cars, trucks, boats, trailers, recreational vehicles, or campers, or any other aircraft, tractor, or any other vehicle, or any portion thereof, unless the hose is equipped with an automatic shutoff nozzle. Except for individual residential vehicle washing, all wash water from vehicle washing/cleaning activity must be prevented from discharging to the stormwater drainage system.

10-5-7: Commercial Car Washes.

A. It is unlawful for commercial car wash facilities to permit the washing of any boat or vehicle in such facility or on its premises, other than by the following methods:

1. Use of mechanical automatic car wash facilities utilizing water recycling equipment or utilizing recycled water;
2. Use of a hose that operates on a timer for limited time periods and shuts off automatically at the expiration of the time period;

3. Use of a hose equipped with an automatic shutoff nozzle; or

4. Use of bucket and hand washing.

B. All wash/rinse water must be captured and recycled or discharged into the sanitary sewer system.

C. All new commercial conveyor car wash facilities must be equipped with a water recycling system.

10-5-8: Washing of Equipment and Machinery.

It is unlawful for any person to use a water hose to wash any type of equipment or machinery, or any portion thereof, unless the hose is equipped with an automatic shutoff nozzle. All wash water from such washing/cleaning activity must be prevented from discharging to the stormwater drainage system.

10-5-9: Cleaning of Structures.

It is unlawful for any person to use water through a hose to clean the exterior of any building or structure unless such hose is equipped with a shutoff nozzle. All wash water from such activity must be prevented from discharging to the stormwater drainage system.

10-5-10: Cleaning of Surfaces.

It is unlawful for any person to use water through a hose to clean any sidewalk, driveway, roadway, parking lot, or any other outdoor paved or hard surfaced area, unless all wash water from such activity is prevented from discharging to the stormwater drainage system.

10-5-11: Water Spillage.

Every person must minimize water spillage into streets, curbs, or gutters and minimize runoff beyond the immediate area of use. Every person is deemed to have under his/her control at all times his/her water distribution lines and facilities, and to know the manner and extent of his/her water use and excess runoff.

10-5-12: Swimming Pools and Spas.
It is unlawful for any person to empty and refill a swimming pool or spa except to prevent or repair structural damage or to comply with public health regulations. Discharge of pool water, other than directly to the sanitary sewer system, must be consistent with this Code with regard to stormwater. Discharge of pool filter backwash water to the stormwater drainage system is prohibited. All pools and spas must be equipped with a water recirculation device. The use of a pool/spa cover is encouraged to prevent evaporative water loss.

10-5-13: **Fountains, Decorative Basins, Ponds, Waterways.**

It is unlawful for any person to use water to operate or maintain levels in decorative fountains, basins, ponds, and waterways unless a recirculation device is in use. Discharge of water, other than directly to the sanitary sewer system, must be consistent with this Code with regard to stormwater. Discharge of filter backwash water to the stormwater drainage system is prohibited.

10-5-14: **Cooling Systems.**

No single pass cooling systems are permitted in new connections.

10-5-15: **Commercial Laundry Facilities.**

New commercial laundry facilities must be equipped with a water reclamation system for rinse water.

10-5-16: **Visitor-Serving Facilities.**

The owner and manager of each hotel, motel, restaurant, and other visitor-serving facility must ensure that such facility displays, in places visible to all customers, placards or decals approved by the City, promoting public awareness of the need for water conservation and/or advising the public that waste of water is prohibited.

10-5-17: **Restaurants.**

Restaurants in the City cannot serve water to restaurant customers, except upon request of the customer.

10-5-18: **Construction.**

A. It is unlawful to use potable water for compacting or dust control purposes in construction activities where there is a reasonably available source of recycled or other non-potable water approved by the California State Department of Health Services and appropriate for such use.
B. All water hoses used in connection with any construction activities must be equipped with an automatic shutoff nozzle when an automatic shutoff nozzle can be purchased or otherwise obtained for the size or type of hose in use.

10-5-19: Use of Hydrants.

It is unlawful for any person to utilize any fire hydrant for any purpose other than fire suppression or emergency aid, without first obtaining written approval from the City Manager, or designee.

10-5-20: Indiscriminate Use.

It is unlawful for any person to cause or permit the indiscriminate running of water not otherwise prohibited by this chapter which is wasteful and without reasonable purpose.


These regulations cannot be construed to limit water use which is immediately necessary to protect public health or safety.

10-5-22: Water shortage contingency measures.

The City Council by resolution is authorized to require or impose reductions in the use of water if such reductions are necessary in order for the City to comply with water use restrictions imposed by federal, state or regional water agencies or to respond to emergency water shortage conditions. Depending on the expected duration and severity of the shortage, these measures may include, without limitation, the following:

A. Prohibit the filling or emptying and refilling of swimming pools, excluding normal maintenance of water levels due to evaporation.

B. Prohibit the use of a temporary fire hydrant meter from the City, or otherwise using water through a temporary City water service.

C. Require all major water users to reduce their usage by the percentage determined by the City Manager, or designee, to be necessary to sustain adequate water supply for the City. Such percentage must be based both on the rate of supply to the City and the rate of current water demand.

D. Impose an additional water surcharge above and beyond the existing City water rates on all City residents, water users and water consumers who fail or refuse to abide by the requirements, restrictions and priorities
adopted by the City in response to the emergency water shortage condition.

E. Suspend all sales and deliveries of City water, or use of City water, for construction or grading purposes.

F. Reduce or prohibit consumption or use of City water by residential, recreational, commercial, industrial and institutional water users for landscape irrigation purposes.

G. Initiate or implement additional or innovative actions to increase the supply of water available to the City and to conserve the City’s existing water supply.

10-5-23: Relief from compliance.

The City Manager, or designee, may grant written waivers to persons who apply on forms supplied by the City for:

A. Prohibited uses of water if it is found that a waiver is necessary to prevent an emergency condition relating to health and safety, and if the person seeking a waiver demonstrates that he or she implemented water conservation measures in some other manner that achieves the objectives of this Chapter. No waiver can be granted for the filling of any decorative fountain, basin, pond, hot tub, spa or permanent swimming or wading pool, unless the filling occurs as the result of performing necessary leak repairs and unless the other provisions of this Section are met.

B. No waiver can be granted unless the person demonstrates that he or she has already achieved the maximum practical reduction in water consumption as can be achieved by the affected property or business. Any waiver granted must be based upon the water consumption rates of similar water users, properties or businesses.

10-5-24: Enforcement.

At least one written warning must be provided to persons upon the first violation of this Chapter. Second and subsequent violations may be enforced in accordance with applicable law including, without limitation, this Code. It is the code enforcement officer's responsibility to enforce this Chapter.

SECTION 4: CALIFORNIA ENVIRONMENTAL QUALITY ACT EXEMPTION. This ordinance is exempt from review under the California Environmental Quality Act
(California Public Resources Code §§ 21000, et seq., “CEQA”) and CEQA regulations (14 California Code of Regulations §§ 15000, et seq.) because it establishes rules and procedures to permit operation of existing facilities; minor temporary use of land; ensure maintenance, restoration and protection of the environment; and regulate normal operations of facilities for public gatherings. This Ordinance, therefore, is categorically exempt from further CEQA review under Cal. Code Regs. Title 14, §§ 15301, 15304(e), 15308, and 15323.

SECTION 5: PUBLIC NOTIFICATION. The City Manager, or designee, is directed to provide public notification regarding the regulations set forth in this ordinance through any reasonable means including, without limitation, newspaper publications, flyers contained within the City’s utility bills, and advertising on the City’s PEG cable channel.

SECTION 6: SAVINGS CLAUSE. Repeal of any provision of the SPMC or any other regulation by this Ordinance does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before, this Ordinance’s effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

SECTION 7: SEVERABILITY. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the city council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 8: VALIDITY OF PREVIOUS CODE SECTIONS. If this the entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal of the SPMC or other regulation by this Ordinance will be rendered void and cause such SPMC provision or other regulation to remain in full force and effect for all purposes.

SECTION 9: 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 10: This Ordinance will take effect on January 1, 2010.

PASSED AND ADOPTED this _____ day of _____, 2009.

________________________________________
Kelly McDowell, Mayor
ATTEST:

__________________________
Cindy Mortesen, City Clerk

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

By: ________________________
Karl H. Berger, Assistant City Attorney
AGENDA DESCRIPTION:

Consideration and possible action regarding the adoption of Ordinance No. 1433 adding a new Chapter 10-5 to the El Segundo Municipal Code ("ESMC") regulating water conservation methods and amending ESMC §§ 1-2A-1, 1-2A-2, and 1-2A-3 to enforce Chapter 10-5 with administrative citations. (Fiscal Impact: None)

RECOMMENDED COUNCIL ACTION:

1. Waive second reading and adopt Ordinance No. 1433;
2. Alternatively discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:

- Ordinance No. 1433
- Council Staff Report for September 1, 2009
- Sample ordinance from Metropolitan Water District (from 4/21/09)
- Letter dated April 21, 2009 from Continental Development Corporation
- Ordinance No. 1180, adopted April 21, 1992
- Ordinance No. 1160, adopted February 19, 1991

FISCAL IMPACT: Included in Adopted Budget

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

ORIGINATED BY: Dana Greenwood, Public Works Director

REVIEWED BY: 

APPROVED BY: Jack Wayt, City Manager

BACKGROUND AND DISCUSSION:

At the September 1, 2009 City Council meeting a staff report was submitted to make modifications to Sections 10-5-4, 10-5-7A, and 10-5-22E. The ordinance was subsequently introduced and the second reading and adoption was scheduled for September 15, 2009, with changes. If adopted, Ordinance No. 1433 will become effective in thirty days.

Council recommended revisions incorporated and reflected in the attached ordinance:

- Section 10-5-4 – Amended to read plumbing breaks to be fixed “not later than forty-eight (48) hours”.
- Section 10-5-7A.1 – Adding “or utilizing recycled water”.
- Strike Section 10-5-22E
ORDINANCE NO. ______________

AN ORDINANCE ADDING A NEW CHAPTER 10-5 TO THE EL SEGUNDO MUNICIPAL CODE ("ESMC") ESTABLISHING WATER CONSERVATION MEASURES IN ACCORDANCE WITH WATER CODE § 375 AND AMENDING ESMC §§ 1-2A-1, 1-2A-2, AND 1-2A-3 TO ENFORCE ESMC CHAPTER 10-5 WITH ADMINISTRATIVE CITATIONS.

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

SECTION 1: The City Council finds as follows:

A. Protecting, conserving, and managing water supplies is an issue of municipal concern. Contamination, drought, or damage to the City's potable water infrastructure can lead to a water emergency.

B. The City receives all of its water from the West Basin Municipal Water District ("WBMWD") and Metropolitan Water District of Southern California ("MWD"); collectively, "Districts".

C. It is in the public interest for the City to enact regulations for distribution and use of potable water including, without limitation, water conservation programs to encourage efficient water use and discourage waste.

SECTION 2: El Segundo Municipal Code ("ESMC") §§ 1-2A-1, 1-2A-2, and 1-2A-3 are amended to read as follows:

"1-2A-1: Purpose.

This chapter is adopted pursuant to the city's police powers and Government Code § 53069.4 for the purpose of making any violations of El Segundo Municipal Code §§ 5-4-1 to 5-4-13 (entitled "Storm Water and Urban Runoff Pollution Control") and §§ 10-5-1 to 10-5-23 (entitled "Water Conservation") subject to an administrative fine and to set forth the procedures for the imposition and collection of such fines.

1-2A-2: Applicability.

This chapter provides for administrative citations that are in addition to all other legal remedies, criminal or civil, which the city may pursue to address violations of the Storm Water Code and Water Conservation Code. The use of this chapter is at the sole discretion of the code enforcement officer.

1-2A-3: Definitions:

Unless the contrary is stated or clearly appears from the context, the following definitions govern the construction of the words and phrases used in this chapter:
"Water Conservation Code" means §§ 10-5-1 to 10-5-23 of the El Segundo Municipal Code and any federal, state, or local regulation enforced by and through the Water Conservation Code including, without limitation, pertinent provisions of Titles 13 and 15 of this Code.

SECTION 3: A new Chapter 10-5, entitled Water Conservation, is added to the ESMC to read as follows:

"CHAPTER 10-5
WATER CONSERVATION

10-5-1: Purpose.

10-5-2: Definitions.

10-5-3: Water Conservation Program.

10-5-4: Repair of Plumbing, Sprinkler and Irrigation System.

10-5-5: Watering/Irrigation.

10-5-6: Miscellaneous Restrictions.

10-5-7: Commercial Car Washes.

10-5-8: Washing of Equipment and Machinery.

10-5-9: Cleaning of Structures.

10-5-10: Cleaning of Surfaces.

10-5-11: Water Spillage.

10-5-12: Swimming Pools and Spas.


10-5-14: Cooling Systems.

10-5-15: Commercial Laundry Facilities.

10-5-16: Visitor-Serving Facilities.

10-5-17: Restaurants.

10-5-18: Construction.

10-5-19: Use of Hydrants.

10-5-20: Indiscriminate Use.


10-5-22: Water shortage contingency measures.

10-5-23: Relief from compliance.

10-5-1: Purpose.

This Chapter is adopted pursuant to Water Code § 375 for the purpose of establishing water conservation requirements and implementing contingency measures in the event of water shortages.

10-5-2: Definitions.

Unless the contrary is stated or clearly appears from the context, the
following definitions govern the construction of the words and phrases used in this Chapter.

"Impervious surface" means a constructed or modified surface that cannot effectively percolate water. The terms includes, without limitation, sidewalks, driveways, gutters, and roads.

"Person" means a natural or corporate person who receives potable water service from the City.

"Programmed" means a weather-based or sensor-based irrigation controller that was programmed in accordance with manufacturer's instructions and site-specific conditions.

"Responsible person" means the person responsible for daily operations of every residential or commercial premises located within the City's jurisdiction including, without limitation, the property owner.

"Sensor-based irrigation controller" means an irrigation controller that operates based upon input received from any combination of sensors such as rain, light, and soil moisture, installed within or around an irrigated landscape area.

"Weather-based irrigation controller" means an irrigation controller that operates based on evapotranspiration rates and historic or real-time weather data.

10-5-3: Water Conservation Program.

All water customers are required to adopt and put into use at the earliest possible date drought water conservation programs.

10-5-4: Repair of Plumbing, Sprinkler and Irrigation System.

Responsible persons must, as soon as practicable, but not later than forty-eight (48) hours after such person first discovers water leaks, commence repair of any leaking pipes, faucets, plumbing fixtures, other water service appliances, sprinklers, watering or irrigation systems, or distribution systems and promptly complete such repair work, unless a waiver is obtained from the City.

10-5-5: Watering/Irrigation.

It is unlawful for any person to water their lawn or landscaping or permit their lawn or landscaping to be watered between the hours of nine (9:00) AM and seven (7:00) PM, except as provided below.
A. Persons may operate an irrigation system between 9:00 AM and 5:00 PM for the purpose of installing, repairing or routine maintenance of the same;

B. Persons may water between the hours of 9:00 AM and 5:00 PM using any of the following methods:
   1. Properly programmed weather-based and/or sensor-based irrigation controllers;
   2. Drip irrigation;
   3. By hand, using a bucket; or
   4. By hand, using a hose with an automatic shutoff nozzle.

10-5-6: **Miscellaneous Restrictions.** The following are unlawful for any person:

A. Allowing grass, lawns, groundcover, shrubbery, and open ground to be watered at any time while it is raining.

B. Operating landscape irrigation system(s) that allow overspray or excess runoff onto impervious surfaces (such as sidewalks, driveways, v-ditches, gutters and roadways).

C. To use a water hose to wash any vehicle including, without limitation, cars, trucks, boats, trailers, recreational vehicles, or campers, or any other aircraft, tractor, or any other vehicle, or any portion thereof, unless the hose is equipped with an automatic shutoff nozzle. Except for individual residential vehicle washing, all wash water from vehicle washing/cleaning activity must be prevented from discharging to the stormwater drainage system.

10-5-7: **Commercial Car Washes.**

A. It is unlawful for commercial car wash facilities to permit the washing of any boat or vehicle in such facility or on its premises, other than by the following methods:
   1. Use of mechanical automatic car wash facilities utilizing water recycling equipment or utilizing recycled water;
   2. Use of a hose that operates on a timer for limited time periods and shuts off automatically at the expiration of the time period;
   3. Use of a hose equipped with an automatic shutoff nozzle; or
4. Use of bucket and hand washing.

B. All wash/rinse water must be captured and recycled or discharged into the sanitary sewer system.

C. All new commercial conveyer car wash facilities must be equipped with a water recycling system.

10-5-8: Washing of Equipment and Machinery.

It is unlawful for any person to use a water hose to wash any type of equipment or machinery, or any portion thereof, unless the hose is equipped with an automatic shutoff nozzle. All wash water from such washing/cleaning activity must be prevented from discharging to the stormwater drainage system.

10-5-9: Cleaning of Structures.

It is unlawful for any person to use water through a hose to clean the exterior of any building or structure unless such hose is equipped with a shutoff nozzle. All wash water from such activity must be prevented from discharging to the stormwater drainage system.

10-5-10: Cleaning of Surfaces.

It is unlawful for any person to use water through a hose to clean any sidewalk, driveway, roadway, parking lot, or any other outdoor paved or hard surfaced area, unless all wash water from such activity is prevented from discharging to the stormwater drainage system.

10-5-11: Water Spillage.

Every person must minimize water spillage into streets, curbs, or gutters and minimize runoff beyond the immediate area of use. Every person is deemed to have under his/her control at all times his/her water distribution lines and facilities, and to know the manner and extent of his/her water use and excess runoff.

10-5-12: Swimming Pools and Spas.

It is unlawful for any person to empty and refill a swimming pool or spa except to prevent or repair structural damage or to comply with public health regulations. Discharge of pool water, other than directly to the sanitary sewer system, must be consistent with this Code with regard to stormwater. Discharge of pool filter backwash water to the stormwater drainage system is
prohibited. All pools and spas must be equipped with a water recirculation device. The use of a pool/spa cover is encouraged to prevent evaporative water loss.


It is unlawful for any person to use water to operate or maintain levels in decorative fountains, basins, ponds, and waterways unless a recirculation device is in use. Discharge of water, other than directly to the sanitary sewer system, must be consistent with this Code with regard to stormwater. Discharge of filter backwash water to the stormwater drainage system is prohibited.

10-5-14: Cooling Systems.

No single pass cooling systems are permitted in new connections.

10-5-15: Commercial Laundry Facilities.

New commercial laundry facilities must be equipped with a water reclamation system for rinse water.

10-5-16: Visitor-Serving Facilities.

The owner and manager of each hotel, motel, restaurant, and other visitor-serving facility must ensure that such facility displays, in places visible to all customers, placards or decals approved by the City, promoting public awareness of the need for water conservation and/or advising the public that waste of water is prohibited.

10-5-17: Restaurants.

Restaurants in the City cannot serve water to restaurant customers, except upon request of the customer.

10-5-18: Construction.

A. It is unlawful to use potable water for compacting or dust control purposes in construction activities where there is a reasonably available source of recycled or other non-potable water approved by the California State Department of Health Services and appropriate for such use.

B. All water hoses used in connection with any construction activities must be equipped with an automatic shutoff nozzle when an automatic shutoff nozzle can be purchased or otherwise obtained for the size or type of hose in use.
10-5-19: Use of Hydrants.

It is unlawful for any person to utilize any fire hydrant for any purpose other than fire suppression or emergency aid, without first obtaining written approval from the City Manager, or designee.

10-5-20: Indiscriminate Use.

It is unlawful for any person to cause or permit the indiscriminate running of water not otherwise prohibited by this chapter which is wasteful and without reasonable purpose.


These regulations cannot be construed to limit water use which is immediately necessary to protect public health or safety.

10-5-22: Water shortage contingency measures.

The City Council by resolution is authorized to require or impose reductions in the use of water if such reductions are necessary in order for the City to comply with water use restrictions imposed by federal, state or regional water agencies or to respond to emergency water shortage conditions. Depending on the expected duration and severity of the shortage, these measures may include, without limitation, the following:

A. Prohibit the filling or emptying and refilling of swimming pools, excluding normal maintenance of water levels due to evaporation.

B. Prohibit the use of a temporary fire hydrant meter from the City, or otherwise using water through a temporary City water service.

C. Require all major water users to reduce their usage by the percentage determined by the City Manager, or designee, to be necessary to sustain adequate water supply for the City. Such percentage must be based both on the rate of supply to the City and the rate of current water demand.

D. Impose an additional water surcharge above and beyond the existing City water rates on all City residents, water users and water consumers who fail or refuse to abide by the requirements, restrictions and priorities adopted by the City in response to the emergency water shortage condition.

E. Suspend all sales and deliveries of City water, or use of City water, for

Deleted: <br>Employ additional City staff to monitor water usage, provide assistance to water users to reduce their water consumption, and to police the enforcement of the requirements, restrictions and priorities adopted by the City in response to the emergency water shortage condition. §

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construction or grading purposes.

F. Reduce or prohibit consumption or use of City water by residential, recreational, commercial, industrial and institutional water users for landscape irrigation purposes.

G. Initiate or implement additional or innovative actions to increase the supply of water available to the City and to conserve the City's existing water supply.

10-5-23: Relief from compliance.

The City Manager, or designee, may grant written waivers to persons who apply on forms supplied by the City for:

A. Prohibited uses of water if it is found that a waiver is necessary to prevent an emergency condition relating to health and safety, and if the person seeking a waiver demonstrates that he or she implemented water conservation measures in some other manner that achieves the objectives of this Chapter. No waiver can be granted for the filling of any decorative fountain, basin, pond, hot tub, spa or permanent swimming or wading pool, unless the filling occurs as the result of performing necessary leak repairs and unless the other provisions of this Section are met.

B. No waiver can be granted unless the person demonstrates that he or she has already achieved the maximum practical reduction in water consumption as can be achieved by the affected property or business. Any waiver granted must be based upon the water consumption rates of similar water users, properties or businesses."

SECTION 4: CALIFORNIA ENVIRONMENTAL QUALITY ACT EXEMPTION. This ordinance is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA") and CEQA regulations (14 California Code of Regulations §§ 15000, et seq.) because it establishes rules and procedures to permit operation of existing facilities; minor temporary use of land; ensure maintenance, restoration and protection of the environment; and regulate normal operations of facilities for public gatherings. This Ordinance, therefore, is categorically exempt from further CEQA review under Cal. Code Regs. Title 14, §§ 15301, 15304(e), 15308, and 15323.

SECTION 5: SAVINGS CLAUSE. Repeal of any provision of the SPMC or any other regulation by this Ordinance does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before, this Ordinance's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective
date of this Ordinance.

SECTION 6: SEVERABILITY. If any part of this Ordinance or its application is
deemed invalid by a court of competent jurisdiction, the city council intends that such
invalidity will not affect the effectiveness of the remaining provisions or applications and,
to this end, the provisions of this Ordinance are severable.

SECTION 7: VALIDITY OF PREVIOUS CODE SECTIONS. If this the entire Ordinance
or its application is deemed invalid by a court of competent jurisdiction, any repeal of
the SPMC or other regulation by this Ordinance will be rendered void and cause such
SPMC provision or other regulation to remain in full force and effect for all purposes.

SECTION 8: 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 9: This Ordinance will take effect on the 31st day following its final passage
and adoption.

PASSED AND ADOPTED this _____ day of _____. 2009.

________________________________________
Kelly McDowell, Mayor

ATTEST:

______________________________
Cindy Mortesen, City Clerk

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

By: _________________________________________
Karl H. Berger, Assistant City Attorney
AGENDA DESCRIPTION:

Consideration and possible action to introduce and waive first reading of an ordinance adding a new Chapter 10-5 to the El Segundo Municipal Code ("ESMC") regulating water conservation methods and amending ESMC §§ 1-2A-1, 1-2A-2, and 1-2A-3 to enforce Chapter 10-5 with administrative citations. (Fiscal Impact: None)

RECOMMENDED COUNCIL ACTION:

(1) Introduce and waive first reading of an ordinance adding Chapter 10-5 to the ESMC and amending ESMC §§ 1-2A-1, 1-2A-2, and 1-2A-3;

(2) Schedule second reading and adoption for September 15, 2009;

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

ATTACHED SUPPORTING DOCUMENTS:

Draft Ordinance
Sample ordinance from Metropolitan Water District (from 4/21/09)
Letter dated April 21, 2009 from Continental Development Corporation
Ordinance No. 1180, adopted April 21, 1992
Ordinance No. 1160, adopted February 19, 1991

FISCAL IMPACT: Included in Adopted Budget

Amount Budgeted: N/A
Additional Appropriation: N/A
Account Number: N/A

ORIGINATED BY: Karl L. Berger, Assistant City Attorney
REVIEWED BY: 
APPROVED BY: Mark D. Hensley, City Attorney

BACKGROUND AND DISCUSSION:

As you are aware, in April 2009, the City Council considered a draft ordinance regulating water conservation. That ordinance was the verbatim version of the Metropolitan Water District’s ("MWD") draft model Water Conservation ordinance from December 2008. According to the MWD, local water providers failing to adopt regulations that are at least as strict as MWD's model ordinance would be ineligible to receive grant funding. In 2008, the City received grant funds from Metropolitan Water District for the Environmental Expo in the amount of $3,000, and most recently received $53,087 for the "It's Time to Get Serious "El Segundo Water Conservation Banner Program.
At its April 21st meeting, the City Council discussed the proposed ordinance. A majority of the Council concluded that MWD's ordinance did not meet the City's needs and directed the City Attorney's office to redraft the ordinance.

Included with this staff report is the redrafted ordinance which largely incorporates regulations from the City's previously enacted water conservation ordinances: Ordinance Nos. 1160 and 1180 (collectively, "Previous Regulations"). While it borrows sparingly from the MWD model ordinance, the regulations are nevertheless just as strict. Among other things, the proposed ordinance accomplishes the following:

- requires persons to adopt drought water conservation programs (per the Previous Regulations);
- requires leak repairs within 72 hours (the Previous Regulations allow 48 hours; the MWD allows 7 days after receiving notice);
- prohibits watering landscaping between 9 a.m. and 5 p.m. (which follows the MWD model ordinance; the Previous Regulations prohibit watering between 10 a.m. and 4 p.m.);
- prohibits wasteful use of water through various means including, e.g., watering sidewalks and washing cars without a bucket/shutoff nozzle (per Previous Regulations and MWD);
- requires commercial car wash facilities to use water recycling equipment (MWD requires this beginning January 1, 2010);
- requires restaurants to serve water only upon request (both Previous Regulations and MWD);
- allows the City Council to impose water use reductions by resolution to comply with federal, state or regional restrictions because of emergency conditions (MWD has a mandatory "Level" approach to which the City Council and Continental Development Corporation objected; the proposed regulation allows greater flexibility);
- provides a procedure for waivers (per Previous Regulations and MWD); and
- allows administrative citations to be used for enforcing the water conservation regulations (this allows for a civil proceeding rather than simply relying upon criminal prosecution).

While staff generally tries to provide a redlined version of ordinances to assist with City Council discussion, the extensive changes made by the City Attorney's office would make such comparison impractical; most of the resulting document would show deleted language.

With the adoption of this ordinance there will be several new requirements that residents and business owners need to be aware of. Staff will use various methods to get the information out to the public such as water bill stuffers, articles in the El Segundo Herald, the City's website and Community Cable Channel.
ORDINANCE No. _________

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL SEGUNDO, CALIFORNIA, AMENDING CHAPTER 2.10 TO THE CITY OF EL SEGUNDO MUNICIPAL CODE REGARDING POLICIES FOR WATER CONSERVATION

THE CITY COUNCIL OF THE CITY OF EL SEGUNDO HEREBY FINDS, DETERMINES AND DECLARES:

WHEREAS, The City of El Segundo recognizes Article X, Section 2 of the California Constitution that declares that water resources be put to beneficial use, waste or unreasonable use of unreasonable method of use of water be prevented, and conservation of water to be fully exercised with a view to the reasonable and beneficial use thereof; and

WHEREAS, Article XI, Section 7 of the California Constitution declares that a city or county may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, California Water Code section 375 authorizes water suppliers to adopt and enforce a comprehensive water conservation program to reduce water consumption and conserve supplies; and

WHEREAS, The adoption and enforcement of a water conservation and supply shortage program is necessary to manage the City’s potable water supply in the short and long-term and to avoid or minimize the effects of drought and shortage within the City. Such program is essential to ensure a reliable and sustainable minimum supply of water for the public health, safety and welfare; and

THE CITY COUNCIL OF THE CITY OF EL SEGUNDO OF DOES ORDAIN AS FOLLOWS:

SECTION 1. Title 10 Chapter 2 of Recreation and Parks Department of the City of El Segundo is hereby amended to be added and read as:

Section 10.02.09: Water Conservation Requirements – Prohibition Against Waste

The following water conservation requirements are effective at all times. Violations of this section will be considered waste and an unreasonable use of water.

a. Limits on Watering Hours: Watering or irrigating of lawn, landscape or other vegetated area with potable water is prohibited between the hours of 9:00 a.m. and 5:00 p.m. on any day, except by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, or for very short periods of time for the express purpose of adjusting or repairing an irrigation system.
b. **Limit on Watering Duration:** Watering or irrigating of lawn, landscape or other vegetated area with potable water using a landscape irrigation system or a watering device that is not continuously attended is limited to no more than fifteen (15) minutes watering per day per station. This subsection does not apply to landscape irrigation systems that exclusively use very low-flow drip type irrigation systems when no emitter produces more than two (2) gallons of water per hour and weather based controllers or stream rotor sprinklers that meet a 70% efficiency standard.

c. **No Excessive Water Flow or Runoff:** Watering or irrigating of any lawn, landscape or other vegetated area in a manner that causes or allows excessive water flow or runoff onto an adjoining sidewalk, driveway, street, alley, gutter or ditch is prohibited.

d. **No Washing Down Hard or Paved Surfaces:** Washing down hard or paved surfaces, including but not limited to sidewalks, walkways, driveways, parking areas, tennis courts, patios or alleys, is prohibited except when necessary to alleviate safety or sanitary hazards, and then only by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off device, a low-volume, high-pressure cleaning machine equipped to recycle any water used, or a low-volume high-pressure water broom.

e. **Obligation to Fix Leaks, Breaks or Malfunctions:** Excessive use, loss or escape of water through breaks, leaks or other malfunctions in the water user’s plumbing or distribution system for any period of time after such escape of water should have reasonably been discovered and corrected and in no event more than seven (7) days of receiving notice from the City is prohibited.

f. **Re-circulating Water Required for Water Fountains and Decorative Water Features:** Operating a water fountain or other decorative water feature that does not use re-circulated water is prohibited.

g. **Limits on Washing Vehicles:** Using water to wash or clean a vehicle, including but not limited to any automobile, truck, van, bus, motorcycle, boat or trailer, whether motorized or not is prohibited, except by use of a hand-held bucket or similar container or a hand-held hose equipped with a positive self-closing water shut-off nozzle or device. This subsection does not apply to any commercial car washing facility.

h. **Drinking Water Served Upon Request Only:** Eating or drinking establishments, including but not limited to a restaurant, hotel, cafe, cafeteria, bar, or other public place where food or drinks are sold, served, or offered for sale, are prohibited from providing drinking water to any person unless expressly requested.

i. **Commercial Lodging Establishments Must Provide Guests Option to Decline Daily Linen Services:** Hotels, motels and other commercial lodging establishments must provide customers the option of not having towels and linen laundered daily. Commercial lodging establishments must prominently display notice of this option in each bathroom using clear and easily understood language.

j. **No Installation of Single Pass Cooling Systems:** Installation of single pass cooling systems is prohibited in buildings requesting new water service.
k. **No Installation of Non-re-circulating in Commercial Car Wash and Laundry Systems:** Installation of non-re-circulating water systems is prohibited in new commercial conveyor car wash and new commercial laundry systems.

l. **Restaurants Required to Use Water Conserving Dish Wash Spray Valves:** Food preparation establishments, such as restaurants or cafes, are prohibited from using non-water conserving dish wash spray valves.

m. **Commercial Car Wash Systems:** Effective on January 1, 2010, all commercial conveyor car wash systems must have installed operational re-circulating water systems, or must have secured a waiver of this requirement from the City

**Section 10.02.10: Level 1 Water Supply Shortage**

a. A Level 1 Water Supply Shortage exists when the City determines, in its sole discretion, that due to drought or other water supply conditions, a water supply shortage or threatened shortage exists and a consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water conditions. Upon the declaration by the City of a Level 1 Water Supply Shortage condition, the City will implement the mandatory Level 1 conservation measures identified in this section.

b. **Additional Water Conservation Measures:** In addition to the prohibited uses of water identified in Section 10.01.09, the following water conservation requirements apply during a declared Level 1 Water Supply Shortage:

1. **Limits on Watering Days:** Watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to three days per week on a schedule established and posted by the City. During the months of November through March, watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to no more than one day per week on a schedule established and posted by the City. This provision does not apply to landscape irrigation zones that exclusively use very low flow drip type irrigation systems when no emitter produces more than two (2) gallons of water per hour. This provision also does not apply to watering or irrigating by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, or for very short periods of time for the express purpose of adjusting or repairing an irrigation system.

2. **Obligation to Fix Leaks, Breaks or Malfunctions:** All leaks, breaks, or other malfunctions in the water user's plumbing or distribution system must be repaired within seventy-two (72) hours of notification by the City unless other arrangements are made with the City.

**Section 10.02.11: Level 2 Water Supply Shortage**

a. A Level 2 Water Supply Shortage exists when the City determines, in its sole discretion, that due to drought or other water supply conditions, a water supply shortage or threatened shortage exists and a consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water conditions. Upon the declaration by the City of a Level 2 Water Supply Shortage condition, the City will implement the mandatory Level 2 conservation measures identified in this section.
b. **Additional Conservation Measures:** In addition to the prohibited uses of water identified in Section 10.02.09 and 10.02.11, the following additional water conservation requirements apply during a declared Level 2 Water Supply Shortage:

1. **Watering Days:** Watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to two days per week on a schedule established and posted by the City. During the months of November through March, watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to no more than one day per week on a schedule established and posted by the City. This provision does not apply to landscape irrigation zones that exclusively use very low flow drip type irrigation systems when no emitter produces more than two (2) gallons of water per hour. This provision also does not apply to watering or irrigating by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, or for very short periods of time for the express purpose of adjusting or repairing an irrigation system.

2. **Obligation to Fix Leaks, Breaks or Malfunctions:** All leaks, breaks, or other malfunctions in the water user’s plumbing or distribution system must be repaired within forty-eight (48) hours of notification by the City unless other arrangements are made with the City.

3. **Limits on Filling Ornamental Lakes or Ponds:** Filling or re-filling ornamental lakes or ponds is prohibited, except to the extent needed to sustain aquatic life, provided that such animals are of significant value and have been actively managed within the water feature prior to declaration of a supply shortage level under this ordinance.

4. **Limits on Washing Vehicles:** Using water to wash or clean a vehicle, including but not limited to, any automobile, truck, van, bus, motorcycle, boat or trailer, whether motorized or not, is prohibited except by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, by high pressure/low volume wash systems, or at a commercial car washing facility that utilizes a re-circulating water system to capture or reuse water.

5. **Limits on Filling Residential Swimming Pools & Spas:** Re-filling of more than one foot and initial filling of residential swimming pools or outdoor spas with potable water is prohibited.

**Section 10.02.12. Level 3 Water Supply Shortage – Emergency Condition**

a. A Level 3 Water Supply Shortage condition is also referred to as an “Emergency” condition. A Level 3 condition exists when the City declares a water shortage emergency and notifies its residents and businesses that a significant reduction in consumer demand is necessary to maintain sufficient water supplies for public health and safety. Upon the declaration of a Level 3 Water Supply Shortage condition, the City will implement the mandatory Level 3 conservation measures identified in this section.

b. **Additional Conservation Measures:** In addition to the prohibited uses of water identified in Section 10.02.09, 10.02.10, and 10.02.11, the following water conservation requirements apply during a declared Level 3 Water Supply Shortage Emergency:
1. **No Watering or Irrigating:** Watering or irrigating of lawn, landscape or other vegetated area with potable water is prohibited. This restriction does not apply to the following categories of use, unless the City has determined that recycled water is available and may be applied to the use:

   i. Maintenance of vegetation, including trees and shrubs, that are watered using a hand-held bucket or similar container, hand-held hose equipped with a positive self-closing water shut-off nozzle or device;

   ii. Maintenance of existing landscape necessary for fire protection;

   iii. Maintenance of existing landscape for soil erosion control;

   iv. Maintenance of plant materials identified to be rare or essential to the well-being of protected species;

   v. Maintenance of landscape within active public parks and playing fields, day care centers, golf course greens, and school grounds, provided that such irrigation does not exceed two (2) days per week according to the schedule established in Section 10.02.11(b)(1) and time restrictions in Section 10.02.09(a) and (b)(1);

   vi. Actively irrigated environmental mitigation projects.

2. **Obligation to Fix Leaks, Breaks or Malfunctions:** All leaks, breaks, or other malfunctions in the water user’s plumbing or distribution system must be repaired within twenty four (24) hours of notification by the City unless other arrangements are made with the City.

3. **Discontinue Service:** The City, in its sole discretion, may discontinue service to consumers who willfully violate provisions of this section.

**Section 10.02.13. Procedures for Determination / Notification of Water Supply Shortage**

a. **Declaration and Notification of Water Supply Shortage:** The existence of Level 1, Level 2 or Level 3 Water Supply Shortage conditions may be declared by resolution of the City adopted at a regular or special public meeting held in accordance with State law. The mandatory conservation requirements applicable to Level 1, Level 2 or Level 3 conditions will take effect on the tenth day after the date the shortage level is declared. Within five (5) days following the declaration of the shortage level, the City must publish a copy of the resolution in a newspaper used for publication of official notices. If the City activates a water allocation process, it must provide notice of the activation by including it in the regular billing statement or by any other mailing to the address to which the City customarily mails the billing statement for fees or charges for on-going water service. A water allocation will be effective on the fifth day following the date of mailing or at such later date as specified in the notice.

**Section 10.02.14. Hardship Waiver**

a. **Undue and Disproportionate Hardship:** If, due to unique circumstances, a specific requirement of this chapter would result in undue hardship to a person using water or to property upon which water is used, that is disproportionate to the impacts to water users generally or to
similar property or classes of water users, then the person may apply for a waiver to the requirements as provided in this section.

b. **Written Finding:** The waiver may be granted or conditionally granted only upon a written finding of the existence of facts demonstrating an undue hardship to a person using water or to property upon which water is used, that is disproportionate to the impacts to water users generally or to similar property or classes of water use due to specific and unique circumstances of the user or the user's property.

1. **Application:** Application for a waiver must be on a form prescribed by the City and accompanied by a non-refundable processing fee in an amount set by the Public Works Director.

2. **Supporting Documentation:** The application must be accompanied by photographs, maps, drawings, and other information, including a written statement of the applicant.

3. **Required Findings for Waiver:** An application for a waiver will be denied unless the Public Works Director finds, based on the information provided in the application, supporting documents, or such additional information as may be requested, and on water use information for the property as shown by the records of the City or its Agent, all of the following:
   
   i. That the waiver does not constitute a grant of special privilege inconsistent with the limitations upon other residents and businesses;
   
   ii. That because of special circumstances applicable to the property or its use, the strict application of this chapter would have a disproportionate impact on the property or use that exceeds the impacts to residents and businesses generally;
   
   iii. That the authorizing of such waiver will not be of substantial detriment to adjacent properties, and will not materially affect the ability of the City to effectuate the purpose of this chapter and will not be detrimental to the public interest; and
   
   iv. That the condition or situation of the subject property or the intended use of the property for which the waiver is sought is not common, recurrent or general in nature.

4. **Approval Authority:** The Public Works Director must act upon any completed application no later than ten (10) days after submittal and may approve, conditionally approve, or deny the waiver. The applicant requesting the waiver must be promptly notified in writing of any action taken. Unless specified otherwise at the time a waiver is approved, the waiver will apply to; the subject property during the period of the mandatory water supply shortage condition. The decision of the Public Works Director will be final.

**Section 10.12.15. Penalties and Violations**

a. **Misdemeanor:** Any violation of this chapter may be prosecuted as a misdemeanor punishable by imprisonment in the county jail for not more than thirty (30) days, or by a fine not exceeding one thousand dollars ($1,000), or by both.
b. **Penalties:** Penalties for failure to comply with any provisions of the ordinance are as follows:

1. **First Violation:** The City will issue a written warning and deliver a copy of this ordinance by mail.

2. **Second Violation:** A second violation within the preceding twelve (12) calendar months is punishable by a fine not to exceed one hundred dollars ($100).

3. **Third Violation:** A third violation within the preceding twelve (12) calendar months is punishable by a fine not to exceed two hundred and fifty ($250).

4. **Fourth and Subsequent Violations:** A fourth and any subsequent violation is punishable by a fine not to exceed five hundred ($500).
   i. **Water Flow Restrictor:** In addition to any fines, the City may install a water flow restrictor device of approximately one gallon per minute capacity for services up to one and one-half inch size and comparatively sized restrictors for larger services after written notice of intent to install a flow restrictor for a minimum of forty eight (48) hours.

5. **Discontinuing Service:** In addition to any fines and the installation of a water flow restrictor, the City may disconnect a customer’s water service for willful violations of mandatory restrictions in this chapter.

c. **Cost of Flow Restrictor and Disconnecting Service:** A person or entity that violates this ordinance is responsible for payment of the City’s charges for installing and/or removing any flow restricting device and for disconnecting and/or reconnecting service per the City’s schedule of charges then in effect. The charge for installing and/or removing any flow restricting device must be paid to the City before the device is removed. Nonpayment will be subject to the same remedies as nonpayment of basic water rates.

d. **Separate Offenses:** Each day that a violation of this ordinance occurs is a separate offense.

e. **Notice and Hearing:**

1. The City will issue a Notice of Violation by mail or personal delivery at least ten (10) days before taking enforcement action. Such notice must describe the violation and the date by which corrective action must be taken. A customer may appeal the Notice of Violation by filing a written notice of appeal with the City no later than the close of business on the day before the date scheduled for enforcement action. Any Notice of Violation not timely appealed will be final. Upon receipt of a timely appeal, a hearing on the appeal will be scheduled, and the City will mail written notice of the hearing date to the customer at least ten (10) days before the date of the hearing.

2. Pending receipt of a written appeal or pending a hearing pursuant to an appeal, the City may take appropriate steps to prevent the unauthorized use of water as appropriate to the nature and extent of the violations and the current declared water Level condition.

Section 10.02.16. **Severability**
If any section, subsection, sentence, clause or phrase in this chapter is for any reason held invalid, the validity of the remainder of the chapter will not be affected. The City Council of the City of El Segundo hereby declares it would have passed this chapter and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases or is declared invalid.

SECTION 2. Adoption and implementation of this ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to Section 15307 of the State CEQA Guidelines, as a Class 7 Categorical Exemption.

SECTION 3. Any provision of the City of El Segundo Municipal Code or appendices thereto inconsistent with the provisions of this ordinance, to the extent of such inconsistencies and no further, are hereby repealed or modified to the extent necessary to affect the provision of this ordinance.

SECTION 4. Should any provision of this Ordinance be determined to be invalid or unconstitutional all other provisions of this Ordinance shall remain in full force and effect as approved.

SECTION 5. The Mayor shall sign this Ordinance. The City Clerk shall certify to the passage and adoption of this Ordinance; shall cause the same to be entered in the book of original Ordinances of the City; shall make a minute of the passage and adoption thereof in the records of the meeting of the City Council at which the same is passed and adopted; and shall cause to be posted the same in three public places in the City of El Segundo in the time and manner provided by law. This Ordinance shall become effective 30 days after its adoption.

PASSED AND APPROVED This 21st Day of April 2009.

________________________________________________________________________
Kelly McDowell, Mayor
Of the City of El Segundo,
California

ATTEST:

________________________________________________________________________
Cindy Mortesen, City Clerk

APPROVED AS TO FORM:

________________________________________________________________________
Mark Hensley, City Attorney
CONTINENTAL DEVELOPMENT CORPORATION
HAND DELIVERED AND VIA ELECTRONIC MAIL

April 21, 2009

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

Subject: Agenda Item 10 – Draft Water Conservation Ordinance

Honorable Mayor McDowell and City Council Members:

It is evident that the current water supply situation in California is highly uncertain. California faces a third consecutive year of historically dry conditions, reservoir levels have been drawn down over the past two years, and uncertainties and limitations have been placed on imported water deliveries. The current water supply conditions mean that all Californians must eliminate wasteful water use practices and focus on water conservation and best practices for efficient use of potable water.

Continental Development Corporation (CDC) is committed to proactive resource conservation and supports the City’s action to amend and update its existing water conservation ordinance to reflect current conditions. CDC respectfully submits the following comments regarding the draft water conservation ordinance. These comments focus on requests for clarification and suggestions for potential alternative methods to achieve the objectives of the proposed ordinance with flexibility of implementation.

Sections 10.02.10., 11, 12: Water Supply Shortage:

Further clarification is requested as to what event(s) and/or event thresholds may cause the City to declare a Level 1, 2, or 3 Water Supply Shortage.

Section 10.02.10: Level 1 Water Supply Shortage:

1. Limits on Watering Days:

The proposed ordinance establishes limits on watering to no more than three days per week except during the months of November through March when watering with potable water is limited to one day a week with exceptions for drip irrigation systems and by hand held hose with a shut-off nozzle.

The one day per week restriction during November through March presents potential challenges for adequate maintenance of lawns and plantings in areas where hand
watering with a hose is not possible due to lack of a nearby hose bib. Proposed Section 10.02.09 Water Conservation Requirements – Prohibition Against Waste includes item b. Limit on Watering Duration which limits watering duration to no more than fifteen minutes watering per day per station. It is requested that the ordinance provide an option to continue to water three days per week during the months of November through March with watering duration limited to no more than five minutes per day per station. This option imposes the same water use limit while providing flexibility. Users equipped with irrigation systems and time clocks can achieve the same water savings objective by using best practices in the utilization of their irrigation systems.

Section 10.02.11 Level 2 Water Supply Shortage

1. Watering Days

   Level 2 Water Shortage limits watering days to two days per week and includes the Level 1 restriction to limit watering no more than one day per week during November through March. It is requested that the same option requested for Level 1 apply to Level 2, so users may utilize their irrigation systems to continue to water two days per week during November through March with a requirement that watering duration limited to no more than 7 minutes per day per station.

Section 10.02.12 Level 3 Water Supply Shortage – Emergency Conditions

No Watering or Irrigating: This measure limits maintenance of vegetation to watering with hand held container or hand held hose with a shut-off nozzle. Commercial complexes that typically use zoned irrigation systems are not equipped with hose bibs in all the necessary locations that may be needed to reach and maintain minimum vegetation, including trees and shrubs, with a hand held hose. It is requested that users equipped with zoned irrigation systems with time clocks be permitted to utilize the zone capability of the irrigation system to water vegetation two days per week as long as the volume of water used does not exceed the volume of water that would be used with a hand held hose and that all other requirements of the ordinance are adhered to. This option provides flexibility to maintain minimum vegetation in areas that cannot practically be reached with h hose.

As California continues to face dry conditions, water supply uncertainties and a growing population, it is critical that everyone practice water conservation to help meet our conservation goals. We need drought protection and reduced dependence
on imported water supplies. Increased local control of our water supply will result in a more stable and reliable supply of water.

CDC is committed to practicing proactive resource conservation and will continue to investigate new strategies to expand its conservation efforts.

Thank you for consideration of our comments. I am available to answer any questions regarding these comments at 310-640-1520, Ext. 205 or via email at treina@continentaldevelopment.com.

Sincerely,

Toni Reina
Planning Manager

Copy: Dana Greenwood, Public Works Director
     Cindy Motesen, City Clerk
     Richard C. Lundquist, CDC
     Lianne Ibarra, CDC
     Alex J. Rose, CDC
ORDINANCE NO. 1180

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL SEGUNDO DECLARING A CONTINUANCE OF THE WATER SHORTAGE EMERGENCY, ABROGING CITY MANDATORY WATER CONSERVATION ORDINANCE NO. 1160 AND ADOPTING THE CITY VOLUNTARY WATER CONSERVATION ORDINANCE.

THE CITY COUNCIL OF THE CITY OF EL SEGUNDO does ordain as follows:

Section 1. Purpose and Scope.

The City of El Segundo (hereinafter called City) receives all of its potable (drinking) water supplies from the West Basin Municipal Water District (hereinafter called WBMD) which District receives all of its potable water supplies from The Metropolitan Water District of Southern California (hereinafter called MWD). In February 1991 WBMD and MWD respectively declared water shortage emergencies and adopted mandatory water conservation programs which required a 20% reduction in usage of non-interruptible municipal and industrial water supplies. The City of El Segundo as a 100% user of non-interruptible treated municipal and industrial water supplies from MWD and WBMD was required to adopt a conservation program similar to that of MWD and WBMD. On 3/10/92 MWD changed the level of required conservation to a 10% mandatory level effective 3/1/92. On 3/27/92 MWD changed the 10% conservation requirement from that of a mandatory program to that of a voluntary program.

Section 2. Findings.

The Council does hereby find, determine and declare as follows:

a. The City did on 2/19/91 adopt a Mandatory Water Conservation Program as Ordinance No. 1160 effective that date that established a mandatory level of conservation at 20% below the baseline period of 1989-90 as a requirement of WBMD and MWD.

b. MWD on 3/10/92 changed the level of mandatory water conservation to 10% of the 1989-90 baseline period and accordingly allocated an increased supply of water to the WBMD.

c. MWD on 3/27/92 changed the mandatory conservation program to that of a voluntary program at a level of 10% below the 1989-90 baseline year usage.

d. WBMD is proceeding to change their conservation program.

e. The change in the level of Mandatory Water Conservation by MWD and WBMD from 20% to 10% of the 1989-90 baseline and from mandatory to voluntary permits the City to do likewise.

f. The change in the level of Mandatory Water Conservation by MWD, WBMD and the City to 10% of the 1989-90 baseline on a voluntary basis will not have any significant adverse environmental impacts as disclosed by environmental documents prepared and distributed as required by law. A Notice of Categorical Exemption has been filed and is hereby adopted and approved.

g. Ordinance No. 1160 is hereby rescinded and replaced by this Ordinance.
Section 3. Water Allotment.

The purpose of this Ordinance is to reduce the amount of potable water consumed by city customers by a minimum of 10% below the base year usage.

Section 4. Use Restriction Guidelines.

a. All water customers are required to adopt and put into use at the earliest possible date drought water conservation programs. Those customers whose consumption places them in the 100 largest quantity consumers of water on a 12-month basis in the city shall have filed under former Ordinance No. 1160 their written conservation plans with the City. Such plans as accepted by the city shall hereby be considered to be consistent with this Ordinance other than the goal thereof shall be to conserve 10% of the 1989-90 baseline year usage on a voluntary basis. Any new business whose anticipated consumption would place them in the top 100 users in the City shall file also a plan with the city upon applying for the water service.

b. All uses by water service customers of the City and the programs of the top 100 users are to be consistent with the following restrictions concerning the use of water;

(1) With respect to practices:

- Lawn watering and landscape irrigation with potable water is to be generally only permitted between the hours of 4 p.m. and 10 a.m. Golf courses, parks, school grounds and recreational fields are to generally be irrigated within the designated times. For the purpose of maintenance and testing the irrigation system minimum water use will be allowed during the daytime.

- Agricultural users, commercial nurseries, landscape contractors and irrigation of livestock and irrigation of propagation beds may continue to irrigate with potable water as management practices dictate, but are requested to curtail all non-essential water uses.

- Hand watering is recommended to be done by use of a hand-held hose equipped with a positive shut-off nozzle, a hand-held faucet-filled bucket of five gallons or less is used, or a drip irrigation system is used.

(2) With respect to exterior washing practices:

(a) Washing of buildings, facilities, equipment, autos, trucks, trailers, boats, airplanes and other types of mobile equipment should be curtailed except where a hand-held hose equipped with a positive shut-off nozzle for quick rinses is used. Wherever possible, such as when washing vehicles, a bucket wash is recommended.

(b) Washings are exempted from these regulations where the health, safety and welfare of the public is contingent upon frequent vehicle or other facility or equipment cleaning, such as garbage trucks and vehicles used to transport food and perishables.

(c) Water should not be used to wash down sidewalks, driveways, parking areas, residential tennis courts, patios or other paved areas except to alleviate immediate fire, sanitation or health hazards.
(d) Water should not be allowed to run off landscape areas into adjoining streets, sidewalks, or other paved areas due to incorrectly directed or maintained sprinklers or excessive watering.

(3) With respect to ornamental or recreational uses:

(a) Filling and refilling residential swimming pools and spas should be held to a minimum, but if necessary should only be done between the hours of 6 p.m. and 6 a.m.

(b) Filling and refilling of ponds, fountains, and artificial lakes is discouraged and the recycling of water in ponds, fountains, and artificial lakes is recommended.

(4) With respect to other uses:

(a) Water from fire hydrants is to only be used for fire fighting and public health, safety, and welfare activities including public street sweeping.

b) Water from meters installed on fire hydrants may be used for construction purposes proved the contractor practices conservation.

(c) Flushing of water mains should only be done as necessary to protect the public health.

(d) Eating establishments should practice water conservation for all water usages.

Water system leaks are recommended to be repaired as soon as possible after being discovered and should not be allowed to continue for an unreasonable time.

Section 5. The base year allocation to the City set by the WBMWD is defined as a consecutive 12 monthly water delivery amounts for the period of July 1, 1989 through June 30, 1990, inclusive.

Section 6. Enforcement.

The Director of Public Works of the City of El Segundo or his designated representative shall have the duty and are hereby authorised to work with and assist water system customers in meeting the provisions of this Ordinance and shall have all the powers and authority contained in California Penal Code Section 836.5, including the power to issue written notice to appear.

Section 7. Nonapplicability of Ordinance.

This ordinance shall be inoperative to the extent any regulations and restrictions adopted pursuant to Division I, Chapter 3, of the Water Code conflict.

Section 8. This ordinance shall expire at such time as WBMWD should terminate its corresponding Water Conservation Ordinance.

Section 9. Severability.

If any section, subsection, sentence, clause, phrase, portion, or part of this Ordinance is for any reason held to be invalid or unconstitutional by any court or competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each
section, subsection, sentence, clause, phrase, part, or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases, parts, or portions be declared invalid or unconstitutional.

Section 10. The City Clerk shall certify to the adoption of this ordinance; shall cause the same to be entered in the book of original ordinances of said City; shall make a minute of the adoption thereof in the records of the meeting at which the same is passed and adopted; and shall cause it to be published in the manner required by law.

PASSED, APPROVED AND ADOPTED this 21st day of April, 1992.

[Signature]
Mayor of the City of El Segundo
California

ATTEST:

[Signature]
Cindy Rodriguez
City Clerk
(SEAL)
STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES  
CITY OF EL SEGUNDO  

I, Cindy Mortensen, City Clerk of the City of El Segundo, California, DO HEREBY CERTIFY that the whole number of members of the City Council of the said City is five; that the foregoing ordinance, being ORDINANCE NO. 1180 is a full, true correct original of ORDINANCE NO. 1180 of the said City of El Segundo, California, entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL SEGUNDO DECLARING A CONTINUANCE OF THE WATER SHORTAGE EMERGENCY, RESCINDING CITY MANDATORY WATER CONSERVATION ORDINANCE NO. 1160 AND ADOPTING THE CITY VOLUNTARY WATER CONSERVATION ORDINANCE.

which was duly passed and adopted by the said City Council, approved and signed by the Mayor or said City, and attested by the City Clerk of said City, all at a regular meeting of the said Council held on the 21st DAY OF APRIL, 1992, and the same was so passed and adopted by the following vote:

AYES: Mayor Jacobson, Mayor ProTem Wise, Councilmembers Robbins, Swett, and West.

NOES: None

ABSTENTION: None

I do hereby further certify that pursuant to the provisions of Section 36935 of the Government Code of the State of California, that the foregoing ORDINANCE NO. 1180 as duly and regularly published according to law and the order of the City Council of said City of El Segundo Herald, a weekly newspaper of general circulation, printed, published and circulated within said City and that the same was so published therein on the following day, to wit:

[Signature]
CINDY MORTENSEN  
City Clerk of the  
City of El Segundo, California  
(SEAL)

077

664
ORDINANCE NO. 1160

AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF EL SEGUNDO
DECLARING A WATER SHORTAGE EMERGENCY
ADOPTING MANDATORY WATER CONSERVATION
REGULATIONS AND RESTRICTIONS AND DECLARING
THE URGENCY THEREOF

THE CITY COUNCIL OF THE CITY OF EL SEGUNDO does ordain
as follows:

Section 1. Purpose and Scope

The City of El Segundo (hereinafter called City) receives
all of its potable water supplies from the West Basin Municipal
Water District, (hereinafter called WBMWD) which District
receives all of its potable water supplies from the Metropolitan
Water District of Southern California (hereinafter called MWD).
The WBMWD and MWD have declared water shortage emergencies as a
result of a continuing severe drought and have both adopted
mandatory water conservation regulations and restrictions. These
regulations and restrictions will significantly affect and limit
the City’s efforts and responsibilities of providing potable
water to the City’s citizens and businesses. The WBMWD requires
that each organization buying water adopt a conservation program
consistent with WBMWD’s program. To assist the City in meeting
its obligations in a reasonable manner and to be responsive to
the drought situation the City needs to adopt a similar program.

Section 2. Findings

The Council does hereby find, determine and declare as
follows:

a. The City obtains from the WBMWD all of the potable
   water needed to serve its water using customers. The WBMWD
delivered 20,651.7 acre feet of potable water to the City in the
base year of June 1, 1989 to May 31, 1990, inclusive (hereinafter
called base year).

b. WBMWD on January 28, 1991, adopted a mandatory water
   conservation program, the intent of which is to cause the overall
   reduction in water usage of a minimum of 10%, commencing February
   1, 1991 due to a water shortage caused by the drought which is
affecting most of the State of California. Subsequently the MWD adopted on February 12, 1991, a program of 20% reduction in water usage to be effective March 1, 1991. The WBNWD on February 25, 1991 adopted a similar program to become effective March 1, 1991. As a result, the allocation of water to the City for distribution to City water system customers will be reduced by the WBNWD by approximately 20%, or 4,130 acre feet.

c. The ordinary demands and requirements of water using consumers cannot be satisfied without depleting the available water supply to the extent that there would be insufficient water supplies for human consumption, sanitation and fire protection due to the reduction in the supply allocation imposed by the WBNWD due to the drought. The City, to protect the health, welfare and safety of the community, must immediately impose regulations and require all water customers within the City’s boundaries to implement a drought water conservation program thereby reducing the amount of water needed by those customers. Should all of the water customers of the City implement their individual water conservation programs, the amount of water allocated can be equitably used to meet the primary health and safety needs of the City.

d. The City supplies approximately 21,000 acre feet of potable water in an average year to approximately 4,580 customer meters serving many residential units, commercial and industrial businesses.

e. The regulations and restrictions set forth herein will not produce any significantly adverse environmental impacts as disclosed by environmental documents prepared and distributed as required by law. A negative declaration covering the adoption of the regulations and restrictions described below is hereby adopted and approved.

f. There is a need to put this Ordinance into effect at the earliest possible date as an Urgency Ordinance. That effective date is hereby established to be February 19, 1991.
Section 3. Water Allotment

The purpose of this Ordinance is to reduce the amount of potable water consumed by City customers by a minimum of 20% below the base year usage.

Section 4. Use Restriction Guidelines

a. All water customers are required to adopt and put into use at the earliest possible date drought water conservation programs. Those customers whose consumption places them in the 100 largest quantity consumers of water on a 12-month basis in the City shall file no later than March 15, 1991 their written conservation plans with the City.

b. All programs should be consistent with the following restrictions concerning the use of water:

(1) With respect to practices:

(a) Lawn watering and landscape irrigation with potable water is permitted only between the hours of 4 p.m. and 10 a.m. Golf courses, parks, school grounds and recreational fields are to be irrigated within the designated times. For the purpose of maintenance and testing the irrigation system only, minimum water use will be allowed during the daytime. Agricultural users, commercial nurseries, landscape contractors and irrigation of livestock and irrigation of propagation beds may continue to irrigate with potable water as management practices dictate, but are required to curtail all non-essential water uses.

(b) Watering is permitted at any time if a hand-held hose equipped with a positive shut-off nozzle is used, a hand-held faucet-filled bucket of five gallons or less is used, or a drip irrigation system is used.

(2) With respect to exterior washing practices:

(a) Washing of buildings, facilities, equipment, autos, trucks, trailers, boats, airplanes and other types of mobile equipment is restricted except where a hand-held hose equipped with a positive shut-off nozzle for quick rinses is used. Whenever possible, such as when washing vehicles, a bucket wash is required.
(b) Washings are exempted from these regulations where the health, safety and welfare of the public is contingent upon frequent vehicle or other facility or equipment cleaning, such as garbage trucks and vehicles used to transport food and perishables.

(c) Water shall not be used to wash down sidewalks, driveways, parking areas, residential tennis courts, patios or other paved areas except to alleviate immediate fire, sanitation or health hazards.

(d) Water shall not be allowed to run off landscape areas into adjoining streets, sidewalks, or other paved areas due to incorrectly directed or maintained sprinklers or excessive watering.

(3) With respect to ornamental or recreational uses:

(a) Filling and refilling residential swimming pools and spas is discouraged, but if necessary is only allowed between the hours of 6 p.m. and 6 a.m.

(b) Filling and refilling of ponds, fountains, and artificial lakes is discouraged and the recycling of water in ponds, fountains, and artificial lakes shall be required.

(4) With respect to other uses:

(a) Water from fire hydrants shall only be used for fire fighting and public health, safety, and welfare activities including public street sweeping.

(b) Flushing of water mains is not permitted except as necessary to protect the public health.

(c) Restaurants shall not serve water to their customers unless specifically requested.

(5) Leaks shall be repaired as soon as possible after being discovered and shall not be allowed to continue for more than 48 hours.

Section 5. Base Year Billing Systems

The WBMWD bills monthly the City for water delivered in the prior month based on meter readings that are taken on or about the first day of each month.

The base year allocation to the City set by the WBMWD is
defined as the consecutive 12 monthly water delivery amounts for
the period of June 1, 1989 through May 31, 1990, inclusive.

The City bills some of its customers monthly and some bi-
monthly.

The City's billing period for the monthly customer
approximates the monthly billing period of the WBNWD. A monthly
non-exempt customer will be subject to being billed by the City
for applicable surcharges/incentives/penalties for consumption
beginning March 1, 1991.

A bi-monthly non-exempt customer will be subject to being
billed by the City for applicable surcharges/incentives/penalties
for the respective first regular bi-monthly period for that
customer beginning after March 1, 1991 and ending following
termination of the Program.

Section 6. Enforcement
(a) The Director of Public Works of the City of
El Segundo or his designated representative shall have the duty
and are hereby authorized to enforce the provisions of this
Ordinance and shall have all the powers and authority contained
in California Penal Code Section 836.5, including the power to
issue written notice to appear.

(b) Each law enforcement officer of the City
shall, in connection with his duties imposed by law, diligently
enforce the provisions of this ordinance.

Section 7. Customers Exempt from
Surcharge/Incentive/Penalty Provisions of Ordinance

(a) All customers on the City Lifeline Water Rate
schedules are expected to do their reasonable best to conserve
water. The Lifeline customers shall be exempt from the
surcharge/incentive/penalty water rate portions of the City Water
Conservation program as long as it appears that they are making a
reasonable effort at conserving water.

(b) All customers who consumed in the two (2)
years prior to March 1991 on the average the equivalence of 15 -
100's cubic feet (42.5 cubic meters) or less of water per month
per single family residence or per commercial or industrial
business or who used the equivalence of 12 - 100's cubic feet (36.8 cubic meters) or less of water per month per residential unit in a multiple residential development shall be exempt from the surcharge/incentive/penalty water rate portions of the City Water Conservation program as long as it appears that they are making a reasonable effort at conserving water.

Section 8. Relief from Ordinance Provisions

A customer may file an application with the City Director of Public Works for relief from any provision of this Ordinance, including changes in the base year allocation.

The applicant for relief must submit an application in a form acceptable to the City requesting such relief in whole or in part from the use curtailment/allowance provisions herein.

Relief and/or adjustment in the base year allocation may be applied for on the basis of changed circumstances since the base year period of June 1, 1989 to May 31, 1990, inclusive or the nearest 12 month billing period thereto of the City water billing system based on such reasons as change in the number of family members, of number of occupants, or changes in business practices, or business growth.

Upon receipt of the application the Director is within fifteen (15) days to communicate with the applicant a decision thereof. The Director shall take into consideration all relevant factors presented by the customer.

The decision of the Director of Public Works shall be final except for City Council review.

Section 9. Surcharge for Water Conservation Program

All customers who are not exempt from the surcharge/incentive/penalty rate provisions of this Ordinance shall be subject to a surcharge rate on their bill to pay for the program cost and to maintain the financial integrity of the City Water System Fund. The Program Surcharge shall be an amount to be established by the City Council by separate Resolution.

Section 10. Conservation Incentive Credit for Using Less Than 80% of Base Year Allocation.

When a non-exempt customer has used a quantity of water less
than the 80% base year allocation or for the respective billing period there shall be applied by the City a credit amount to the customer’s bill for the billing period in the amount to be established by the City Council by separate Resolution.

Section 11. Penalty for Exceeding 80% of Base Year Allocation.

(a) On the basis of each billing period’s water meter readings, should it be noted that a customer has used more water than 80% of the base year allocation level (exceeded level) as allowed herein for the first time occurrence the customer is to be given a written notice by the City and the customer shall be billed on their regular bill for such excess usage at the water rates of the City plus the additional penalty rate to be established by the City Council by separate Resolution.

(b) Should it appear from visual inspection that a customer is consuming an abnormally large quantity of water through inefficient utilization of such water that customer is to be given by the City a preliminary notice in writing, of such situation. Such person shall have five (5) working days to either correct such situation, or to terminate the use, or to present to the City a plan of action to mitigate the situation to the satisfaction of the Director of Public Works.

(c) Should after such written notice(s) and/or addition of the penalty to the water bill the customer has not responded and/or made a reasonable effort to reduce its water usage and to conserve the available-water supply, the City may forthwith install a flow-restricting device in the customer service restricting the flow of water to the customer’s premises. Before the City installs a flow-restricting device the customer is to be given a notice in writing of such intended action. Should the customer either not take responsible action or respond to the City as to the customer’s inability to comply with the Ordinance within a reasonable time the City shall proceed to install the flow-restricting device. The flow restricting device will be removed by the City upon satisfactory evidence presented to the City that the customer has mitigated the
situation. The customer will be charged for the actual cost of installation and/or removal of the flow restricting device. Actual cost shall include all City material, labor, equipment and overhead charges.

(d) A customer allowing an adjacent customer to connect to its private water system following installation of a restrictive device shall after written notice by the City to abate such practice and does not immediately cease such action shall have a restrictive device installed by the City in their service line at their expense for a period of a minimum of ten (10) days or for as long a period of time as the connection between the two customers’ premises remains.

Section 12. Notices

All written first notices will be given by the City either in writing to the customer’s mailing address by regular First class U. S. Mail or hand delivered to the customer service address as convenient or appropriate to the City.

Any second or subsequent written notices shall be given by the City by Certified U.S. Mail to the customer’s mailing address and hand delivered to the service address.

Section 13. Nonapplication of Ordinance

This ordinance shall be inoperative to the extent any regulations and restrictions adopted pursuant to Division I, Chapter 3, of the Water Code conflict.

Section 14. Violation Penalty

Any customer appearing to have violated any of the provisions or failed to comply with any of the mandatory requirements of the Ordinance shall be first notified in writing of that violation or non-compliance and will be given an appropriate period of time to respond and/or to mitigate the situation causing the appearance of a violation. Should after that time period no effective response or action has been taken by the customer the City may deem the customer guilty of either an infraction and/or of a misdemeanor. Any customer that in the opinion of the City has violated this City Ordinance may be issued at the discretion of the Director of Public Works or his
designate a citation of the City charging the customer with an infraction of this Ordinance. The first citation issued shall include a fine of one hundred dollars ($100.00). For each subsequent citation issued in a one (1) year period for additional infractions the fine shall be increased respectively by $50 over the prior citation up to a maximum of $250.00. Should the customer, after a minimum of three (3) citations, not have complied with this Ordinance that customer may be charged at the discretion of the Director of Public Works or his designee with a misdemeanor. Any customer convicted of a misdemeanor under this Ordinance of the City shall be punished by a fine of not more than one thousand dollars ($1,000.00), or by imprisonment not to exceed six (6) months, or by both such fine and imprisonment. Each such customer charged with an infraction or misdemeanor shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the ordinances of the City is committed, continued, or permitted by any such person, and he shall be punished accordingly.

Section 15. This Ordinance shall expire at such time as WBMWD should terminate its Water Conservation Ordinance.

Section 16. Severability

If any section, subsection, sentence, clause, phrase, portion, or part of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, part, or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases, parts, or portions be declared invalid or unconstitutional.

Section 17. The City Council of the City of El Segundo hereby declares that a serious water shortage exists and that the protection of the public health, safety, and welfare of the citizens of the community requires that this Ordinance be adopted as an Urgency Ordinance.
Section 18. The City Clerk shall certify to the adoption of this ordinance; shall cause the same to be entered in the book of original ordinances of said City; shall make a minute of the adoption thereof in the records of the meeting at which the same is passed and adopted; and shall cause it to be published in the manner required by law.

PASSED, APPROVED AND ADOPTED this 19th day of February, 1991.

[Signature]
Mayor of the City of El Segundo, California

[Signature]
City Clerk
STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF EL SEGUNDO

I, Ronald L. Hart, City Clerk of the City of El Segundo, California, DO HEREBY CERTIFY that the whole number of members of the City Council of the said City is five; that the foregoing ordinance, being Ordinance No. 1160 is a full, true correct original of Ordinance No. 1160 of the said City of El Segundo, California, entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL SEGUNDO DECLARING A WATER SHORTAGE EMERGENCY ADOPTING MANDATORY WATER CONSERVATION REGULATIONS AND RESTRICTIONS AND DECLARING THE URGENCY THEREOF.

which was duly passed and adopted by the said City Council, approved and signed by the Mayor of said City, and attested by the City Clerk of said City, all at a regular meeting of the said Council held on the 19th day of February, 1991, and the same was so passed and adopted by the following vote:

AYES: Councilmembers Dannen, Clutter, West, Wise and Mayor Jacobsen

NOES: None

ABSTENTIONS: None

I do hereby further certify that pursuant to the provisions of Section 36933 of the Government Code of the State of California, that the foregoing Ordinance No. 1160 was duly and regularly published according to law and the order of the City Council of said City of El Segundo Herald, a weekly newspaper of general circulation, printed, published and circulated within said City and that the same was so published therein on the following day, to wit:

[Signature]
Ronald L. Hart
City Clerk of the
City of El Segundo, California
(SEAL)
EL SEGUNDO CITY COUNCIL
AGENDA STATEMENT

MEETING DATE: September 15, 2009
AGENDA HEADING: Consent Agenda

AGENDA DESCRIPTION:
Supplemental staff report for Consent Agenda Item No. 24 regarding consideration and possible action regarding the adoption of Ordinance No. 1433 adding a new Chapter 10-5 to the El Segundo Municipal Code ("ESMC") regulating water conservation methods and amending ESMC §§ 1-2A-1, 1-2A-2, and 1-2A-3 to enforce Chapter 10-5 with administrative citations. (Fiscal Impact: None)

RECOMMENDED COUNCIL ACTION:
1. Waive second reading and adopt Ordinance No. 1433;
2. Alternatively discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
Letter dated February 3, 2009 from MWD regarding grants

FISCAL IMPACT: Included in Adopted Budget

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

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

BACKGROUND AND DISCUSSION:
At the September 1, 2009, staff informed the City Council that, if adopted, the proposed Ordinance would not make the City eligible to receive MWD grants. That information appears to have been in error.

Attached for your information is a February 3, 2009 letter from MWD regarding water conservation ordinances. Attachment 2 of that letter outlines the minimum requirements for water conservation ordinances that would qualify cities to obtain grants. The City’s ordinance must include four minimum requirements:

1. Prohibited water uses (no washing down hard or paved surfaces; fix leaks within reasonable time);
2. Outdoor irrigations practices (irrigation restrictions; no excessive water flow or runoff);
3. Enforcement and penalties (may be elsewhere in the municipal code); and
4. Be complemented by a public information campaign.

ITEM 24
A review of the proposed Ordinance shows that it meets all four of these criteria. Consequently, it appears that the City could obtain MWD grants with the proposed ordinance.

These requirements closely mirror State law. Water Code § 10631.5 sets forth what's required to obtain state grants, including complying with Water Code § 10631. That Section (Water Code § 10631(f)) requires, among other things, that a potential grantee have in place "water waste prohibitions" and "conservation pricing."

MWD adopted a "Water Supply Alert" resolution on June 10, 2008 which "urges" jurisdictions to adopt and enforce "conservation and drought ordinances" that include

"tiered rate structures that promote conservation; restrictions on the hours of outdoor watering; prohibitions on landscape irrigation runoff; provisions for water efficient landscapes in new construction and landscape retrofits; hotlines or other mechanisms for the public to report inefficient or prohibited water use; restrictions on use of potable water for street cleaning; new or enhanced rebate programs for water saving devices; new or enhanced incentives to maximize the use of recycled water."

There is nothing that requires the City to adopt the MWD model ordinance verbatim. Indeed, the model ordinance itself states that "[t]he model ordinance is a tool that can be adapted or revised by member agencies and local governments to improve water use efficiency within their jurisdictions"; "[t]he number of escalating water restriction levels and the actual triggers for determining particular water supply conditions is left to the discretion of the adopting entity."
Date: February 3, 2009

To: Member Agency Managers

From: Stephen N. Arakawa, Manager, Water Resource Management

Subject: Ordinance Prerequisite for Extraordinary Conservation Programs

On January 13, 2009, Metropolitan’s Board authorized ordinance implementation criteria as a prerequisite to participation in three extraordinary conservation programs:

- Phase II Public Sector Program
- Turf Removal Pilot Program
- New Enhanced Conservation Program.

Please note that board direction resulted in changes to the information letter submitted in January and from our prior communications. A copy of our implementation schedule is provided in Attachment 1. All of Metropolitan’s other conservation programs do not require the prerequisite for eligibility.

**Ordinance Prerequisite Options**

Metropolitan is initiating implementation of the three extraordinary conservation programs within its budget capability. To comply with the Board’s ordinance prerequisite, we request that member agencies provide one of the following for each local jurisdiction, which can be a city, water agency or county covering the proposed project site seeking an incentive.

1. Copy of the conservation ordinance and written description of the implementation plan for a city, county, or water agency. Agencies that previously submitted ordinances to Metropolitan must resubmit their ordinance and an implementation plan. Attachment 2 lists the required ordinance provisions. The implementation plan must enumerate the applicable sections that address each of the required ordinance provisions. Metropolitan will rely on written member agency assessments that local water efficiency requirements are publicly communicated and enforced. Where agencies have ordinances with phased implementation, the information provided must explain the phase currently in effect. To be eligible for incentive funding, the phase in effect must comply with minimum requirements at the time of funding.

2. Written pledge to develop an action plan and to work with a specific constituent jurisdiction that would adopt a conservation ordinance and implementation plan including the timeline for the following milestones:
Member Agency Managers
Page 2
February 3, 2009

- Inform all local jurisdictions of need for conservation ordinance and implementation
- Each jurisdiction secure commitment from its governing body to begin drafting ordinance and implementation plan
- Develop draft ordinance and implementation plan
- Receive public input on draft ordinance and implementation plan
- Governing body adopt ordinance
- Enact ordinance
- Submit adopted ordinances and implementation plans to Metropolitan

3. Written statement attesting to and describing an alternative method or strategy that will achieve at least 5 percent of additional water conservation savings in the local jurisdiction over calendar year 2008 levels.

Prioritization
Priority for issuing financial incentives under the extraordinary programs will be given to applicants that comply with Option 1.

Progress Reporting
Staff will provide a progress report to Metropolitan’s Board in June 2009. Sample progress reports are provided in Attachment 3.

For jurisdictions that elect Option 1, member agencies must report on the status of public communication and enforcement of the ordinance to Metropolitan by April 30 and October 30, 2009, and annually thereafter.

For jurisdictions that elect Option 2, member agencies must report status on progress to Metropolitan on April 30, 2009. The report should include progress on each milestone established above and remaining actions needed to complete work by July 1, 2009, in order for that jurisdiction to remain eligible for the extraordinary conservation programs. Upon adoption, member agencies must submit to Metropolitan a copy of the ordinance and implementation plan and provide progress reports thereafter as outlined for Option 1.

For jurisdictions that elect Option 3, member agencies must provide reports on actual water savings as compared to calendar 2008 levels by April 30 and October 30, 2009, and annually thereafter.
Member Agency Managers
Page 3
February 3, 2009

Program Status
Currently, applications for Phase II Public Sector Program funding exceed $11 million. Since program funding will be released on a fiscal year basis in increments of $5 million beginning this fiscal year, it is in your best interest to submit the requested information outlined above as soon as possible. With regards to the Enhanced Conservation Program, Metropolitan issued a competitive Request for Proposals earlier this month and anticipates making selections and negotiating agreements as early as April 2009. Additionally, we are awaiting execution of our Turf Removal Pilot Program agreement with the Department of Water Resources, which has indicated that funds will likely be suspended until further notice due to the unprecedented state budget and financial crisis.

Please submit information in support of the ordinance prerequisite to the attention of Mr. Raymond Jay. If you have any questions, please call Mr. Jay at (213) 217-5777 or via email at rjay@mdwh2o.com.

Stephen M. Arakawa

AMH:vs
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Attachments

cc: Board of Directors
Member Agency Conservation Coordinators
Attachment 1
Implementation Schedule

The key implementation milestones are summarized as follows:

January 2009 Participating member agencies must provide one of the following:
1. Copy of conservation ordinance and written description of the implementation plan that meets the basic requirements; or
2. Written pledge to develop an action plan and to work with its constituent jurisdictions (to be listed) to adopt conservation ordinances and implementation plans; or
3. A written statement attesting to and describing an alternative method or strategy that will achieve at least 5 percent of additional water conservation savings in a local jurisdiction over calendar year 2008 levels.

April 2009 Participating member agencies submit progress reports on ordinance and implementation plan development and adoption within their respective jurisdictions. Reports must include progress toward the milestones. Agencies choosing an alternative method or strategy must provide a written report on water savings achieved over 2008 levels.

June 2009 Member agencies must submit one of the following:
1. Copy of conservation ordinance and description of implementation plan to meet the basic requirements; or
2. A written statement attesting to and describing an alternative method or strategy that will achieve at least five percent of additional water conservation savings in a local jurisdiction over calendar year 2008 levels.

Metropolitan staff report to Board on service area progress.

July 2009 Ordinance prerequisite or alternative method or strategy required to participate in the extraordinary conservation programs.

Begin FY 09/10 $5 million funding for Phase II Public Sector Program.

Note: After July 1, 2009, the written pledge to develop an action plan and to work with its constituent jurisdictions to adopt conservation ordinances and implementation plans will no longer be the basis for meeting the Board's ordinance prerequisite requirements.
Attachment 2

Basic Ordinance and Implementation Requirements for Extraordinary Conservation Programs

The objective of the ordinance prerequisite is to achieve immediate and widespread efficiency practices by retail water users and achieve water savings to contend with recent and potential further water supply reductions to the region. Ordinance provisions are expected to be complemented with public communication on the need for water-use efficiency and how to achieve it. Examples of ordinance provisions have been provided to member agencies in the form of model ordinances.

The measures described below are identified as basic requirements that would meet the criteria for conservation ordinances and implementation:

1. Prohibited water uses
   - No washing down hard or paved surfaces
   - Fix leaks within reasonable time
2. Outdoor irrigation practices
   - Irrigation restrictions
   - No excessive water flow or runoff
3. Enforcement and penalty mechanisms; one or more of the following (these provisions may be addressed by implementation practices separate from the ordinance):
   - Administrative penalties
   - Civil fines
   - Flow restrictors
   - Disconnection of service
   - Misdemeanor
   - Water allocation and penalties for exceeding allotment
   - Escalating retail water rates

Alternative Compliance

A member agency would submit a written statement attesting to an alternative method or strategy that a local jurisdiction would use to achieve at least 5 percent of additional water conservation savings over calendar year 2008 levels. This would represent a proportionate share of the 200,000 acre-feet per year objective of new savings sought as a result of ordinance implementation.
* Email notification of Agenda Packet posted to the City of El Segundo Website.
EL SEGUNDO CITY COUNCIL
AGENDA STATEMENT

MEETING DATE: September 1, 2009
AGENDA HEADING: Old Business

AGENDA DESCRIPTION:
Consideration and possible action to introduce and waive first reading of an ordinance adding a new Chapter 10-5 to the El Segundo Municipal Code ("ESMC") regulating water conservation methods and amending ESMC §§ 1-2A-1, 1-2A-2, and 1-2A-3 to enforce Chapter 10-5 with administrative citations. (Fiscal Impact: None)

RECOMMENDED COUNCIL ACTION:
(1) Introduce and waive first reading of an ordinance adding Chapter 10-5 to the ESMC and amending ESMC §§ 1-2A-1, 1-2A-2, and 1-2A-3;
(2) Schedule second reading and adoption for September 15, 2009;
(3) Alternatively, discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
Draft Ordinance
Sample ordinance from Metropolitan Water District (from 4/21/09)
Letter dated April 21, 2009 from Continental Development Corporation
Ordinance No. 1180, adopted April 21, 1992
Ordinance No. 1160, adopted February 19, 1991

FISCAL IMPACT: Included in Adopted Budget

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

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

BACKGROUND AND DISCUSSION:
As you are aware, in April 2009, the City Council considered a draft ordinance regulating water conservation. That ordinance was the verbatim version of the Metropolitan Water District’s ("MWD") draft model Water Conservation ordinance from December 2008. According to the MWD, local water providers failing to adopt regulations that are at least as strict as MWD’s model ordinance would be ineligible to receive grant funding. In 2008, the City received grant funds from Metropolitan Water District for the Environmental Expo in the amount of $3,000, and most recently received $53,087 for the “It’s Time to Get Serious “ El Segundo Water Conservation Banner Program.
At its April 21st meeting, the City Council discussed the proposed ordinance. A majority of the Council concluded that MWD’s ordinance did not meet the City’s needs and directed the City Attorney’s office to redraft the ordinance.

Included with this staff report is the redrafted ordinance which largely incorporates regulations from the City’s previously enacted water conservation ordinances: Ordinance Nos. 1160 and 1180 (collectively, “Previous Regulations”). While it borrows sparingly from the MWD model ordinance, the regulations are nevertheless just as strict. Among other things, the proposed ordinance accomplishes the following:

- requires persons to adopt drought water conservation programs (per the Previous Regulations);

- requires leak repairs within 72 hours (the Previous Regulations allow 48 hours; the MWD allows 7 days after receiving notice);

- prohibits watering landscaping between 9 a.m. and 5 p.m. (which follows the MWD model ordinance; the Previous Regulations prohibit watering between 10 a.m. and 4 p.m.);

- prohibits wasteful use of water through various means including, e.g., watering sidewalks and washing cars without a bucket/shutoff nozzle (per Previous Regulations and MWD);

- requires commercial car wash facilities to use water recycling equipment (MWD requires this beginning January 1, 2010);

- requires restaurants to serve water only upon request (both Previous Regulations and MWD);

- allows the City Council to impose water use reductions by resolution to comply with federal, state or regional restrictions because of emergency conditions (MWD has a mandatory “Level” approach to which the City Council and Continental Development Corporation objected; the proposed regulation allows greater flexibility);

- provides a procedure for waivers (per Previous Regulations and MWD); and

- allows administrative citations to be used for enforcing the water conservation regulations (this allows for a civil proceeding rather than simply relying upon criminal prosecution).

While staff generally tries to provide a redlined version of ordinances to assist with City Council discussion, the extensive changes made by the City Attorney’s office would make such comparison impractical; most of the resulting document would show deleted language.

With the adoption of this ordinance there will be several new requirements that residents and business owners need to be aware of. Staff will use various methods to get the information out to the public such as water bill stuffers, articles in the El Segundo Herald, the City’s website and Community Cable Channel.
ORDINANCE NO. ___________

AN ORDINANCE ADDING A NEW CHAPTER 10-5 TO THE EL SEGUNDO MUNICIPAL CODE ("ESMC") ESTABLISHING WATER CONSERVATION MEASURES IN ACCORDANCE WITH WATER CODE § 375 AND AMENDING ESMC §§ 1-2A-1, 1-2A-2, AND 1-2A-3 TO ENFORCE ESMC CHAPTER 10-5 WITH ADMINISTRATIVE CITATIONS.

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

SECTION 1: The City Council finds as follows:

A. Protecting, conserving, and managing water supplies is an issue of municipal concern. Contamination, drought, or damage to the City's potable water infrastructure can lead to a water emergency.

B. The City receives all of its water from the West Basin Municipal Water District ("WBMWD") and Metropolitan Water District of Southern California ("MWD"; collectively, "Districts").

C. It is in the public interest for the City to enact regulations for distribution and use of potable water including, without limitation, water conservation programs to encourage efficient water use and discourage waste.

SECTION 2: El Segundo Municipal Code ("ESMC") §§ 1-2A-1, 1-2A-2, and 1-2A-3 are amended to read as follows:

"1-2A-1: Purpose.

This chapter is adopted pursuant to the city's police powers and Government Code § 53069.4 for the purpose of making any violations of El Segundo Municipal Code §§ 5-4-1 to 5-4-13 (entitled "Storm Water and Urban Runoff Pollution Control") and §§ 10-5-1 to 10-5-23 (entitled "Water Conservation") subject to an administrative fine and to set forth the procedures for the imposition and collection of such fines.

1-2A-2: Applicability.

This chapter provides for administrative citations that are in addition to all other legal remedies, criminal or civil, which the city may pursue to address violations of the Storm Water Code and Water Conservation Code. The use of this chapter is at the sole discretion of the code enforcement officer.

1-2A-3: Definitions:

Unless the contrary is stated or clearly appears from the context, the following definitions govern the construction of the words and phrases used in this chapter:
"Water Conservation Code" means §§ 10-5-1 to 10-5-23 of the El Segundo Municipal Code and any federal, state, or local regulation enforced by and through the Water Conservation Code including, without limitation, pertinent provisions of Titles 13 and 15 of this Code.

SECTION 3: A new Chapter 10-5, entitled Water Conservation, is added to the ESMC to read as follows:

"CHAPTER 10-5

WATER CONSERVATION

10-5-1: Purpose.
10-5-2: Definitions.
10-5-3: Water Conservation Program.
10-5-4: Repair of Plumbing, Sprinkler and Irrigation System.
10-5-5: Watering/Irrigation.
10-5-6: Miscellaneous Restrictions.
10-5-7: Commercial Car Washes.
10-5-8: Washing of Equipment and Machinery.
10-5-9: Cleaning of Structures.
10-5-10: Cleaning of Surfaces.
10-5-11: Water Spillage.
10-5-12: Swimming Pools and Spas.
10-5-14: Cooling Systems.
10-5-15: Commercial Laundry Facilities.
10-5-16: Visitor-Serving Facilities.
10-5-17: Restaurants.
10-5-18: Construction.
10-5-19: Use of Hydrants.
10-5-20: Indiscriminate Use.
10-5-22: Water shortage contingency measures.
10-5-23: Relief from compliance.

10-5-1: Purpose.

This Chapter is adopted pursuant to Water Code § 375 for the purpose of establishing water conservation requirements and implementing contingency measures in the event of water shortages.

10-5-2: Definitions.

Unless the contrary is stated or clearly appears from the context, the
following definitions govern the construction of the words and phrases used in this Chapter.

"Impervious surface" means a constructed or modified surface that cannot effectively percolate water. The terms includes, without limitation, sidewalks, driveways, gutters, and roads.

"Person" means a natural or corporate person who receives potable water service from the City.

"Programmed" means a weather-based or sensor-based irrigation controller that was programmed in accordance with manufacturer's instructions and site-specific conditions.

"Responsible person" means the person responsible for daily operations of every residential or commercial premises located within the City's jurisdiction including, without limitation, the property owner.

"Sensor-based irrigation controller" means an irrigation controller that operates based upon input received from any combination of sensors such as rain, light, and soil moisture, installed within or around an irrigated landscape area.

"Weather-based irrigation controller" means an irrigation controller that operates based on evapotranspiration rates and historic or real-time weather data.

10-5-3: Water Conservation Program.

All water customers are required to adopt and put into use at the earliest possible date drought water conservation programs.

10-5-4: Repair of Plumbing, Sprinkler and Irrigation System.

Responsible persons must, as soon as practicable, but not later than seventy-two (72) hours after such person first discovers water leaks, commence repair of any leaking pipes, faucets, plumbing fixtures, other water service appliances, sprinklers, watering or irrigation systems, or distribution systems and promptly complete such repair work, unless a waiver is obtained from the City.

10-5-5: Watering/Irrigation.

It is unlawful for any person to water their lawn or landscaping or permit their lawn or landscaping to be watered between the hours of nine (9:00) AM and seven (5:00) PM, except as provided below:
A. Persons may operate an irrigation system between 9:00 AM and 5:00 PM for the purpose of installing, repairing or routine maintenance of the same;

B. Persons may water between the hours of 9:00 AM and 5:00 PM using any of the following methods:

1. Properly programmed weather-based and/or sensor-based irrigation controllers;

2. Drip irrigation;

3. By hand, using a bucket; or

4. By hand, using a hose with an automatic shutoff nozzle.

10-5-6: Miscellaneous Restrictions. The following are unlawful for any person:

A. Allowing grass, lawns, groundcover, shrubbery, and open ground to be watered at any time while it is raining.

B. Operating landscape irrigation system(s) that allow overspray or excess runoff onto impervious surfaces (such as sidewalks, driveways, v-ditches, gutters and roadways).

C. To use a water hose to wash any vehicle including, without limitation, cars, trucks, boats, trailers, recreational vehicles, or campers, or any other aircraft, tractor, or any other vehicle, or any portion thereof, unless the hose is equipped with an automatic shutoff nozzle. Except for individual residential vehicle washing, all wash water from vehicle washing/cleaning activity must be prevented from discharging to the stormwater drainage system.

10-5-7: Commercial Car Washes.

A. It is unlawful for commercial car wash facilities to permit the washing of any boat or vehicle in such facility or on its premises, other than by the following methods:

1. Use of mechanical automatic car wash facilities utilizing water recycling equipment;

2. Use of a hose that operates on a timer for limited time periods and shuts off automatically at the expiration of the time period;

3. Use of a hose equipped with an automatic shutoff nozzle; or
4. Use of bucket and hand washing.

B. All wash/rinse water must be captured and recycled or discharged into the sanitary sewer system.

C. All new commercial conveyor car wash facilities must be equipped with a water recycling system.

10-5-8: Washing of Equipment and Machinery.

It is unlawful for any person to use a water hose to wash any type of equipment or machinery, or any portion thereof, unless the hose is equipped with an automatic shutoff nozzle. All wash water from such washing/cleaning activity must be prevented from discharging to the stormwater drainage system.

10-5-9: Cleaning of Structures.

It is unlawful for any person to use water through a hose to clean the exterior of any building or structure unless such hose is equipped with a shutoff nozzle. All wash water from such activity must be prevented from discharging to the stormwater drainage system.

10-5-10: Cleaning of Surfaces.

It is unlawful for any person to use water through a hose to clean any sidewalk, driveway, roadway, parking lot, or any other outdoor paved or hard surfaced area, unless all wash water from such activity is prevented from discharging to the stormwater drainage system.

10-5-11: Water Spillage.

Every person must minimize water spillage into streets, curbs, or gutters and minimize runoff beyond the immediate area of use. Every person is deemed to have under his/her control at all times his/her water distribution lines and facilities, and to know the manner and extent of his/her water use and excess runoff.

10-5-12: Swimming Pools and Spas.

It is unlawful for any person to empty and refill a swimming pool or spa except to prevent or repair structural damage or to comply with public health regulations. Discharge of pool water, other than directly to the sanitary sewer system, must be consistent with this Code with regard to stormwater. Discharge of pool filter backwash water to the stormwater drainage system is
prohibited. All pools and spas must be equipped with a water recirculation device. The use of a pool/spa cover is encouraged to prevent evaporative water loss.

10-5-13: **Fountains, Decorative Basins, Ponds, Waterways.**

It is unlawful for any person to use water to operate or maintain levels in decorative fountains, basins, ponds, and waterways unless a recirculation device is in use. Discharge of water, other than directly to the sanitary sewer system, must be consistent with this Code with regard to stormwater. Discharge of filter backwash water to the stormwater drainage system is prohibited.

10-5-14: **Cooling Systems.**

No single pass cooling systems are permitted in new connections.

10-5-15: **Commercial Laundry Facilities.**

New commercial laundry facilities must be equipped with a water reclamation system for rinse water.

10-5-16: **Visitor-Serving Facilities.**

The owner and manager of each hotel, motel, restaurant, and other visitor-serving facility must ensure that such facility displays, in places visible to all customers, placards or decals approved by the City, promoting public awareness of the need for water conservation and/or advising the public that waste of water is prohibited.

10-5-17: **Restaurants.**

Restaurants in the City cannot serve water to restaurant customers, except upon request of the customer.

10-5-18: **Construction.**

A. It is unlawful to use potable water for compacting or dust control purposes in construction activities where there is a reasonably available source of recycled or other non-potable water approved by the California State Department of Health Services and appropriate for such use.

B. All water hoses used in connection with any construction activities must be equipped with an automatic shutoff nozzle when an automatic shutoff nozzle can be purchased or otherwise obtained for the size or type of hose in use.
10-5-19: Use of Hydrants.

It is unlawful for any person to utilize any fire hydrant for any purpose other than fire suppression or emergency aid, without first obtaining written approval from the City Manager, or designee.

10-5-20: Indiscriminate Use.

It is unlawful for any person to cause or permit the indiscriminate running of water not otherwise prohibited by this chapter which is wasteful and without reasonable purpose.


These regulations cannot be construed to limit water use which is immediately necessary to protect public health or safety.

10-5-22: Water shortage contingency measures.

The City Council by resolution is authorized to require or impose reductions in the use of water if such reductions are necessary in order for the City to comply with water use restrictions imposed by federal, state or regional water agencies or to respond to emergency water shortage conditions. Depending on the expected duration and severity of the shortage, these measures may include, without limitation, the following:

A. Prohibit the filling or emptying and refilling of swimming pools, excluding normal maintenance of water levels due to evaporation.

B. Prohibit the use of a temporary fire hydrant meter from the City, or otherwise using water through a temporary City water service.

C. Require all major water users to reduce their usage by the percentage determined by the City Manager, or designee, to be necessary to sustain adequate water supply for the City. Such percentage must be based both on the rate of supply to the City and the rate of current water demand.

D. Impose an additional water surcharge above and beyond the existing City water rates on all City residents, water users and water consumers who fail or refuse to abide by the requirements, restrictions and priorities adopted by the City in response to the emergency water shortage condition.

E. Employ additional City staff to monitor water usage, provide assistance to water users to reduce their water consumption, and to police the
enforcement of the requirements, restrictions and priorities adopted by the City in response to the emergency water shortage condition.

F. Suspend all sales and deliveries of City water, or use of City water, for construction or grading purposes.

G. Reduce or prohibit consumption or use of City water by residential, recreational, commercial, industrial and institutional water users for landscape irrigation purposes.

H. Initiate or implement additional or innovative actions to increase the supply of water available to the City and to conserve the City's existing water supply.

10-5-23: Relief from compliance.

The City Manager, or designee, may grant written waivers to persons who apply on forms supplied by the City for:

A. Prohibited uses of water if it is found that a waiver is necessary to prevent an emergency condition relating to health and safety, and if the person seeking a waiver demonstrates that he or she implemented water conservation measures in some other manner that achieves the objectives of this Chapter. No waiver can be granted for the filling of any decorative fountain, basin, pond, hot tub, spa or permanent swimming or wading pool, unless the filling occurs as the result of performing necessary leak repairs and unless the other provisions of this Section are met.

B. No waiver can be granted unless the person demonstrates that he or she has already achieved the maximum practical reduction in water consumption as can be achieved by the affected property or business. Any waiver granted must be based upon the water consumption rates of similar water users, properties or businesses.

SECTION 4: CALIFORNIA ENVIRONMENTAL QUALITY ACT EXEMPTION. This ordinance is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., “CEQA”) and CEQA regulations (14 California Code of Regulations §§ 15000, et seq.) because it establishes rules and procedures to permit operation of existing facilities; minor temporary use of land; ensure maintenance, restoration and protection of the environment; and regulate normal operations of facilities for public gatherings. This Ordinance, therefore, is categorically exempt from further CEQA review under Cal. Code Regs. Title 14, §§ 15301, 15304(e), 15308, and 15323.

SECTION 5: SAVINGS CLAUSE. Repeal of any provision of the SPMC or any other
regulation by this Ordinance does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before, this Ordinance's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

**SECTION 6: SEVERABILITY.** If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the city council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

**SECTION 7: VALIDITY OF PREVIOUS CODE SECTIONS.** If this the entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal of the SPMC or other regulation by this Ordinance will be rendered void and cause such SPMC provision or other regulation to remain in full force and effect for all purposes.

**SECTION 8:** 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 9:** This Ordinance will take effect on the 31st day following its final passage and adoption.

PASSED AND ADOPTED this _____ day of _____, 2009.

______________________________
Kelly McDowell, Mayor

ATTEST:

______________________________
Cindy Mortesen, City Clerk

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

By: ______________________________
Karl H. Berger, Assistant City Attorney
April 21, 2009

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

Subject: Agenda Item 10 – Draft Water Conservation Ordinance

Honorable Mayor McDowell and City Council Members:

It is evident that the current water supply situation in California is highly uncertain. California faces a third consecutive year of historically dry conditions, reservoir levels have been drawn down over the past two years, and uncertainties and limitations have been placed on imported water deliveries. The current water supply conditions mean that all Californians must eliminate wasteful water use practices and focus on water conservation and best practices for efficient use of potable water.

Continental Development Corporation (CDC) is committed to proactive resource conservation and supports the City’s action to amend and update its existing water conservation ordinance to reflect current conditions. CDC respectfully submits the following comments regarding the draft water conservation ordinance. These comments focus on requests for clarification and suggestions for potential alternative methods to achieve the objectives of the proposed ordinance with flexibility of implementation.

Sections 10.02.10., 11, 12: Water Supply Shortage:

Further clarification is requested as to what event(s) and/or event thresholds may cause the City to declare a Level 1, 2, or 3 Water Supply Shortage.

Section 10.02.10: Level 1 Water Supply Shortage:

1. Limits on Watering Days:

The proposed ordinance establishes limits on watering to no more than three days per week except during the months of November through March when watering with potable water is limited to one day a week with exceptions for drip irrigation systems and by hand held hose with a shut-off nozzle.

The one day per week restriction during November through March presents potential challenges for adequate maintenance of lawns and plantings in areas where hand
watering with a hose is not possible due to lack of a nearby hose bib. Proposed Section 10.02.09 Water Conservation Requirements – Prohibition Against Waste includes item b, Limit on Watering Duration which limits watering duration to no more than fifteen minutes watering per day per station. It is requested that the ordinance provide an option to continue to water three days per week during the months of November through March with watering duration limited to no more than five minutes per day per station. This option imposes the same water use limit while providing flexibility. Users equipped with irrigation systems and time clocks can achieve the same water savings objective by using best practices in the utilization of their irrigation systems.

Section 10.02.11 Level 2 Water Supply Shortage

1. Watering Days

Level 2 Water Shortage limits watering days to two days per week and includes the Level 1 restriction to limit watering no more than one day per week during November through March. It is requested that the same option requested for Level 1 apply to Level 2, so that users may utilize their irrigation systems to continue to water two days per week during November through March with a requirement that watering duration limited to no more than 7 minutes per day per station.

Section 10.02.12 Level 3 Water Supply Shortage – Emergency Conditions

No Watering or Irrigating: This measure limits maintenance of vegetation to watering with hand held container or hand held hose with a shut-off nozzle. Commercial complexes that typically use zoned irrigation systems are not equipped with hose bibs in all the necessary locations that may be needed to reach and maintain minimum vegetation, including trees and shrubs, with a hand held hose. It is requested that users equipped with zoned irrigation systems with time clocks be permitted to utilize the zone capability of the irrigation system to water vegetation two days per week as long as the volume of water used does not exceed the volume of water that would be used with a hand held hose and that all other requirements of the ordinance are adhered to. This option provides flexibility to maintain minimum vegetation in areas that cannot practically be reached with hose.

As California continues to face dry conditions, water supply uncertainties and a growing population, it is critical that everyone practice water conservation to help meet our conservation goals. We need drought protection and reduced dependence
on imported water supplies. Increased local control of our water supply will result in a more stable and reliable supply of water.

CDC is committed to practicing proactive resource conservation and will continue to investigate new strategies to expand its conservation efforts.

Thank you for consideration of our comments. I am available to answer any questions regarding these comments at 310-640-1520, Ext. 205 or via email at treina@continentaldevelopment.com.

Sincerely,

Toni Reina
Planning Manager

Copy: Dana Greenwood, Public Works Director
Cindy Mortesen, City Clerk
Richard C. Lundquist, CDC
Lianne Ibarra, CDC
Alex J. Rose, CDC
ORDINANCE NO. 1160

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL SEGUNDO DECLARING A CONTINUANCE OF THE WATER SHORTAGE EMERGENCY, RESCINDING CITY MANDATORY WATER CONSERVATION ORDINANCE NO. 1160 AND ADOPTING THE CITY VOLUNTARY WATER CONSERVATION ORDINANCE.

THE CITY COUNCIL OF THE CITY OF EL SEGUNDO does ordain as follows:

Section 1. Purpose and Scope.

The City of El Segundo (hereinafter called City) receives all of its potable (drinking) water supplies from the West Basin Municipal Water District (hereinafter called WBWMD) which District receives all of its potable water supplies from The Metropolitan Water District of Southern California (hereinafter called MWD). In February 1991 WBWMD and MWD respectively declared water shortage emergencies and adopted mandatory water conservation programs which required a 20% reduction in usage of non-interruptible municipal and industrial water supplies. The City of El Segundo as a 100% user of non-interruptible treated municipal and industrial water supplies from MWD and WBWMD was required to adopt a conservation program similar to that of MWD and WBWMD. On 3/10/92 MWD changed the level of required conservation to a 10% mandatory level effective 3/1/92. On 3/27/92 MWD changed the 10% conservation requirement from that of a mandatory program to that of a voluntary program.

Section 2. Findings.

The Council does hereby find, determine and declare as follows:

a. The City did on 2/19/91 adopt a Mandatory Water Conservation Program as Ordinance No. 1160 effective that date that established a mandatory level of conservation at 20% below the baseline period of 1989-90 as a requirement of WBWMD and MWD.

b. MWD on 3/10/92 changed the level of mandatory water conservation to 10% of the 1989-90 baseline period and accordingly allocated an increased supply of water to the WBWMD.

c. MWD on 3/27/92 changed the mandatory conservation program to that of a voluntary program at a level of 10% below the 1989-90 baseline year usage.

d. WBWMD is proceeding to change their conservation program.

e. The change in the level of Mandatory Water Conservation by MWD and WBWMD from 20% to 10% of the 1989-90 baseline and from mandatory to voluntary permits the City to do likewise.

f. The change in the level of Mandatory Water Conservation by MWD, WBWMD and the City to 10% of the 1989-90 baseline on a voluntary basis will not have any significant adverse environmental impacts as disclosed by environmental documents prepared and distributed as required by law. A Notice of Categorical Exemption has been filed and is hereby adopted and approved.

g. Ordinance No. 1160 is hereby rescinded and replaced by this Ordinance.
Section 3. Water Allotment.

The purpose of this Ordinance is to reduce the amount of potable water consumed by City customers by a minimum of 10% below the base year usage.

Section 4. Use Restriction Guidelines.

a. All water customers are required to adopt and put into use at the earliest possible date drought water conservation programs. Those customers whose consumption places them in the 100 largest quantity consumers of water on a 12-month basis in the City shall have filed under former Ordinance No. 1160 their written conservation plans with the City. Such plans as accepted by the City shall hereby be considered to be consistent with this Ordinance other than the goal thereof shall be to conserve 10% of the 1989-90 baseline year usage on a voluntary basis. Any new business whose anticipated consumption would place them in the top 100 users in the City shall file also a plan with the City upon applying for the water service.

b. All uses by water service customers of the City and the programs of the top 100 users are to be consistent with the following restrictions concerning the use of water:

1. With respect to practices:

- Lawn watering and landscape irrigation with potable water is to be generally only permitted between the hours of 4 p.m. and 10 a.m. Golf courses, parks, school grounds and recreational fields are to generally be irrigated within the designated times. For the purpose of maintenance and testing the irrigation system minimum water use will be allowed during the daytime.

- Agricultural users, commercial nurseries, landscape contractors and irrigation of livestock and irrigation of propagation beds may continue to irrigate with potable water as management practices dictate, but are requested to curtail all non-essential water uses.

- Hand watering is recommended to be done by use of a hand-held hose equipped with a positive shut-off nozzle, a hand-held faucet-filled bucket of five gallons or less is used, or a drip irrigation system is used.

2. With respect to exterior washing practices:

(a) Washing of building, facilities, equipment, autos, trucks, trailers, boats, airplanes and other types of mobile equipment should be curtailed except where a hand-held hose equipped with a positive shut-off nozzle for quick rinses is used. Whenever possible, such as when washing vehicles, a bucket wash is recommended.

(b) Washings are exempted from these regulations where the health, safety and welfare of the public is contingent upon frequent vehicle or other facility or equipment cleaning, such as garbage trucks and vehicles used to transport food and perishables.

(c) Water should not be used to wash down sidewalks, driveways, parking areas, residential tennis courts, patios or other paved areas except to alleviate immediate fire, sanitation or health hazards.
(d) Water should not be allowed to run off landscape areas into adjoining streets, sidewalks, or other paved areas due to incorrectly directed or maintained sprinklers or excessive watering.

(2) With respect to ornamental or recreational uses:

(a) Filling and refilling residential swimming pools and spas should be held to a minimum, but if necessary should only be done between the hours of 6 p.m. and 6 a.m.

(b) Filling and refilling of ponds, fountains, and artificial lakes is discouraged and the recycling of water in ponds, fountains, and artificial lakes is recommended.

(4) With respect to other uses:

(a) Water from fire hydrants is to only be used for fire fighting and public health, safety, and welfare activities including public street sweeping.

(b) Water from meters installed on fire hydrants may be used for construction purposes proved the contractor practices conservation.

(c) Flushing of water mains should only be done as necessary to protect the public health.

(d) Eating establishments should practice water conservation for all water usages.

Water system leaks are recommended to be repaired as soon as possible after being discovered and should not be allowed to continue for an unreasonable time.

Section 5. The base year allocation to the City set by the WBMWD is defined as a consecutive 12 monthly water delivery amounts for the period of July 1, 1989 through June 30, 1990, inclusive.

Section 6. Enforcement.

The Director of Public Works of the City of El Segundo or his designated representative shall have the duty and are hereby authorized to work with and assist water system customers in meeting the provisions of this ordinance and shall have all the powers and authority contained in California Penal Code Section 836.5, including the power to issue written notice to appear.

Section 7. Nonapplication of Ordinance.

This ordinance shall be inoperative to the extent any regulations and restrictions adopted pursuant to Division I, Chapter 3, of the Water Code conflict.

Section 8. This ordinance shall expire at such time as WBMWD should terminate its corresponding Water Conservation Ordinance.

Section 9. Severability.

If any section, subsection, sentence, clause, phrase, portion, or part of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each
section, subsection, sentence, clause, phrase, part, or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases, parts, or portions be declared invalid or unconstitutional.

Section 10. The City Clerk shall certify to the adoption of this Ordinance; shall cause the same to be entered in the book of original ordinances of said City; shall make a minute of the adoption thereof in the records of the meeting at which the same is passed and adopted; and shall cause it to be published in the manner required by law.

PASSED, APPROVED AND ADOPTED this 21st day of April, 1992.

[Signature]
Mayor of the City of El Segundo
California

ATTEST:

[Signature]
Cindy Morgan,
City Clerk
(SEAL)
STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

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 the said City is five; that the foregoing ordinance, being ORDINANCE NO. 1180 is a full, true correct original of ORDINANCE NO. 1180 of the said City of El Segundo, California, entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL SEGUNDO DECLARING A CONTINUANCE OF THE WATER SHORTAGE EMERGENCY, RESCINDING CITY MANDATORY WATER CONSERVATION ORDINANCE NO. 1160 AND ADOPTING THE CITY VOLUNTARY WATER CONSERVATION ORDINANCE.

which was duly passed and adopted by the said City Council, approved and signed by the Mayor of said City, and attested by the City Clerk of said City, all at a regular meeting of the said Council held on the 21st DAY OF APRIL, 1992, and the same was so passed and adopted by the following vote:

AYES: Mayor Jacobson, Mayor ProTem Wise, Councilmember Robbins, Switz, and West.

NOES: None

ABSTENTION: None

I do hereby further certify that pursuant to the provisions of Section 36933 of the Government Code of the State of California, that the foregoing ORDINANCE NO. 1180 as duly and regularly published according to law and the order of the City Council of said City of El Segundo Herald, a weekly newspaper of general circulation, printed, published and circulated within said City and that the same was so published therein on the following day, to wit:

CINDY MORTESSEN
City Clerk of the City of El Segundo, California

(SEAL)

116664
ORDINANCE NO. 1160

AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF EL SEGUNDO
DECLARING A WATER SHORTAGE EMERGENCY
ADOPTING MANDATORY WATER CONSERVATION
REGULATIONS AND RESTRICTIONS AND DECLARING
THE URGENCY THEREOF

THE CITY COUNCIL OF THE CITY OF EL SEGUNDO does ordain
as follows:

Section 1. Purpose and Scope

The City of El Segundo (hereinafter called City) receives
all of its potable water supplies from the West Basin Municipal
Water District, (hereinafter called WBMWD) which District
receives all of its potable water supplies from The Metropolitan
Water District of Southern California (hereinafter called MWD). The
WBMWD and MWD have declared water shortage emergencies as a
result of a continuing severe drought and have both adopted
mandatory water conservation regulations and restrictions. These
regulations and restrictions will significantly affect and limit
the City’s efforts and responsibilities of providing potable
water to the City’s citizens and businesses. The WBMWD requires
that each organization buying water adopt a conservation program
consistent with WBMWD’s program. To assist the City in meeting
its obligations in a reasonable manner and to be responsive to
the drought situation the City needs to adopt a similar program.

Section 2. Findings

The Council does hereby find, determine and declare as
follows:

a. The City obtains from the WBMWD all of the potable
water needed to serve its water using customers. The WBMWD
delivered 20,651.7 acre feet of potable water to the City in the
base year of June 1, 1989 to May 31, 1990, inclusive (hereinafter
called base year).

b. WBMWD on January 28, 1991, adopted a mandatory water
conservation program, the intent of which is to cause the overall
reduction in water usage of a minimum of 10%, commencing February
1, 1991 due to a water shortage caused by the drought which is

1 of 10
affecting most of the State of California. Subsequently the MWD adopted on February 12, 1991, a program of 20% reduction in water usage to be effective March 1, 1991. The WBMWD on February 25, 1991 adopted a similar program to become effective March 1, 1991. As a result, the allocation of water to the City for distribution to City water system customers will be reduced by the WBMWD by approximately 20%, or 4,130 acre feet."

c. The ordinary demands and requirements of water using consumers cannot be satisfied without depleting the available water supply to the extent that there would be insufficient water supplies for human consumption, sanitation and fire protection due to the reduction in the supply allocation imposed by the WBMWD due to the drought. The City, to protect the health, welfare and safety of the community, must immediately impose regulations and require all water customers within the City's boundaries to implement a drought water conservation program thereby reducing the amount of water needed by those customers. Should all of the water customers of the City implement their individual water conservation programs, the amount of water allocated can be equitably used to meet the primary health and safety needs of the City.

d. The City supplies approximately 21,000 acre feet of potable water in an average year to approximately 4,580 customer meters serving many residential units, commercial and industrial businesses.

e. The regulations and restrictions set forth herein will not produce any significantly adverse environmental impacts as disclosed by environmental documents prepared and distributed as required by law. A negative declaration covering the adoption of the regulations and restrictions described below is hereby adopted and approved.

f. There is a need to put this Ordinance into effect at the earliest possible date as an Urgency Ordinance. That effective date is hereby established to be February 19, 1991.
Section 1. Water Allotment

The purpose of this Ordinance is to reduce the amount of potable water consumed by City customers by a minimum of 20% below the base year usage.

Section 4. Use Restriction Guidelines

a. All water customers are required to adopt and put into use at the earliest possible date drought water conservation programs. Those customers whose consumption places them in the 100 largest quantity consumers of water on a 12-month basis in the City shall file no later than March 15, 1991 their written conservation plans with the City.

b. All programs should be consistent with the following restrictions concerning the use of water:

(1) With respect to practices:

(a) Lawn watering and landscape irrigation with potable water is permitted only between the hours of 4 p.m. and 10 a.m. Golf courses, parks, school grounds and recreational fields are to be irrigated within the designated times. For the purpose of maintenance and testing the irrigation system only, minimum water use will be allowed during the daytime. Agricultural users, commercial nurseries, landscape contractors and irrigation of livestock and irrigation of propagation beds may continue to irrigate with potable water as management practices dictate, but are required to curtail all non-essential water uses.

(b) Watering is permitted at any time if a hand-held hose equipped with a positive shut-off nozzle is used, a hand-held faucet-filled bucket of five gallons or less is used, or a drip irrigation system is used.

(2) With respect to exterior washing practices:

(a) Washing of buildings, facilities, equipment, autos, trucks, trailers, boats, airplanes and other types of mobile equipment is restricted except where a hand-held hose equipped with a positive shut-off nozzle for quick rinses is used. Whenever possible, such as when washing vehicles, a bucket wash is required.
(b) Washings are exempted from these regulations where the health, safety and welfare of the public is contingent upon frequent vehicle or other facility or equipment cleaning, such as garbage trucks and vehicles used to transport food and perishables.

(c) Water shall not be used to wash down sidewalks, driveways, parking areas, residential tennis courts, patios or other paved areas except to alleviate immediate fire, sanitation or health hazards.

(d) Water shall not be allowed to run off landscape areas into adjoining streets, sidewalks, or other paved areas due to incorrectly directed or maintained sprinklers or excessive watering.

(3) With respect to ornamental or recreational uses:

(a) Filling and refilling residential swimming pools and spas is discouraged, but if necessary is only allowed between the hours of 6 p.m. and 6 a.m.

(b) Filling and refilling of ponds, fountains, and artificial lakes is discouraged and the recycling of water in ponds, fountains, and artificial lakes shall be required.

(4) With respect to other uses:

(a) Water from fire hydrants shall only be used for fire fighting and public health, safety, and welfare activities including public street sweeping.

(b) Flushing of water mains is not permitted except as necessary to protect the public health.

(c) Restaurants shall not serve water to their customers unless specifically requested.

(5) Leaks shall be repaired as soon as possible after being discovered and shall not be allowed to continue for more than 48 hours.

Section 5. Base Year Billing Systems

The WDMWD bills monthly the City for water delivered in the prior month based on meter readings that are taken on or about the first day of each month.

The base year allocation to the City set by the WDMWD is
defined as the consecutive 12 monthly water delivery amounts for the period of June 1, 1989 through May 31, 1990, inclusive.

The City bills some of its customers monthly and some bi-monthly.

The City's billing period for the monthly customer approximates the monthly billing period of the WHNWD. A monthly non-exempt customer will be subject to being billed by the City for applicable surcharges/incentives/penalties for consumption beginning March 1, 1991.

A bi-monthly non-exempt customer will be subject to being billed by the City for applicable surcharges/incentives/penalties for the respective first regular bi-monthly period for that customer beginning after March 1, 1991 and ending following termination of the Program.

Section 5. Enforcement

(a) The Director of Public Works of the City of El Segundo or his designated representative shall have the duty and are hereby authorized to enforce the provisions of this Ordinance and shall have all the powers and authority contained in California Penal Code Section 836.5, including the power to issue written notice to appear.

(b) Each law enforcement officer of the City shall, in connection with his duties imposed by law, diligently enforce the provisions of this ordinance.

Section 2. Customers Exempt from Surcharge/Incentive/Penalty Provisions of Ordinance

(a) All customers on the City Lifeline Water Rate schedules are expected to do their reasonable best to conserve water. The Lifeline customers shall be exempt from the surcharge/incentive/penalty water rate portions of the City Water Conservation program as long as it appears that they are making a reasonable effort at conserving water.

(b) All customers who consumed in the two (2) years prior to March 1991 on the average the equivalence of 15 - 100's cubic feet (42.5 cubic meters) or less of water per month per single family residence or per commercial or industrial
business or who used the equivalence of 13 - 100's cubic feet (36.8 cubic meters) or less of water per month per residential unit in a multiple residential development shall be exempt from the surcharge/incentive/penalty water rate portions of the City Water Conservation program as long as it appears that they are making a reasonable effort at conserving water.

Section 8. Relief from Ordinance Provisions

A customer may file an application with the City Director of Public Works for relief from any provision of this Ordinance, including charges in the base year allocation.

The applicant for relief must submit an application in a form acceptable to the City requesting such relief in whole or in part from the water use curtailment/allowance provisions herein.

Relief and/or adjustment in the base year allocation may be applied for on the basis of changed circumstances since the base year period of June 1, 1989 to May 31, 1990, inclusive or the nearest 12 month billing period thereto of the City water billing system based on such reasons as change in the number of family members, of number of occupants, or changes in business practices, or business growth.

Upon receipt of the application the Director is within fifteen (15) days to communicate with the applicant a decision thereon. The Director shall take into consideration all relevant factors presented by the customer.

The decision of the Director of Public Works shall be final except for City Council review.

Section 9. Surcharge for Water Conservation Program

All customers who are not exempt from the surcharge/incentive/penalty rate provisions of this Ordinance shall be subject to a surcharge rate on their bill to pay for the program cost and to maintain the financial integrity of the City Water System Fund. The Program Surcharge shall be an amount to be established by the City Council by separate Resolution.

Section 10. Conservation Incentive Credit for Using Less Than 80% of Base Year Allocation.

When a non-exempt customer has used a quantity of water less
than the 80% base year allocation or for the respective billing period there shall be applied by the City a credit amount to the customer’s bill for the billing period in the amount to be established by the City Council by separate Resolution.

Section 11. Penalty for Exceeding 80% of Base Year Allocation.

(a) On the basis of each billing period’s water meter readings, should it be noted that a customer has used more water than 80% of the base year allocation level (exceeded level) as allowed herein for the first time occurrence the customer is to be given a written notice by the City and the customer shall be billed on their regular bill for such excess usage at the water rates of the City plus the additional penalty rate to be established by the City Council by separate Resolution.

(b) Should it appear from visual inspection that a customer is consuming an abnormally large quantity of water through inefficient utilization of such water that customer is to be given by the City a preliminary notice in writing, of such situation. Such person shall have five (5) working days to either correct such situation, or to terminate the use, or to present to the City a plan of action to mitigate the situation to the satisfaction of the Director of Public Works.

(c) Should after such written notice(s) and/or addition of the penalty to the water bill the customer has not responded and/or made a reasonable effort to reduce its water usage and to conserve the available water supply, the City may forthwith install a flow-restricting device in the customer service restricting the flow of water to the customer’s premises. Before the City installs a flow-restricting device the customer is to be given a notice in writing of such intended action. Should the customer either not take responsible action or respond to the City as to the customer’s inability to comply with the Ordinance within a reasonable time the City shall proceed to install the flow-restricting device. The flow restricting device will be removed by the City upon satisfactory evidence presented to the City that the customer has mitigated the
situation. The customer will be charged for the actual cost of installation and/or removal of the flow restricting device. Actual cost shall include all City material, labor, equipment and overhead charges.

(d) A customer allowing an adjacent customer to connect to its private water system following installation of a restrictive device shall after written notice by the City to abate such practice and does not immediately cease such action shall have a restrictive device installed by the City in their service lines at their expense for a period of a minimum of ten (10) days or for as long a period of time as the connection between the two customers' premises remains.

Section 12. Notices

All written first notices will be given by the City either in writing to the customer’s mailing address by regular First Class U. S. Mail or hand delivered to the customer service address as convenient or appropriate to the City.

Any second or subsequent written notices shall be given by the City by Certified U.S. Mail to the customer’s mailing address and hand delivered to the service address.

Section 13. Nonapplication of Ordinance

This ordinance shall be inoperative to the extent any regulations and restrictions adopted pursuant to Division I, Chapter 1, of the Water Code conflict.

Section 14. Violation Penalty

Any customer appearing to have violated any of the provisions or failed to comply with any of the mandatory requirements of the Ordinance shall be first notified in writing of that violation or non-compliance and will be given an appropriate period of time to respond and/or to mitigate the situation causing the appearance of a violation. Should after that time period no effective response or action has been taken by the customer the City may deem the customer guilty of either an infraction and/or of a misdemeanor. Any customer that in the opinion of the City has violated this City Ordinance may be issued at the discretion of the Director of Public Works or his
designee a citation of the City charging the customer with an infraction of this Ordinance. The first citation issued shall include a fine of one hundred dollars ($100.00). For each subsequent citation issued in a one (1) year period for additional infractions the fine shall be increased respectively by $50 over the prior citation up to a maximum of $250.00. Should the customer, after a minimum of three (3) citations, not have complied with this Ordinance that customer may be charged at the discretion of the Director of Public Works or his designee with a misdemeanor. Any customer convicted of a misdemeanor under this Ordinance of the City shall be punished by a fine of not more than one thousand dollars ($1,000.00), or by imprisonment not to exceed six (6) months, or by both such fine and imprisonment. Each such customer charged with an infraction or misdemeanor shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the ordinances of the City is committed, continued, or permitted by any such person, and he shall be punished accordingly.

Section 15. This Ordinance shall expire at such time as WBMWD should terminate its Water Conservation Ordinance.

Section 16. Severability

If any section, subsection, sentence, clause, phrase, portion, or part of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, part, or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases, parts, or portions be declared invalid or unconstitutional.

Section 17. The City Council of the City of El Segundo hereby declares that a serious water shortage exists and that the protection of the public health, safety, and welfare of the citizens of the community requires that this Ordinance be adopted as an Urgency Ordinance.
Section 18. The City Clerk shall certify to the adoption of this Ordinance; shall cause the same to be entered in the book of original ordinances of said City; shall make a minute of the adoption thereof in the records of the meeting at which the same is passed and adopted; and shall cause it to be published in the manner required by law.

PASSED, APPROVED AND ADOPTED this 19th day of February, 1991.

[Signature]
Mayor of the City of El Segundo, California

[Signature]
City Clerk
STATE OF CALIFORNIA 
COUNTY OF LOS ANGELES 
CITY OF EL SEGUNDO 

I, Ronald L. Hart, City Clerk of the City of El Segundo, California, DO HEREBY CERTIFY that the whole number of members of the City Council of the said City is five; that the foregoing ordinance, being Ordinance No. 1160 is a full, true correct original of Ordinance No. 1160 of the said City of El Segundo, California, entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL SEGUNDO DECLARING A WATER SHORTAGE EMERGENCY ADOPTING MANDATORY WATER CONSERVATION REGULATIONS AND RESTRICTIONS AND DECLARING THE URGENCY THEREOF.

which was duly passed and adopted by the said City Council, approved and signed by the Mayor of said City, and attested by the City Clerk of said City, all at a regular meeting of the said Council held on the 19th day of February, 1991, and the same was so passed and adopted by the following vote:

AYES: Councilmembers Dannen, Clutter, West, Wise and Mayor Jacobsen

NOES: None

ABSTENTIONS: None

I do hereby further certify that pursuant to the provisions of Section 36933 of the Government Code of the State of California, that the foregoing Ordinance No. 1160 was duly and regularly published according to law and the order of the City Council of said City of El Segundo Herald, a weekly newspaper of general circulation, printed, published and circulated within said City and that the same was so published therein on the following day, to wit:

\[Signature\]

Ronald L. Hart
City Clerk of the
City of El Segundo, California

(SEAL)
ORDINANCE No. ________

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL SEGUNDO, CALIFORNIA, AMENDING CHAPTER 2.10 TO THE CITY OF EL SEGUNDO MUNICIPAL CODE REGARDING POLICIES FOR WATER CONSERVATION

THE CITY COUNCIL OF THE CITY OF EL SEGUNDO HEREBY FINDS, DETERMINES AND DECLARES:

WHEREAS, The City of El Segundo recognizes Article X, Section 2 of the California Constitution that declares that water resources be put to beneficial use, waste or unreasonable use of unreasonable method of use of water be prevented, and conservation of water to be fully exercised with a view to the reasonable and beneficial use thereof; and

WHEREAS, Article XI, Section 7 of the California Constitution declares that a city or county may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, California Water Code section 375 authorizes water suppliers to adopt and enforce a comprehensive water conservation program to reduce water consumption and conserve supplies; and

WHEREAS, The adoption and enforcement of a water conservation and supply shortage program is necessary to manage the City’s potable water supply in the short and long-term and to avoid or minimize the effects of drought and shortage within the City. Such program is essential to ensure a reliable and sustainable minimum supply of water for the public health, safety and welfare; and

THE CITY COUNCIL OF THE CITY OF EL SEGUNDO OF DOES ORDAIN AS FOLLOWS:

SECTION 1. Title 10 Chapter 2 of Recreation and Parks Department of the City of El Segundo is hereby amended to be added and read as:

Section 10.02.09: Water Conservation Requirements – Prohibition Against Waste

The following water conservation requirements are effective at all times. Violations of this section will be considered waste and an unreasonable use of water.

a. Limits on Watering Hours: Watering or irrigating of lawn, landscape or other vegetated area with potable water is prohibited between the hours of 9:00 a.m. and 5:00 p.m. on any day, except by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, or for very short periods of time for the express purpose of adjusting or repairing an irrigation system.
b. **Limit on Watering Duration:** Watering or irrigating of lawn, landscape or other vegetated area with potable water using a landscape irrigation system or a watering device that is not continuously attended is limited to no more than fifteen (15) minutes watering per day per station. This subsection does not apply to landscape irrigation systems that exclusively use very low-flow drip type irrigation systems when no emitter produces more than two (2) gallons of water per hour and weather based controllers or stream rotor sprinklers that meet a 70% efficiency standard.

c. **No Excessive Water Flow or Runoff:** Watering or irrigating of any lawn, landscape or other vegetated area in a manner that causes or allows excessive water flow or runoff onto an adjoining sidewalk, driveway, street, alley, gutter or ditch is prohibited.

d. **No Washing Down Hard or Paved Surfaces:** Washing down hard or paved surfaces, including but not limited to sidewalks, walkways, driveways, parking areas, tennis courts, patios or alleys, is prohibited except when necessary to alleviate safety or sanitary hazards, and then only by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off device, a low-volume, high-pressure cleaning machine equipped to recycle any water used, or a low-volume high-pressure water broom.

e. **Obligation to Fix Leaks, Breaks or Malfunctions:** Excessive use, loss or escape of water through breaks, leaks or other malfunctions in the water user's plumbing or distribution system for any period of time after such escape of water should have reasonably been discovered and corrected and in no event more than seven (7) days of receiving notice from the City is prohibited.

f. **Re-circulating Water Required for Water Fountains and Decorative Water Features:** Operating a water fountain or other decorative water feature that does not use re-circulated water is prohibited.

g. **Limits on Washing Vehicles:** Using water to wash or clean a vehicle, including but not limited to any automobile, truck, van, bus, motorcycle, boat or trailer, whether motorized or not is prohibited, except by use of a hand-held bucket or similar container or a hand-held hose equipped with a positive self-closing water shut-off nozzle or device. This subsection does not apply to any commercial car washing facility.

h. **Drinking Water Served Upon Request Only:** Eating or drinking establishments, including but not limited to a restaurant, hotel, café, cafeteria, bar, or other public place where food or drinks are sold, served, or offered for sale, are prohibited from providing drinking water to any person unless expressly requested.

i. **Commercial Lodging Establishments Must Provide Guests Option to Decline Daily Linen Services:** Hotels, motels and other commercial lodging establishments must provide customers the option of not having towels and linen laundered daily. Commercial lodging establishments must prominently display notice of this option in each bathroom using clear and easily understood language.

j. **No Installation of Single Pass Cooling Systems:** Installation of single pass cooling systems is prohibited in buildings requesting new water service.
k. **No Installation of Non-re-circulating in Commercial Car Wash and Laundry Systems:** Installation of non-re-circulating water systems is prohibited in new commercial conveyor car wash and new commercial laundry systems.

l. **Restaurants Required to Use Water Conserving Dish Wash Spray Valves:** Food preparation establishments, such as restaurants or cafes, are prohibited from using non-water conserving dish wash spray valves.

m. **Commercial Car Wash Systems:** Effective on January 1, 2010, all commercial conveyor car wash systems must have installed operational re-circulating water systems, or must have secured a waiver of this requirement from the City

**Section 10.02.10: Level 1 Water Supply Shortage**

a. A Level 1 Water Supply Shortage exists when the City determines, in its sole discretion, that due to drought or other water supply conditions, a water supply shortage or threatened shortage exists and a consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water conditions. Upon the declaration by the City of a Level 1 Water Supply Shortage condition, the City will implement the mandatory Level 1 conservation measures identified in this section.

b. **Additional Water Conservation Measures:** In addition to the prohibited uses of water identified in Section 10.01.09, the following water conservation requirements apply during a declared Level 1 Water Supply Shortage:

1. **Limits on Watering Days:** Watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to three days per week on a schedule established and posted by the City. During the months of November through March, watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to no more than one day per week on a schedule established and posted by the City. This provision does not apply to landscape irrigation zones that exclusively use very low flow drip type irrigation systems when no emitter produces more than two (2) gallons of water per hour. This provision also does not apply to watering or irrigating by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, or for very short periods of time for the express purpose of adjusting or repairing an irrigation system.

2. **Obligation to Fix Leaks, Breaks or Malfunctions:** All leaks, breaks, or other malfunctions in the water user’s plumbing or distribution system must be repaired within seventy-two (72) hours of notification by the City unless other arrangements are made with the City

**Section 10.02.11. Level 2 Water Supply Shortage**

a. A Level 2 Water Supply Shortage exists when the City determines, in its sole discretion, that due to drought or other water supply conditions, a water supply shortage or threatened shortage exists and a consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water conditions. Upon the declaration by the City of a Level 2 Water Supply Shortage condition, the City will implement the mandatory Level 2 conservation measures identified in this section.
b. **Additional Conservation Measures:** In addition to the prohibited uses of water identified in Section 10.02.09 and 10.02.11, the following additional water conservation requirements apply during a declared Level 2 Water Supply Shortage:

1. **Watering Days:** Watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to two days per week on a schedule established and posted by the City. During the months of November through March, watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to no more than one day per week on a schedule established and posted by the City. This provision does not apply to landscape irrigation zones that exclusively use very low flow drip type irrigation systems when no emitter produces more than two (2) gallons of water per hour. This provision also does not apply to watering or irrigating by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, or for very short periods of time for the express purpose of adjusting or repairing an irrigation system.

2. **Obligation to Fix Leaks, Breaks or Malfunctions:** All leaks, breaks, or other malfunctions in the water user's plumbing or distribution system must be repaired within forty-eight (48) hours of notification by the City unless other arrangements are made with the City.

3. **Limits on Filling Ornamental Lakes or Ponds:** Filling or re-filling ornamental lakes or ponds is prohibited, except to the extent needed to sustain aquatic life, provided that such animals are of significant value and have been actively managed within the water feature prior to declaration of a supply shortage level under this ordinance.

4. **Limits on Washing Vehicles:** Using water to wash or clean a vehicle, including but not limited to, any automobile, truck, van, bus, motorcycle, boat or trailer, whether motorized or not, is prohibited except by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, by high pressure/low volume wash systems, or at a commercial car washing facility that utilizes a re-circulating water system to capture or reuse water.

5. **Limits on Filling Residential Swimming Pools & Spas:** Re-filling of more than one foot and initial filling of residential swimming pools or outdoor spas with potable water is prohibited.

**Section 10.02.12. Level 3 Water Supply Shortage – Emergency Condition**

a. A Level 3 Water Supply Shortage condition is also referred to as an “Emergency” condition. A Level 3 condition exists when the City declares a water shortage emergency and notifies its residents and businesses that a significant reduction in consumer demand is necessary to maintain sufficient water supplies for public health and safety. Upon the declaration of a Level 3 Water Supply Shortage condition, the City will implement the mandatory Level 3 conservation measures identified in this section.

b. **Additional Conservation Measures:** In addition to the prohibited uses of water identified in Section 10.02.09, 10.02.10, and 10.02.11, the following water conservation requirements apply during a declared Level 3 Water Supply Shortage Emergency:
1. **No Watering or Irrigating:** Watering or irrigating of lawn, landscape or other vegetated area with potable water is prohibited. This restriction does not apply to the following categories of use, unless the City has determined that recycled water is available and may be applied to the use:

   i. Maintenance of vegetation, including trees and shrubs, that are watered using a hand-held bucket or similar container, hand-held hose equipped with a positive self-closing water shut-off nozzle or device;

   ii. Maintenance of existing landscape necessary for fire protection;

   iii. Maintenance of existing landscape for soil erosion control;

   iv. Maintenance of plant materials identified to be rare or essential to the well-being of protected species;

   v. Maintenance of landscape within active public parks and playing fields, day care centers, golf course greens, and school grounds, provided that such irrigation does not exceed two (2) days per week according to the schedule established in Section 10.02.11(b)(1) and time restrictions in Section 10.02.09(a) and (b)(1);

   vi. Actively irrigated environmental mitigation projects.

2. **Obligation to Fix Leaks, Breaks or Malfunctions:** All leaks, breaks, or other malfunctions in the water user’s plumbing or distribution system must be repaired within twenty-four (24) hours of notification by the City unless other arrangements are made with the City.

3. **Discontinue Service:** The City, in its sole discretion, may discontinue service to consumers who willfully violate provisions of this section.

**Section 10.02.13. Procedures for Determination / Notification of Water Supply Shortage**

1. **Declaration and Notification of Water Supply Shortage:** The existence of Level 1, Level 2 or Level 3 Water Supply Shortage conditions may be declared by resolution of the City adopted at a regular or special public meeting held in accordance with State law. The mandatory conservation requirements applicable to Level 1, Level 2 or Level 3 conditions will take effect on the tenth day after the date the shortage level is declared. Within five (5) days following the declaration of the shortage level, the City must publish a copy of the resolution in a newspaper used for publication of official notices. If the City activates a water allocation process, it must provide notice of the activation by including it in the regular billing statement or by any other mailing to the address to which the City customarily mails the billing statement for fees or charges for on-going water service. A water allocation will be effective on the fifth day following the date of mailing or at such later date as specified in the notice.

**Section 10.02.14. Hardship Waiver**

1. **Undue and Disproportionate Hardship:** If, due to unique circumstances, a specific requirement of this chapter would result in undue hardship to a person using water or to property upon which water is used, that is disproportionate to the impacts to water users generally or to
similar property or classes of water users, then the person may apply for a waiver to the requirements as provided in this section.

b. **Written Finding:** The waiver may be granted or conditionally granted only upon a written finding of the existence of facts demonstrating an undue hardship to a person using water or to property upon which water is used, that is disproportionate to the impacts to water users generally or to similar property or classes of water use due to specific and unique circumstances of the user or the user’s property.

1. **Application:** Application for a waiver must be on a form prescribed by the City and accompanied by a non-refundable processing fee in an amount set by the Public Works Director.

2. **Supporting Documentation:** The application must be accompanied by photographs, maps, drawings, and other information, including a written statement of the applicant.

3. **Required Findings for Waiver:** An application for a waiver will be denied unless the Public Works Director finds, based on the information provided in the application, supporting documents, or such additional information as may be requested, and on water use information for the property as shown by the records of the City or its Agent, all of the following:

   i. That the waiver does not constitute a grant of special privilege inconsistent with the limitations upon other residents and businesses;

   ii. That because of special circumstances applicable to the property or its use, the strict application of this chapter would have a disproportionate impact on the property or use that exceeds the impacts to residents and businesses generally;

   iii. That the authorizing of such waiver will not be of substantial detriment to adjacent properties, and will not materially affect the ability of the City to effectuate the purpose of this chapter and will not be detrimental to the public interest; and

   iv. That the condition or situation of the subject property or the intended use of the property for which the waiver is sought is not common, recurrent or general in nature.

4. **Approval Authority:** The Public Works Director must act upon any completed application no later than ten (10) days after submittal and may approve, conditionally approve, or deny the waiver. The applicant requesting the waiver must be promptly notified in writing of any action taken. Unless specified otherwise at the time a waiver is approved, the waiver will apply to; the subject property during the period of the mandatory water supply shortage condition. The decision of the Public Works Director will be final.

**Section 10.12.15. Penalties and Violations**

a. **Misdemeanor:** Any violation of this chapter may be prosecuted as a misdemeanor punishable by imprisonment in the county jail for not more than thirty (30) days, or by a fine not exceeding one thousand dollars ($1,000), or by both.
b. **Penalties:** Penalties for failure to comply with any provisions of the ordinance are as follows:

1. **First Violation:** The City will issue a written warning and deliver a copy of this ordinance by mail.

2. **Second Violation:** A second violation within the preceding twelve (12) calendar months is punishable by a fine not to exceed one hundred dollars ($100).

3. **Third Violation:** A third violation within the preceding twelve (12) calendar months is punishable by a fine not to exceed two hundred and fifty ($250).

4. **Fourth and Subsequent Violations:** A fourth and any subsequent violation is punishable by a fine not to exceed five hundred ($500).
   
i. **Water Flow Restrictor:** In addition to any fines, the City may install a water flow restrictor device of approximately one gallon per minute capacity for services up to one and one-half inch size and comparatively sized restrictors for larger services after written notice of intent to install a flow restrictor for a minimum of forty eight (48) hours.

5. **Discontinuing Service:** In addition to any fines and the installation of a water flow restrictor, the City may disconnect a customer’s water service for willful violations of mandatory restrictions in this chapter.

c. **Cost of Flow Restrictor and Disconnecting Service:** A person or entity that violates this ordinance is responsible for payment of the City’s charges for installing and/or removing any flow restricting device and for disconnecting and/or reconnecting service per the City’s schedule of charges then in effect. The charge for installing and/or removing any flow restricting device must be paid to the City before the device is removed. Nonpayment will be subject to the same remedies as nonpayment of basic water rates.

d. **Separate Offenses:** Each day that a violation of this ordinance occurs is a separate offense.

e. **Notice and Hearing:**

1. The City will issue a Notice of Violation by mail or personal delivery at least ten (10) days before taking enforcement action. Such notice must describe the violation and the date by which corrective action must be taken. A customer may appeal the Notice of Violation by filing a written notice of appeal with the City no later than the close of business on the day before the date scheduled for enforcement action. Any Notice of Violation not timely appealed will be final. Upon receipt of a timely appeal, a hearing on the appeal will be scheduled, and the City will mail written notice of the hearing date to the customer at least ten (10) days before the date of the hearing.

2. Pending receipt of a written appeal or pending a hearing pursuant to an appeal, the City may take appropriate steps to prevent the unauthorized use of water as appropriate to the nature and extent of the violations and the current declared water Level condition.

**Section 10.02.16. Severability**
If any section, subsection, sentence, clause or phrase in this chapter is for any reason held invalid, the validity of the remainder of the chapter will not be affected. The City Council of the City of El Segundo hereby declares it would have passed this chapter and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases or is declared invalid.

SECTION 2. Adoption and implementation of this ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to Section 15307 of the State CEQA Guidelines, as a Class 7 Categorical Exemption.

SECTION 3. Any provision of the City of El Segundo Municipal Code or appendices thereto inconsistent with the provisions of this ordinance, to the extent of such inconsistencies and no further, are hereby repealed or modified to the extent necessary to affect the provision of this ordinance.

SECTION 4. Should any provision of this Ordinance be determined to be invalid or unconstitutional all other provisions of this Ordinance shall remain in full force and effect as approved.

SECTION 5. The Mayor shall sign this Ordinance. The City Clerk shall certify to the passage and adoption of this Ordinance; shall cause the same to be entered in the book of original Ordinances of the City; shall make a minute of the passage and adoption thereof in the records of the meeting of the City Council at which the same is passed and adopted; and shall cause to be posted the same in three public places in the City of El Segundo in the time and manner provided by law. This Ordinance shall become effective 30 days after its adoption.

PASSED AND APPROVED This 21st Day of April 2009.

________________________________________
Kelly McDowell, Mayor
Of the City of El Segundo,
California

ATTEST:

________________________________________
Cindy Mortesen, City Clerk

APPROVED AS TO FORM:

________________________________________
Mark Hensley, City Attorney
AGENDA DESCRIPTION:
Consideration and possible action to introduce an Ordinance amending Title 10; Chapter 2 of the El Segundo Municipal Code, Water Conservation in Landscaping, to incorporate Metropolitan Water District's Conservation Requirements, Water Use Regulations and Restrictions. (Fiscal Impact: None)

RECOMMENDED COUNCIL ACTION:
(1) First reading of an Ordinance amending Title 10; Chapter 2 of the El Segundo Municipal Code, Water Conservation to incorporate Metropolitan Water District's Conservation Program, Water Use Regulations and Restrictions;
(2) Alternatively, discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
Draft Water Conservation Ordinance Amendment
Current Title 10 Chapter 2 of the El Segundo Municipal Code

FISCAL IMPACT: Included in Adopted Budget
Amount Budgeted: $N/A
Additional Appropriation: N/A
Account Number(s): N/A

ORIGINATED BY: Lauren Mahakian, Sr. Administrative Analyst
REVIEWED BY: Dana Greenwood, Public Works Director
APPROVED BY: Jack Wayt, City Manager

BACKGROUND AND DISCUSSION:
In March 1993, City Council adopted a water conservation ordinance that established policies for the design, installation, and management of water conserving landscapes. The policies are applicable to new industrial, commercial, office developments; to public and private parks and other recreational areas; to multi-family (three or more) units; and to City road medians and corridors. The policies do not apply to single-family residences (Title 10; Chapter 2 of City Code).

Last June 2008, the Metropolitan Water District (MWD) released a draft model Water Conservation Ordinance, and finalized this draft in December. The proposed ordinance incorporates the water provisions of MWD's model ordinance as it is MWD’s goal to have most of the purveyor cities utilizing water conservation requirements. The proposed amendment also maintains the existing water conservation ordinance, but amends the current Chapter 2 of Title 10, and adds Sections 9 through 16, which would incorporate MWD’s conservation requirements. MWD stated that if local water providers do not incorporate the elements that are at least as strict as its model into their municipal ordinances, those cities will not be eligible to receive grant funding. Last year, the City received grant funds from Metropolitan Water District for the
Environmental Expo in the amount of $3,000, and most recently received $53,087 for the "It's Time to Get Serious" El Segundo Water Conservation Banner Program.

HIGHLIGHTS OF THE PROPOSED ORDINANCE

Water Conservation Requirements - Prohibition against Waste

The following water conservation requirements are effective at all times; violations of this section will be considered waste and an unreasonable use of water:

1. Watering or irrigating of lawn, landscape or other vegetated area is prohibited between the hours of 9:00 a.m. and 5:00 p.m.

2. Operating a water fountain or other decorative water feature that does not use re-circulated water is prohibited.

3. There are several anti-waste measures prohibiting watering non-porous surfaces and targeting the reduction in water runoff. For example, Limits on Washing Vehicles: Using water to wash or clean a vehicle, except by use of a hand-held bucket or similar container, or a hand-held hose equipped with a positive self-closing water shut-off nozzle or device.

4. Restaurants will only be able to serve water upon request.

5. Motels must offer the option to not have linens laundered daily.

6. All car wash facilities must capture and recycle wastewater by 2012.

The Amendment gives three drought conditions in which water reduction measures would come into affect:

**Level 1 Water Supply Shortage:**
Limits on watering days and obligations to fix leaks, breaks or malfunctions.

**Level 2 Water Supply Shortage:**
Watering or irrigating of lawn, landscape or other vegetated area is limited to two days per week; obligation to fix leaks, breaks or malfunctions; limits on filling ornamental lakes or ponds; limits on washing vehicles; and limits on filling residential swimming pools and spas.

**Level 3 Water Supply Shortage - Emergency Condition:** Level 3:
Water Supply Shortage condition is also referred to as an "Emergency" condition. A Level 3 condition exists when the City declares a water shortage emergency and notifies its residents and businesses that a significant reduction in consumer demand is necessary to maintain sufficient water supplies for public health and safety.

The following water conservation requirements apply during a declared Level 3 Water Supply Shortage Emergency:
1. No Watering or Irrigating: Watering or irrigating of lawn, landscape or other vegetated area with potable water is prohibited.
2. Obligation to fix leaks, breaks and malfunctions
3. Discontinue Service: The City, in its sole discretion, may discontinue service to consumers who willfully violate provisions of this section.

Public Notification

With the adoption of this ordinance there will be several new requirements that residents and business owners need to be aware of. Staff will use various methods to get the information out to the public such as water bill stuffers, articles in the El Segundo Herald, the City’s website and Community Cable Channel.

In conclusion, this amendment to our existing Ordinance promotes the efficient use of potable water, by establishing permanent water use standards and prohibitions regarding the wasteful use of water, to improve the City’s water supply reliability.
ORDINANCE No. ________

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WHEREAS, Article XI, Section 7 of the California Constitution declares that a city or county may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, California Water Code section 375 authorizes water suppliers to adopt and enforce a comprehensive water conservation program to reduce water consumption and conserve supplies; and

WHEREAS, The adoption and enforcement of a water conservation and supply shortage program is necessary to manage the City's potable water supply in the short and long-term and to avoid or minimize the effects of drought and shortage within the City. Such program is essential to ensure a reliable and sustainable minimum supply of water for the public health, safety and welfare; and

THE CITY COUNCIL OF THE CITY OF EL SEGUNDO OF DOES ORDAIN AS FOLLOWS:

SECTION 1. Title 10 Chapter 2 of Recreation and Parks Department of the City of El Segundo is hereby amended to be added and read as:

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a. Limits on Watering Hours: Watering or irrigating of lawn, landscape or other vegetated area with potable water is prohibited between the hours of 9:00 a.m. and 5:00 p.m. on any day, except by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, or for very short periods of time for the express purpose of adjusting or repairing an irrigation system.
b. **Limit on Watering Duration:** Watering or irrigating of lawn, landscape or other vegetated area with potable water using a landscape irrigation system or a watering device that is not continuously attended is limited to no more than fifteen (15) minutes watering per day per station. This subsection does not apply to landscape irrigation systems that exclusively use very low-flow drip type irrigation systems when no emitter produces more than two (2) gallons of water per hour and weather based controllers or stream rotor sprinklers that meet a 70% efficiency standard.

c. **No Excessive Water Flow or Runoff:** Watering or irrigating of any lawn, landscape or other vegetated area in a manner that causes or allows excessive water flow or runoff onto an adjoining sidewalk, driveway, street, alley, gutter or ditch is prohibited.

d. **No Washing Down Hard or Paved Surfaces:** Washing down hard or paved surfaces, including but not limited to sidewalks, walkways, driveways, parking areas, tennis courts, patios or alleys, is prohibited except when necessary to alleviate safety or sanitary hazards, and then only by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off device, a low-volume, high-pressure cleaning machine equipped to recycle any water used, or a low-volume high-pressure water broom.

e. **Obligation to Fix Leaks, Breaks or Malfunctions:** Excessive use, loss or escape of water through breaks, leaks or other malfunctions in the water user’s plumbing or distribution system for any period of time after such escape of water should have reasonably been discovered and corrected and in no event more than seven (7) days of receiving notice from the City is prohibited.

f. **Re-circulating Water Required for Water Fountains and Decorative Water Features:** Operating a water fountain or other decorative water feature that does not use re-circulated water is prohibited.

g. **Limits on Washing Vehicles:** Using water to wash or clean a vehicle, including but not limited to any automobile, truck, van, bus, motorcycle, boat or trailer, whether motorized or not is prohibited, except by use of a hand-held bucket or similar container or a hand-held hose equipped with a positive self-closing water shut-off nozzle or device. This subsection does not apply to any commercial car washing facility.

h. **Drinking Water Served Upon Request Only:** Eating or drinking establishments, including but not limited to a restaurant, hotel, cafe, cafeteria, bar, or other public place where food or drinks are sold, served, or offered for sale, are prohibited from providing drinking water to any person unless expressly requested.

i. **Commercial Lodging Establishments Must Provide Guests Option to Decline Daily Linen Services:** Hotels, motels and other commercial lodging establishments must provide customers the option of not having towels and linen laundered daily. Commercial lodging establishments must prominently display notice of this option in each bathroom using clear and easily understood language.

j. **No Installation of Single Pass Cooling Systems:** Installation of single pass cooling systems is prohibited in buildings requesting new water service.
k. **No Installation of Non-re-circulating in Commercial Car Wash and Laundry Systems:**
   Installation of non-re-circulating water systems is prohibited in new commercial conveyor car wash and new commercial laundry systems.

l. **Restaurants Required to Use Water Conserving Dish Wash Spray Valves:** Food preparation establishments, such as restaurants or cafes, are prohibited from using non-water conserving dish wash spray valves.

m. **Commercial Car Wash Systems:** Effective on January 1, 2010, all commercial conveyor car wash systems must have installed operational re-circulating water systems, or must have secured a waiver of this requirement from the City

**Section 10.02.10: Level 1 Water Supply Shortage**

a. A Level 1 Water Supply Shortage exists when the City determines, in its sole discretion, that due to drought or other water supply conditions, a water supply shortage or threatened shortage exists and a consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water conditions. Upon the declaration by the City of a Level 1 Water Supply Shortage condition, the City will implement the mandatory Level 1 conservation measures identified in this section.

b. **Additional Water Conservation Measures:** In addition to the prohibited uses of water identified in Section 10.01.09, the following water conservation requirements apply during a declared Level 1 Water Supply Shortage:

1. **Limits on Watering Days:** Watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to three days per week on a schedule established and posted by the City. During the months of November through March, watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to no more than one day per week on a schedule established and posted by the City. This provision does not apply to landscape irrigation zones that exclusively use very low flow drip type irrigation systems when no emitter produces more than two (2) gallons of water per hour. This provision also does not apply to watering or irrigating by use of a handheld bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, or for very short periods of time for the express purpose of adjusting or repairing an irrigation system.

2. **Obligation to Fix Leaks, Breaks or Malfunctions:** All leaks, breaks, or other malfunctions in the water user’s plumbing or distribution system must be repaired within seventy-two (72) hours of notification by the City unless other arrangements are made with the City.

**Section 10.02.11. Level 2 Water Supply Shortage**

a. A Level 2 Water Supply Shortage exists when the City determines, in its sole discretion, that due to drought or other water supply conditions, a water supply shortage or threatened shortage exists and a consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water conditions. Upon the declaration by the City of a Level 2 Water Supply Shortage condition, the City will implement the mandatory Level 2 conservation measures identified in this section.
b. **Additional Conservation Measures:** In addition to the prohibited uses of water identified in Section 10.02.09 and 10.02.11, the following additional water conservation requirements apply during a declared Level 2 Water Supply Shortage:

1. **Watering Days:** Watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to two days per week on a schedule established and posted by the City. During the months of November through March, watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to no more than one day per week on a schedule established and posted by the City. This provision does not apply to landscape irrigation zones that exclusively use very low flow drip type irrigation systems when no emitter produces more than two (2) gallons of water per hour. This provision also does not apply to watering or irrigating by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, or for very short periods of time for the express purpose of adjusting or repairing an irrigation system.

2. **Obligation to Fix Leaks, Breaks or Malfunctions:** All leaks, breaks, or other malfunctions in the water user’s plumbing or distribution system must be repaired within forty-eight (48) hours of notification by the City unless other arrangements are made with the City.

3. **Limits on Filling Ornamental Lakes or Ponds:** Filling or re-filling ornamental lakes or ponds is prohibited, except to the extent needed to sustain aquatic life, provided that such animals are of significant value and have been actively managed within the water feature prior to declaration of a supply shortage level under this ordinance.

4. **Limits on Washing Vehicles:** Using water to wash or clean a vehicle, including but not limited to, any automobile, truck, van, bus, motorcycle, boat or trailer, whether motorized or not, is prohibited except by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, by high pressure/low volume wash systems, or at a commercial car washing facility that utilizes a re-circulating water system to capture or reuse water.

5. **Limits on Filling Residential Swimming Pools & Spas:** Re-filling of more than one foot and initial filling of residential swimming pools or outdoor spas with potable water is prohibited.

**Section 10.02.12.  Level 3 Water Supply Shortage – Emergency Condition**

a. A Level 3 Water Supply Shortage condition is also referred to as an “Emergency” condition. A Level 3 condition exists when the City declares a water shortage emergency and notifies its residents and businesses that a significant reduction in consumer demand is necessary to maintain sufficient water supplies for public health and safety. Upon the declaration of a Level 3 Water Supply Shortage condition, the City will implement the mandatory Level 3 conservation measures identified in this section.

b. **Additional Conservation Measures:** In addition to the prohibited uses of water identified in Section 10.02.09, 10.02.10, and 10.02.11, the following water conservation requirements apply during a declared Level 3 Water Supply Shortage Emergency:
1. **No Watering or Irrigating:** Watering or irrigating of lawn, landscape or other vegetated area with potable water is prohibited. This restriction does not apply to the following categories of use, unless the City has determined that recycled water is available and may be applied to the use:

   i. Maintenance of vegetation, including trees and shrubs, that are watered using a hand-held bucket or similar container, hand-held hose equipped with a positive self-closing water shut-off nozzle or device;

   ii. Maintenance of existing landscape necessary for fire protection;

   iii. Maintenance of existing landscape for soil erosion control;

   iv. Maintenance of plant materials identified to be rare or essential to the well-being of protected species;

   v. Maintenance of landscape within active public parks and playing fields, day care centers, golf course greens, and school grounds, provided that such irrigation does not exceed two (2) days per week according to the schedule established in Section 10.02.11(b)(1) and time restrictions in Section 10.02.09(a) and (b)(1);

   vi. Actively irrigated environmental mitigation projects.

2. **Obligation to Fix Leaks, Breaks or Malfunctions:** All leaks, breaks, or other malfunctions in the water user’s plumbing or distribution system must be repaired within twenty four (24) hours of notification by the City unless other arrangements are made with the City.

3. **Discontinue Service:** The City, in its sole discretion, may discontinue service to consumers who willfully violate provisions of this section.

**Section 10.02.13. Procedures for Determination / Notification of Water Supply Shortage**

a. **Declaration and Notification of Water Supply Shortage:** The existence of Level 1, Level 2 or Level 3 Water Supply Shortage conditions may be declared by resolution of the City adopted at a regular or special public meeting held in accordance with State law. The mandatory conservation requirements applicable to Level 1, Level 2 or Level 3 conditions will take effect on the tenth day after the date the shortage level is declared. Within five (5) days following the declaration of the shortage level, the City must publish a copy of the resolution in a newspaper used for publication of official notices. If the City activates a water allocation process, it must provide notice of the activation by including it in the regular billing statement or by any other mailing to the address to which the City customarily mails the billing statement for fees or charges for on-going water service. A water allocation will be effective on the fifth day following the date of mailing or at such later date as specified in the notice.

**Section 10.02.14. Hardship Waiver**

a. **Undue and Disproportionate Hardship:** If, due to unique circumstances, a specific requirement of this chapter would result in undue hardship to a person using water or to property upon which water is used, that is disproportionate to the impacts to water users generally or to
similar property or classes of water users, then the person may apply for a waiver to the requirements as provided in this section.

b. **Written Finding**: The waiver may be granted or conditionally granted only upon a written finding of the existence of facts demonstrating an undue hardship to a person using water or to property upon which water is used, that is disproportionate to the impacts to water users generally or to similar property or classes of water use due to specific and unique circumstances of the user or the user’s property.

1. **Application**: Application for a waiver must be on a form prescribed by the City and accompanied by a non-refundable processing fee in an amount set by the Public Works Director.

2. **Supporting Documentation**: The application must be accompanied by photographs, maps, drawings, and other information, including a written statement of the applicant.

3. **Required Findings for Waiver**: An application for a waiver will be denied unless the Public Works Director finds, based on the information provided in the application, supporting documents, or such additional information as may be requested, and on water use information for the property as shown by the records of the City or its Agent, all of the following:

   i. That the waiver does not constitute a grant of special privilege inconsistent with the limitations upon other residents and businesses;

   ii. That because of special circumstances applicable to the property or its use, the strict application of this chapter would have a disproportionate impact on the property or use that exceeds the impacts to residents and businesses generally;

   iii. That the authorizing of such waiver will not be of substantial detriment to adjacent properties, and will not materially affect the ability of the City to effectuate the purpose of this chapter and will not be detrimental to the public interest; and

   iv. That the condition or situation of the subject property or the intended use of the property for which the waiver is sought is not common, recurrent or general in nature.

4. **Approval Authority**: The Public Works Director must act upon any completed application no later than ten (10) days after submittal and may approve, conditionally approve, or deny the waiver. The applicant requesting the waiver must be promptly notified in writing of any action taken. Unless specified otherwise at the time a waiver is approved, the waiver will apply to; the subject property during the period of the mandatory water supply shortage condition. The decision of the Public Works Director will be final.

**Section 10.12.15. Penalties and Violations**

a. **Misdemeanor**: Any violation of this chapter may be prosecuted as a misdemeanor punishable by imprisonment in the county jail for not more than thirty (30) days, or by a fine not exceeding one thousand dollars ($1,000), or by both.
b. **Penalties:** Penalties for failure to comply with any provisions of the ordinance are as follows:

1. **First Violation:** The City will issue a written warning and deliver a copy of this ordinance by mail.

2. **Second Violation:** A second violation within the preceding twelve (12) calendar months is punishable by a fine not to exceed one hundred dollars ($100).

3. **Third Violation:** A third violation within the preceding twelve (12) calendar months is punishable by a fine not to exceed two hundred and fifty ($250).

4. **Fourth and Subsequent Violations:** A fourth and any subsequent violation is punishable by a fine not to exceed five hundred ($500).

   i. **Water Flow Restrictor:** In addition to any fines, the City may install a water flow restrictor device of approximately one gallon per minute capacity for services up to one and one-half inch size and comparatively sized restrictors for larger services after written notice of intent to install a flow restrictor for a minimum of forty eight (48) hours.

5. **Discontinuing Service:** In addition to any fines and the installation of a water flow restrictor, the City may disconnect a customer’s water service for willful violations of mandatory restrictions in this chapter.

c. **Cost of Flow Restrictor and Disconnecting Service:** A person or entity that violates this ordinance is responsible for payment of the City’s charges for installing and/or removing any flow restricting device and for disconnecting and/or reconnecting service per the City’s schedule of charges then in effect. The charge for installing and/or removing any flow restricting device must be paid to the City before the device is removed. Nonpayment will be subject to the same remedies as nonpayment of basic water rates.

d. **Separate Offenses:** Each day that a violation of this ordinance occurs is a separate offense.

e. **Notice and Hearing:**

1. The City will issue a Notice of Violation by mail or personal delivery at least ten (10) days before taking enforcement action. Such notice must describe the violation and the date by which corrective action must be taken. A customer may appeal the Notice of Violation by filing a written notice of appeal with the City no later than the close of business on the day before the date scheduled for enforcement action. Any Notice of Violation not timely appealed will be final. Upon receipt of a timely appeal, a hearing on the appeal will be scheduled, and the City will mail written notice of the hearing date to the customer at least ten (10) days before the date of the hearing.

2. Pending receipt of a written appeal or pending a hearing pursuant to an appeal, the City may take appropriate steps to prevent the unauthorized use of water as appropriate to the nature and extent of the violations and the current declared water Level condition.

**Section 10.02.16. Severability**
If any section, subsection, sentence, clause or phrase in this chapter is for any reason held invalid, the validity of the remainder of the chapter will not be affected. The City Council of the City of El Segundo hereby declares it would have passed this chapter and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases or is declared invalid.

SECTION 2. Adoption and implementation of this ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to Section 15307 of the State CEQA Guidelines, as a Class 7 Categorical Exemption.

SECTION 3. Any provision of the City of El Segundo Municipal Code or appendices thereto inconsistent with the provisions of this ordinance, to the extent of such inconsistencies and no further, are hereby repealed or modified the extent necessary to affect the provision of this ordinance.

SECTION 4. Should any provision of this Ordinance be determined to be invalid or unconstitutional all other provisions of this Ordinance shall remain in full force and effect as approved.

SECTION 5. The Mayor shall sign this Ordinance. The City Clerk shall certify to the passage and adoption of this Ordinance; shall cause the same to be entered in the book of original Ordinances of the City; shall make a minute of the passage and adoption thereof in the records of the meeting of the City Council at which the same is passed and adopted; and shall cause to be posted the same in three public places in the City of El Segundo in the time and manner provided by law. This Ordinance shall become effective 30 days after its adoption.

PASSED AND APPROVED This 5th Day of May 2009.

______________________________
Kelly McDowell, Mayor
Of the City of El Segundo,
California

ATTEST:

______________________________
Cindy Mortensen, City Clerk

APPROVED AS TO FORM:

______________________________
Mark Hensley, City Attorney
Chapter 2
WATER CONSERVATION IN LANDSCAPING

10-2-1: PURPOSE:

The purpose of this Chapter is to establish policies for the design, installation, and management of water conserving landscapes in order to utilize available plant, water, and land resources to avoid excessive landscape water demands while ensuring high quality landscape design. (Ord. 1194, 3-16-1993)

10-2-2: APPLICATION OF POLICIES:

A. Applicability: These policies shall be applicable to new industrial, commercial, office and institutional developments; to public and private parks and other public recreational areas; to multi-family (3 or more units) residential and planned unit development common areas; to model home complexes; and to City road medians and corridors.

B. Nonapplicability: These policies shall not be applicable to:

1. Cemeteries.
2. Registered historical sites.
3. Ecological restoration projects that do not require a permanent irrigation system.
4. Mined-land reclamation projects that do not require a permanent irrigation system.
5. Any project with a landscaped area less than one thousand (1,000) square feet, unless the Director of Recreation and Parks determines that substantial compliance with the purpose of this Chapter as stated in Section 10-2-1 of this Chapter requires that a landscape plan be submitted.
6. Any project or planting area that utilizes one hundred percent (100%) reclaimed water.

C. Exemptions: The Director of Recreation and Parks may authorize exemptions to any of the design and improvement standards in this Chapter. Such exemptions may be granted if the Director finds that the proposed design or improvement is in substantial compliance with the purpose and intent of this Chapter. (Ord. 1194, 3-16-1993)

10-2-3: DEFINITIONS:

Unless the context specifically indicates otherwise, the meanings of terms used in this Chapter shall be as defined in this Section:

DESIGNER: A person qualified to practice landscape architecture and/or irrigation design.

DIRECTOR: The Director of Recreation and Parks of the City of El Segundo.

IRRIGATION SYSTEM: A complete connection of system components, including the water distribution network and the necessary irrigation equipment and downstream from the backflow prevention device.

PLANTING AREA: The parcel area less building pad, driveway, patio, deck, walkway and parking area. "Planting area" includes water bodies (i.e., fountains, ponds, lakes) and natural areas.

PLANTING PLAN: A planting plan shall identify location, spacing, numbers, container planting sizes of all plant materials including common and botanical names.

REHABILITATED LANDSCAPE: Any planting area in which fifty percent (50%) of existing landscape materials are replaced or modified within any twelve (12) month period. Examples include a change of plants or ground cover, and grading modifications. (Ord. 1194, 3-16-1993)

10-2-4: LANDSCAPE PLAN:

A. Required: Landscape plans shall be prepared in accordance with the policies set forth herein and with any guidelines developed to help implement the provisions of this Chapter. Such plans shall be submitted and approved prior to the issuance of building permits to comply with the policies of this Chapter.

B. Application For Approval: Prior to the issuance of a building permit, a landscape plan application shall be submitted and reviewed in accordance with this Chapter. Applications for landscape plan approval shall be filed by the owner of the affected property or his agent, or by a public entity to which the provisions of the Chapter apply, on forms furnished by the Director of Recreation and Parks.

C. Approval: No landscape plan application shall be approved unless the Director finds that the plan compliments the design of the project, is consistent with the provisions of this Chapter and applicable landscape guidelines; compatible with adjacent existing or future public landscaped areas, and with the elevations and appearances with existing structures located upon lots within the immediate vicinity of the lot which is the subject of such application.

D. Content Of Plan: Each landscape plan shall consist of the following elements including, but not limited to, the following:

1. Planting Plan: The planting plan shall identify location, spacing, numbers, container sizes of all plant materials including common and botanical names, drawn on project base sheets in a clear and legible fashion in accordance with the policies established to implement the provisions of this Chapter.

2. Irrigation Plan: The irrigation plan shall identify all components of the irrigation system drawn on project base sheets in a clear and legible fashion in accordance with the policies established to implement the provisions of this Chapter. (Ord. 1194, 3-16-1993)

10-2-5: WATER FEATURES:

Decorative water features such as pools, ponds, and waterfalls used in landscaped areas shall incorporate recycling of water, and shall use reclaimed water where it is feasible, cost effective, and meets health standards. (Ord. 1194, 3-16-1993)

10-2-6: LANDSCAPE MAINTENANCE:

The property owner shall permanently and continuously maintain landscaping and irrigation in a neat, clean and healthy condition, including removal of litter, proper pruning, mowing of lawns, weeds, fertilizing, and watering; and replacement of diseased and/or dead plants and malfunctioning or missing irrigation system components. (Ord. 1194, 3-16-1993)

10-2-7: MODEL HOME LANDSCAPING:

For each subdivision with model homes, the developer shall submit a landscape plan and install landscaping for each model home, incorporating the policies of this Chapter and including:

A. Signs identifying elements of the water conserving landscape and irrigation system design placed around the model.

B. Literature describing water conserving landscapes to be available to individuals touring the model. (Ord. 1194, 3-16-1993)

10-2-8: LANDSCAPE CERTIFICATE:

Upon completion of the installation of the landscaping, the designer or owner shall certify that
the landscape complies with all policies of this Chapter. Certification shall be accomplished by completion of a landscape certificate on a form approved by the Director. Failure to submit a complete and accurate landscape certificate will delay final approval of the project and/or discontinue water service. (Ord. 1194, 3-16-1993)
EL SEGUNDO CITY COUNCIL

AGENDA STATEMENT

MEETING DATE: October 6, 2009

AGENDA DESCRIPTION:

Consideration and possible action regarding the acceptance of $158,486 in grant funding from the U.S. Department of Homeland Security, through the Office of Grants and Training, under Fiscal Year 2008 Urban Areas Security Initiative (UASI) to pursue training and breathing equipment. (Fiscal Impact: $158,486)

RECOMMENDED COUNCIL ACTION:

1. Authorize the acceptance of $158,486 in grant funds from the UASI 2008 grant program;
2. Authorize the City Manager to sign an Agreement with the City of Los Angeles who will serve as grant administrator;
3. Alternatively, discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:

None

FISCAL IMPACT: Budget Adjustment Required

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ORIGINATED BY: Lisa LeCates, Sr. Management Analyst

REVIEWED BY: Kevin S. Smith, Fire Chief

APPROVED BY: Jack Wayt, City Manager

BACKGROUND AND DISCUSSION:

In 2007 and 2008, the City accepted grant funding through the UASI 2006 program for breathing equipment and Urban Search and Rescue (USAR) training. This grant outfitted all Fire suppression personnel with state-of-the-art breathing apparatus, ensuring interoperability with neighboring fire departments. The grant also provided USAR training, as well as overtime cost reimbursement and leave replacement reimbursement while approved members were being trained.

The UASI 2008 grant award primarily funds two objectives: 1) Enable the Department to outfit remaining uniformed personnel with the same state-of-the-art breathing equipment purchase under the 2006 grant program, and 2) Maintain qualified staff on the USAR teams for each shift. Additionally, the UASI 2008 grant award will provide Terrorism Liaison Officer training as part of a regional program to train all Los Angeles area fire departments to the same standard.
As in past UASI grants, the City of Los Angeles remains the grant administrator with oversight by the California Emergency Management Agency (CalEMA).

**In accordance with the City Council Policy regarding grant submissions:**

1. The grant award is made by the U.S. Department of Homeland Security, through the Office of Grants and Training. The grant is administered by the City of Los Angeles and is overseen by the CalEMA.
2. The total amount being requested is: $158,486
3. Matching Funds Cost-Share – n/a
4. Source of Matching Funds Cost Share: n/a
5. The grant does not provide up front funding. Municipalities submit reimbursement requests to the grant administrator after expenditures are made and processed for payment. Approved requests are reimbursed by the City of Los Angeles in approximately 60 days.
6. **Conditions required under this grant:**
   a. Establish that an Equal Employment Opportunity Plan (EEO) Plan be in place prior to spending grant funding beyond $25,000 in any single year.
   b. All equipment (assets) purchased under the grant funding, if awarded, are required to be maintained for regional deployment as may be needed under federal grant rules. Replacement under the City’s capital equipment replacement standards is not required, but is *optional* under existing City replacement policy.
   c. The City of El Segundo shall maintain an asset inventory system for all items purchased under the Homeland Security grant programs in accordance with a Memorandum of Understanding issued through the City of Los Angeles as the primary grant administrator.
AGENDA DESCRIPTION:

Consideration and possible action to allow a banner from the El Segundo High School Alumni Association to be hung over Main Street at no cost. (Fiscal Impact: $178)

RECOMMENDED COUNCIL ACTION:

1. Approve the request from the El Segundo High School Alumni Association regarding its banners;
2. Alternatively, take such additional, related, action that may be desirable.

ATTACHED SUPPORTING DOCUMENTS:

Letter from the El Segundo High School Alumni Association.

FISCAL IMPACT:

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ORIGINATED BY: Maryam Jonas, Principal Civil Engineer

REVIEWED BY: Dana Greenwood, Public Works Director

APPROVED BY: Jack Wayt, City Manager

BACKGROUND AND DISCUSSION:

Ms. Yvonne Burgett Wills, representing the El Segundo High School Alumni Association, asked the City to hang a banner across Main Street at no cost to them. The banner would advertise the 80th year celebration for the High School during homecoming on October 16, 2009 and would begin display the week of October 12, 2009.

While the City does not have a formal banner policy, banners (and their location) are generally approved by the Public Works Department in accordance with El Segundo Municipal Code § 15-18-12. Persons placing such banners must pay the City $178 for hanging and removing each banner. Here, the El Segundo High School Alumni Association requests that the City waive the fee.
TO THE EL SEGUNDO CITY COUNCIL

The Board of Directors of the E.S.H.S. Alumni Association respectfully request the El Segundo City Council to explore the possibility of waiving the installation charge for a street banner welcoming E.S.H.S. alumni to the E.S.H.S. Homecoming October 16, 2009. This is an annual event in the month of October which honors the El Segundo educational system.

Thank you for your consideration.

Yvonne Burgett Wills
Secretary-Treasurer
For
Floyd Carr - Chairman
E.S.H.S. ALUMNI ASSOCIATION
EL SEGUNDO CITY COUNCIL
AGENDA STATEMENT

MEETING DATE: October 6, 2009
AGENDA HEADING: Consent Agenda

AGENDA DESCRIPTION:
Consideration and possible action regarding the modification of an existing Alcoholic Beverage Control (ABC) license for on-site sale and consumption of alcohol (Type 41 – On-Sale Beer and Wine) at an existing restaurant located at 223 Richmond Street (Second City Bistro), EA No. 828 for AUP No. 09-01. In addition, consideration regarding whether to issue an encroachment permit for 223 Richmond Street in accordance with El Segundo Municipal Code § 9-2-6. Applicant: Scott Reed c/o Second City Bistro (Fiscal Impact: N/A)

RECOMMENDED COUNCIL ACTION:
1. Receive and file this report without objecting to the modification of a Type 41 ABC license at 223 Richmond Street;
2. Issue an encroachment permit in accordance with El Segundo Municipal Code (“ESMC”) § 9-2-6, relating to the encroachment into public right-of-ways; and/or,
3. Alternatively, discuss and take other possible action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
1. Crime and Arrest Statistics by Reporting District (RD)
2. Police Reporting District Map
3. Planning Commission Staff Report dated September 10, 2009
4. Approval Letter to Applicant dated August 26, 2009
5. Public Works Department, Fire Department and Building Safety Department Comments
6. Application and Plans

FISCAL IMPACT: None

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

ORIGINATED BY: Kimberly Christensen, AICP, Planning Manager
REVIEWED BY: Greg Carpenter, Planning and Building Safety Director
REVIEWED BY: Dana Greenwood, Public Works Director
APPROVED BY: Jack Wayt, City Manager
BACKGROUND AND DISCUSSION:

I. Background

On April 4, 1995, the City Council decided to review all future Alcohol Beverage Control (‘ABC”) license applications. ABC regulations require a 30-day review and comment period, for alcohol sales at restaurants, after notice to the local police and planning departments. A protest should relate to public health, safety or welfare concerns.

II. Analysis

According to the most recent Crime and Arrest statistics report (January 2009 – June 2009, Exhibit 1) prepared by the Police Department, the restaurant is located in Reporting District (RD) 112 which is in the Richmond Street District (RSD) within the Downtown Specific Plan (DSP) Zone. The Crime and Arrest statistics show that the District had a total of 12 Part I crimes (criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft and arson) and 3 felony and misdemeanor arrests for a total of 15 crimes. The Police Department and the Planning and Building Safety Department do not object to the expansion of the area for the ABC license for an existing restaurant; El Segundo Municipal Code § 9-2-6 requires an encroachment permit for the outdoor dining area proposed within the public right-of-way. The applicant applied for an encroachment permit which would allow the placement of freestanding tables, chairs, railing, and planters in front of the establishment in a portion of the Richmond Street sidewalk.

This license request is for the convenience of serving alcoholic beverages to the customers to complement the food service at an existing restaurant that is requesting approval to expand the area and remodel to meet fire, zoning and building safety regulations. The existing restaurant has requested to allow a 100 square-foot outdoor dining area to encroach 4 feet into the public right-of-way in front of the building adjacent to an existing 250 square-foot outdoor dining area and the construction of a 750 square-foot outdoor dining area to the rear of the building. Restaurants are a permitted use in the Richmond Street District (RSD) within the Downtown Specific Plan (DSP) Zone. A six-foot wide sidewalk will remain for pedestrian passage adjacent to the outdoor dining area located in the public right-of-way and will comply with ADA requirements. The expansion of alcohol sales in the proposed new 850 square feet of outdoor dining area requires an Administrative Use Permit (AUP), in accordance with the development standards contained within the Downtown Specific Plan (DSP) Zone. Additionally, the applicant must purchase or lease 13 in-lieu parking spaces from the City to meet the minimum required 13 parking spaces for the use of a new 750 square-foot outdoor dining area proposed at the rear of the building. The applicant’s proposed hours of alcohol sale are expected to be during the hours the restaurant is open. The restaurant’s hours of operation will be from 9:00 a.m. to 11:00 p.m. Monday through Sunday.

On August 26, 2009 the Director of Planning and Building Safety approved an Administrative Use Permit application (EA No. 828 and AUP No. 09-01) for 223 Richmond Street. The Director’s decision was forwarded to the Planning Commission on September 10, 2009, which chose to receive and file the item.
The applicant has expressed interest in using the rear patio area on a temporary, seasonal basis. A parking agreement and the required parking rental fees will be required for the months used on an annual basis. The applicant has been informed that the agreement must be executed and payment must be provided prior to the use of the rear patio. Alternatively, should the applicant request the ability to use the outdoor dining area on a permanent basis, the applicant will have to pay for 13 parking spaces through the parking in-lieu program.

ABC license review requires mandatory findings that are regulated by the Department of Alcoholic Beverage Control; the City’s AUP process is separate. The Department of Alcoholic Beverage Control (ABC) is responsible for running a complete background check on all alcohol license applicants, as well as conducting site inspections, before issuing any type of alcohol license.

III. Conclusion

Planning staff recommends that the Council receive and file the determination without objecting to the modification of the existing Type 41 ABC license at 223 Richmond Street. The recommendation to receive and file the determination without objecting to the modification of the existing Type 41 ABC license is subject to the applicant executing the parking agreement and payment of either the monthly parking fees for temporary usage or the parking in-lieu fee for permanent usage. Further, the City Council should consider whether to issue an encroachment permit for the establishment, pursuant to El Segundo Municipal Code ("ESMC") §§ 9-2-6.
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Number of Reporting Districts = 51
Average # of Part I Crimes per Reporting District = 7
Average # of Felony/Misdemeanor Part I Crime Arrests per Reporting District = 2
Average # of Crimes and Arrests per Reporting District = 9

(Results from 01/01/2009 through 06/30/2009)

FORMULA: Add (Part I crimes + Felony/Misd Arrest) then subtract from the Average # of Crimes and Arrest per Rd, divided by the Average # of Crimes and Arrests per RD and multiply by 100.

Sample: 14+1=15.9=69=66x100=+66%
PLANNING COMMISSION STAFF REPORT

PUBLIC HEARING: September 10, 2009

SUBJECT: Environmental Assessment No. EA-828 and Administrative Use Permit No. 09-01

APPLICANT: Scott Reed

PROPERTY OWNER: Star Restaurant Holdings, LLC

REQUEST: A request for an Administrative Use Permit to allow the expansion of alcohol sales in a new 750 square-foot outdoor dining area at the rear of the building and a new 100 square-foot sidewalk dining area in front of the building in the public right-of-way for the sale of beer and wine for on-site consumption (Type 41 ABC) license at an existing restaurant (Second City Bistro).

PROPERTY INVOLVED: 223 Richmond Street

I. INTRODUCTION

The applicant requests an Administrative Use Permit to expand the area for the sale and consumption of beer and wine (Type 41 Alcoholic Beverage Control license) at an existing restaurant at 223 Richmond Street. The request includes a new 750 square-foot outdoor dining area to the rear of the restaurant, and a new 100 square-foot outdoor dining area that encroaches 4 feet into the public right-of-way adjacent to an existing 250 square-foot covered outdoor dining area in the front side of the building. The approval of a separate application for an encroachment permit is required for the use of the public right-of-way and is subject to the requirements of ESMC § 9-2-1. The permit is processed by the Public Works Department as a condition of approval of this Administrative Use Permit and must be obtained from the Public Works Department before any seating for outdoor dining can occur in the public right-of-way. A six-foot wide sidewalk would remain for pedestrian passage adjacent to the outdoor dining area. The project site is located in the Richmond Street District (RSD) within the Downtown Specific Plan (DSP) Zone. The Director made the necessary findings to grant an Administrative Use Permit for the on-site sale and consumption of beer and wine and approved the Administrative Use Permit.
II. ANALYSIS

The restaurant currently has a Type 41 Alcoholic Beverage Control License. The existing restaurant is approximately 2,238 square feet in total indoor area and contains a covered outdoor dining area that is 250 square feet located fully on private property in the front side of the building. A total of 56 seats are located within the interior of the restaurant and 16 seats are located in the covered outdoor dining area in the front side of the building. The outdoor dining area expansion in front of the building would add 3 tables with 6 seats and would encroach 4 feet into the public right-of-way. The new 750 square-foot outdoor dining area to the rear contains 12 tables and 48 seats. The new proposed combined total area for the restaurant is 3,338 square feet and contains 126 seats. The Planning and Building Safety Director made the necessary findings to grant an Administrative Use Permit for the on-site sale and consumption of alcohol and approved the Administrative Use Permit on August 26, 2009 (see Exhibit A).

The following chart describes the proposed dining and seating areas.

<table>
<thead>
<tr>
<th>PROPOSED RESTAURANT</th>
<th>PROPOSED SQUARE FOOTAGE</th>
<th>NUMBER OF SEATS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing Indoor Dining and Service Area</td>
<td>2,238 SF</td>
<td>56 seats</td>
</tr>
<tr>
<td>Existing Covered Front Outdoor Dining Area</td>
<td>250 SF</td>
<td>16 seats</td>
</tr>
<tr>
<td>New Front Outdoor Dining Area</td>
<td>100 SF</td>
<td>6 seats</td>
</tr>
<tr>
<td>New Rear Outdoor Dining Area</td>
<td>750 SF</td>
<td>48 seats</td>
</tr>
<tr>
<td>Total</td>
<td>3,338 gross SF</td>
<td>126 seats</td>
</tr>
</tbody>
</table>

The zoning for the site is the Richmond Street District (RSD) within the Downtown Specific Plan (DSP). Restaurants are a permitted use in this Zoning District in accordance with Downtown Specific Plan (DSP) § VI.C.2(b). The proposed use (850 square-foot outdoor dining area addition for the expansion of beer and wine sales
for on-site consumption at a restaurant) requires an Administrative Use Permit approval in accordance with DSP § VI C.4(a) and ESMC § 15-22-5. The proposed 750 square-foot outdoor dining area expansion is a permitted accessory use, subject to design review in accordance with DSP § VI C.4(e) and compliance with ESMC § 15-2-16 outdoor dining area regulations. A separate approval for an encroachment permit must be obtained from the Public Works Department before the use of the proposed new 100 square-foot outdoor dining area in the public right-of-way in front of the restaurant and is subject to the requirements of ESMC § 9-2-1.

The minimum number of required parking spaces for restaurant uses is one parking space for every 75 square feet of dining area and one parking space for each 250 square feet of non-dining area (DSP § VII 3.b.iii). Under the current Downtown Specific Plan Parking regulations the existing restaurant configuration together with the proposed two outdoor dining areas is required 21 parking spaces (DSP § VII 3.b.iii). However, the restaurant is legal nonconforming as to the total number of on-site parking spaces provided with only 4 existing parking spaces located at the rear of the property. The new proposed 850 square feet of outdoor dining area for the restaurant requires 9 additional parking spaces that would increase the total number of spaces required to 13. The outdoor dining area is proposed at the rear of the building where the 4 existing parking spaces are located. The outdoor dining area is designed with a fence enclosure and gates that open toward the alley so that when it is not in use for outdoor dining, the patio can be used again to provide 4 parking spaces.

In-lieu parking permit fees must be paid to the City for the 13 parking spaces when the outdoor dining area is used subject to the requirements of Ordinance No. 1429. The applicant has several options to comply with the requirements of the Ordinance. The Ordinance allows the applicant to pay the required parking in-lieu fee to keep the outdoor dining area at the rear of the restaurant on a permanent basis or on a temporary basis.

For permanent use of the outdoor dining area, the applicant can either pay the full fee amount for the required 13 parking spaces before initiating the use or may make monthly payments for a maximum period not to exceed twenty years beginning before the use is initiated. For temporary use of the outdoor dining area, the applicant may use the outdoor dining area for a minimum of 1 month and can either pay the full fee amount before initiating the use or may make monthly payments beginning before the use is initiated for the duration of the temporary use.
The following chart is the parking analysis for the proposed uses:

<table>
<thead>
<tr>
<th>PROPOSED RESTAURANT</th>
<th>PROPOSED SQUARE FOOTAGE - REQUIRED PARKING RATIO</th>
<th>REQUIRED PARKING SPACES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing Covered Front Outdoor Dining Area</td>
<td>250 SF – 1 Space/75 SF</td>
<td>3 Parking Spaces</td>
</tr>
<tr>
<td>Existing Indoor Dining Area</td>
<td>959 SF – 1 Space/75 SF</td>
<td>13 Parking Spaces</td>
</tr>
<tr>
<td>Existing Non-dining Area</td>
<td>1,279 SF – 1 Space/250 SF</td>
<td>5 Parking Spaces</td>
</tr>
<tr>
<td>New Front Outdoor Dining Area</td>
<td>100 SF – 1 Space/75 SF</td>
<td>0 Parking Spaces for the First 200 SF of Outdoor Dining Area; 0 Parking Spaces Required</td>
</tr>
<tr>
<td>New Rear Outdoor Dining Area</td>
<td>750 SF – 1 Space/75 SF</td>
<td>0 Parking Spaces for the First 200 SF of Outdoor Dining Area; 9 Parking Spaces Required</td>
</tr>
<tr>
<td>Total</td>
<td>3,332 gross SF</td>
<td>30 parking spaces required and 13 in-lieu parking spaces will be provided (9 for the outdoor dining area expansion and 4 parking spaces to replace the existing legal on-site spaces)</td>
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The current and proposed restaurant dining hours of operation are: Monday through Sunday from 9:00 a.m. to 11:00 p.m. The outdoor dining areas will be open the same hours as the restaurant. Food service must be available in the indoor and outdoor dining areas during the dining hours. The outdoor dining area hours must be limited to the same hours as the restaurant. Any change to the hours of operation or the hours that alcohol may be served is subject to review and approval by the Planning and Building Safety Director. No live entertainment is proposed in the outdoor dining area.

Planning staff reviewed the application and the Planning and Building Safety Director made the necessary findings to grant an Administrative Use Permit. The attached letter specifies all of the required findings for the permit.
III. ENVIRONMENTAL DETERMINATION

The proposed project is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to 14 California Code of Regulations § 15301 as a Class 1 categorical exemption (Existing Facilities) and pursuant to 14 California Code of Regulations § 15303 as a Class 3 categorical exemption (New Construction or Conversion of Small Structures). The project includes an alcohol license for an existing restaurant which results in a minor alteration in the operation of an existing building involving a minor expansion of the existing use with the addition of a 740 square-foot outdoor dining area at the rear of the building and a 100 square-foot outdoor dining area at the front of the building. The project is not anticipated to have any significant impacts with regard to traffic, noise, air quality, or water quality. There are adequate utilities and public services to serve the project. There is adequate sidewalk width for pedestrian passage adjacent to the outdoor dining area located in the public right-of-way.

IV. INTER DEPARTMENTAL COMMENTS

The project applications and plans were circulated to all relevant City Departments and are attached to this report.

V. RECOMMENDATION

Receive and File.

VI. EXHIBITS

A. Administrative Use Permit Approval Letter, dated September 3, 2009
B. Interdepartmental Comments
C. Administrative Use Permit application
D. Plans

Prepared by: Maria Baldenegro, Assistant Planner

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

Greg Carpenter, Director
Department of Planning & Building Safety
City of El Segundo
Planning & Building Safety Department

September 3, 2009

Scott Reed
Second City Bistro
223 Richmond Street
El Segundo, CA 90245

RE: Environmental Assessment No. EA-828 and Administrative Use Permit (AUP) No. 09-01

To allow the expansion of alcohol sales in a new 100 square-foot outdoor sidewalk dining area that will encroach 4 feet in the public right-of-way in front of the building and a new 750 square-foot outdoor dining area to the rear for the sale of beer and wine for on-site consumption (Type 41 ABC) license at an existing restaurant (Second City Bistro).

Address: 223 Richmond Street

Dear Mr. Reed:

This letter is to inform you that, in accordance with El Segundo Municipal Code ("ESMC") Chapter 15-22, the Planning Division reviewed your application for the above-referenced project and the Director of Planning and Building Safety APPROVED Environmental Assessment No. EA-828 and Administrative Use Permit No. 09-01 to expand the area for the sale and consumption of beer and wine at an existing restaurant at 223 Richmond Street. The Administrative Use Permit approval includes a new 100 square-foot outdoor sidewalk dining area in the public right-of-way adjacent to an existing 250 square-foot covered outdoor dining area in front of the building, and a new 750 square-foot outdoor dining area to the rear of the existing 2,488 square-foot restaurant. The following are the findings and facts in support of each finding for this decision:
FINDINGS AND FACTS IN SUPPORT OF EACH FINDING:

Environmental Assessment No. 828

Finding 1

- The proposed project is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to 14 California Code of Regulations § 15301 as a Class 1 categorical exemption (Existing Facilities) and pursuant to 14 California Code of Regulations § 15303 as a Class 3 categorical exemption (New Construction or Conversion of Small Structures).

Facts in Support of Finding 1

1. The applicant requests approval to expand the alcohol sales in a new 750 square-foot outdoor dining area to the rear of an existing 2,488 square-foot restaurant with direct access from the interior, and a new 100 square-foot outdoor sidewalk dining area in front of the restaurant that will encroach 4 feet in the public right-of-way adjacent to an existing covered 250 square-foot outdoor dining area. A six-foot wide sidewalk will remain for pedestrian passage adjacent to the outdoor dining area. The request is for a combined total 3,338 square feet in area. The project is an expansion of an existing restaurant which results in a minor alteration in the operation of an existing building involving a minor expansion of the existing use with 850 square feet of new outdoor dining area. The project is not anticipated to have any significant impacts with regard to traffic, noise, air quality, or water quality. There are adequate utilities and public services to serve the project. There is adequate sidewalk width for pedestrian passage adjacent to the outdoor dining area located in the public right-of-way. The property is in an urbanized area where it has adequate access and all public services and facilities are available. Additionally, the site is not in an area that is environmentally sensitive.

Administrative Use Permit 09-01

Finding 1

- There is compatibility of the particular use on the particular site in relationship to other existing and potential uses within the general area in which the use is proposed to be located.
Facts in Support of Finding 1

1. The existing restaurant currently has a Type 41 Alcoholic Beverage Control License for a 2,488 square-foot restaurant that includes 2,238 square feet of indoor building area and a 250 square-foot covered outdoor dining area in front of the building. The indoor dining area contains 56 seats and the covered outdoor dining area contains 16 seats for a total of 72 seats.

2. The applicant proposes to add a new 750 square-foot rear outdoor dining area containing 48 seats, and a new 100 square-foot front outdoor sidewalk dining area containing 6 seats to expand the area for the sale and consumption of alcohol at the restaurant. The proposed combined new total area for the restaurant is 3,338 square feet with 126 seats.

3. The minimum number of required parking spaces for the new 850 square-foot outdoor dining area addition to the restaurant is 9 spaces. No additional parking spaces are required for the first 200 square-feet of outdoor dining area. The existing 4 parking spaces are legal nonconforming. The applicant is requesting approval to replace the four existing required parking spaces to the rear of the property with a new 750 square-foot outdoor dining area containing 48 seats. The approval and use of the new 750 square-foot outdoor dining area to the rear of the building requires that the applicant purchase or lease from the City a total of 13 in-lieu parking spaces. The conditions of approval require that the applicant provide the required parking spaces through the in-lieu program or other means satisfactory to the Director of Planning and Building and Safety to allow the use of the new 750 square-foot outdoor dining area.

4. The General Plan land use designation for the site is Downtown Specific Plan. The Downtown Specific Plan permits community serving retail and service uses, including offices in a pedestrian-oriented environment.

5. The zoning for the site is the Richmond Street District (RSD) within the Downtown Specific Plan (DSP). Restaurants are a permitted use in this Zoning District in accordance with Downtown Specific Plan (DSP) § VI C.2(b). The proposed use (650 square-foot outdoor dining area addition for the expansion of beer and wine sales for on-site consumption at a restaurant) requires an Administrative Use Permit approval in accordance with DSP § VI C.4(a) and ESMC § 15-22-5. The proposed 750 square-foot outdoor dining area expansion is a permitted accessory use, subject to design review in accordance with DSP § VI C.4(e) and compliance with ESMC § 15-2-16 outdoor dining area regulations. The Public Works Department must approve a separate application for an encroachment permit for the use of the proposed 100 square-foot outdoor dining area in the public right-of-way and is subject to the requirements of ESMC § 9-2-1.
6. The Downtown Specific Plan (DSP) Zone permits restaurants with outdoor dining areas. The new outdoor dining area expansion for the existing restaurant is similar and compatible with the surrounding land uses which include residential units, commercial retail, restaurants, a music hall and office uses.

7. The applicant must obtain a State of California Department of Alcoholic Beverage Control (ABC) license for on-site sale and consumption of beer and wine (Type 41) for the restaurant (Second City Bistro).

8. On September 10, 2009, the El Segundo Planning Commission is scheduled to Receive and File the Administrative Use Permit request.

Finding 2

- The proposed use is consistent and compatible with the purpose of the Zone in which the site is located.

Facts in Support of Finding 2

1. The General Plan land use designation for the site is Downtown Specific Plan.

2. The zoning for the site is the Richmond Street District (RSD) within the Downtown Specific Plan (DSP). Restaurants are a permitted use in this Zoning District in accordance with Downtown Specific Plan (DSP) § VI C.2(b). The proposed use (850 square-foot outdoor dining area addition for the expansion of beer and wine sales for on-site consumption at a restaurant) requires an Administrative Use Permit approval in accordance with DSP § VI C.4(a) and ESMC § 15-22-5. The proposed 750 square-foot outdoor dining area expansion is a permitted accessory use, subject to design review in accordance with DSP § VI C.4(e) and compliance with ESMC § 15-2-16 outdoor dining area regulations. The Public Works Department must approve a separate application for an encroachment permit for the use of the proposed 100 square-foot outdoor dining area in the public right-of-way and is subject to the requirements of ESMC § 9-2-1.

3. The purpose of the Richmond Street District (RSD) is the “entertainment center” of El Segundo and is comprised of an eclectic mix of antique stores, bars, restaurants and the Old Town Music Hall (Richmond Street 100-200 blocks). This street has a separate and distinct identity from Main Street, as it contains the oldest commercial buildings in the City with development along the street near the front property line. The proposed use is consistent with the zone in that it serves residents, local employees, and visitors in a pedestrian-oriented environment on the ground floor level.

4. The proposed use is consistent with the goals, objectives, policies, and programs of the Downtown Specific Plan by expanding the neighborhood serving
commercial uses, maintaining the “small town” atmosphere with moderate density, and improves the business environment of Downtown.

5. The proposed use is consistent with Economic Development Goal ED3 in that it preserves and improves the business environment and image of Downtown El Segundo. The proposed use is consistent with Objective ED3-1 of economic development in that it contributes to El Segundo’s commercial options. The proposed is consistent with Policy 3-1.2, 3-1.3, and 3-1.5 in that it preserves Downtown’s economic viability, encourage revitalization efforts Downtown, and encourage a mix of retail and commercial businesses that stimulate pedestrian traffic and meet the communities need for changing needs for goods and services.

6. The proposed use is consistent with Land Use Element Goal LU4 in that it provides a stable tax base for the City through development of new commercial uses without adversely affecting the viability of Downtown. The proposed use is consistent with Objective LU4-2 in that it serves as a focal point for the social environment of the community. The proposed use is consistent Policy LU4-2.1 as it revitalizes and upgrades commercial areas, making them a part of a viable, attractive and people-oriented commercial district.

7. The surrounding land uses include: residential units, commercial retail, restaurants, a music hall and office uses. The proposed new outdoor dining areas are compatible with the surrounding uses.

**Finding 3**

- The proposed location and use and the conditions under which the use would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

**Facts in Support of Finding 3**

1. The existing restaurant is located in the Downtown Specific Plan (DSP) Zone within the Richmond Street District (RSD) and includes 850 square-feet of new outdoor dining area. The restaurant and outdoor dining area meet all the development standards of the (DSP) Zone and the required parking will be provided in compliance with (DSP) § VII 3(a)(iii) Parking In-Lieu Fees.

2. The surrounding land uses include residential units, commercial retail, restaurants, a music hall and office uses. The restaurant is a permitted use within the Downtown Specific Plan (DSP) Zone and the new 850 square-foot outdoor dining area is a permitted accessory use. On-site sale and consumption of alcohol in new restaurants or outdoor dining areas are permitted with an Administrative Use Permit.
3. The proposed hours of operation for the restaurant are: Monday through Sunday from 9:00 a.m. to 11:00 p.m. The outdoor dining area would be open the same hours as the restaurant and no live entertainment is proposed.

Finding 4

- Potential impacts that could be generated by the proposed use, such as noise, smoke, dust, fumes, vibration, odors, traffic, and hazards have been recognized and mitigated.

Facts in Support of Finding 4

1. The sale of alcohol will not create any new impacts that would not be normally associated with the operation of a restaurant with indoor and outdoor dining areas.

2. The proposed hours of operation for alcohol sales and the location of the restaurant will help to minimize impacts on surrounding uses.

3. The proposed restaurant dining hours of operation are: Monday through Sunday from 9:00 a.m. to 11:00 p.m. The outdoor dining area would be open the same hours as the restaurant. Food service would be available in the indoor and outdoor dining areas during the hours of operation. In addition, the subject site is accessible to pedestrians from the surrounding area and the downtown.

4. In addition to complying with the requirements of the City of El Segundo and the State of California Department of Alcoholic Beverage Control the restaurant is subject to County Health Department regulations that address and monitor impacts of fumes and odors.

Finding 5

- The State of California Department of Alcoholic Beverage Control has issued or will issue a license to sell alcohol to the applicant.

Facts in Support of Finding 5

1. The applicant must obtain a license from the State of California Department of Alcoholic Beverage Control (Type No. 41).

PLANNING AND BUILDING SAFETY DEPARTMENT DIRECTOR ACTION

Based on these findings and facts in support of these findings, the Planning and Building Safety Department Director APPROVES the proposed project, subject to the following conditions:
1. The proposed restaurant dining hours of operation are: Monday through Sunday from 9:00 a.m. to 11:00 p.m. The outdoor dining areas will be open the same hours as the restaurant. Food service must be available in the indoor and outdoor dining areas during the dining hours. The outdoor dining hours must be limited to the same hours as the restaurant. Food service must be available inside the restaurant and in the outdoor dining areas during the dining hours. Any change to the hours of operation or the hours that alcohol may be served is subject to review and approval by the Director of Planning and Building Safety.

2. The seating for the restaurant must be limited to 56 seats in the interior dining area, 16 seats in the covered outdoor dining area in front of the building, 48 seats in the new outdoor dining area to the rear, and 6 seats in the new outdoor dining area in the public right-of-way in front of the building and a total of 126 seats for the subject site.

3. Any subsequent modification to the project as approved, including the floor plan and areas where alcohol will be served, and/or the conditions of approval must be referred to the Director of Planning or designee and Building Safety for approval and a determination regarding the need for Planning Commission review of the proposed modification.

4. The applicant must obtain and maintain all licenses required by the Alcoholic Beverage Control Act (Business & Professions Code §§ 23300 et seq.). The applicant must obtain and maintain a Type 41 license.

5. The applicant must obtain an encroachment permit from the Public Works Department for any use of the public right-of-way for outdoor dining and is subject to the requirements of ESMC § 9-2-1.

6. The restaurant operations must comply with ESMC §§ 7-2-1, et seq. regulating noise and vibration.

7. The Planning and Building Safety Department and the Police Department must be notified of any change of ownership of the approved use in writing within 10 days of the completion of the change of ownership. A change in project ownership may be cause to schedule a hearing before the Planning Commission regarding the status of the administrative use permit.

8. The applicant must comply with all regulations of the Alcoholic Beverage Control Act and the regulations promulgated by the Alcoholic Beverage Control Board including, without limitation, the regulations set forth in 4 Cal. Code of Regs. §§ 55 et seq.

9. The applicant must post a sign in a clear and conspicuous location listing a phone number at which a responsible party may be contacted during all open hours of the establishment to address any concerns of the community regarding
noise in the restaurant, patio and parking lot. Said contact's name and phone number must also be available through the restaurant staff at all times.

10. The applicant must, at all times, display a Designated Driver sign of at least ten inches by ten inches (10" X 10") in the restaurant dining areas at eye level. The sign must be worded in a way that reminds patrons who are consuming alcohol to designate a non-drinking driver.

11. There must be no exterior advertising of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages which are clearly visible to the exterior must constitute a violation of this condition.

12. All employees serving alcoholic beverages to patrons must enroll in and complete a certified training program approved by the State Department of Alcoholic Beverages Control (ABC) for the responsible sales of alcohol. The training must be offered to new employees on not less than a quarterly basis.

13. Any and all employees hired to sell alcoholic beverages must provide evidence that they have either:

   a. Completed training from the State of California Department of Alcoholic Beverage Control (ABC), Lakewood District Office administered Leadership and Education in Alcohol and Drugs (LEAD) Program in the form of an ABC-issued certificate; or,

   b. Completed an accepted equivalent by the ABC, Inglewood District Office to ensure proper distribution of beer, wine and distilled spirits to adults of legal age. If any prospective employee designated to sell alcoholic beverages does not currently have such training, then;

   c. The ABC-licensed proprietors must have confirmed with the Planning and Building Safety Department within fifteen (15) days of the Planning Manager's decision, or by final project approval, that a date certain has been scheduled within the local ABC Office to complete the LEAD course.

   d. Within thirty (30) days of taking said course, the employees, or responsible employer must deliver each required certificate showing completion to the Police Department.

14. The licensee must have readily identifiable personnel to monitor and control the behavior of customers inside the building premises. Staff must monitor activity outside in the parking lot and any adjacent property under the establishment's control to ensure the areas are generally free of people and are cleared of patrons and their vehicles one-half hour after closing.
15. If complaints are received regarding excessive noise, parking availability, lighting, building access, and the like associated with the restaurant, and outdoor dining area, the city may, in its discretion, take action to review the Administrative Use Permit, including without limitation, adding conditions or revoking the permit.

16. The outdoor dining and seating areas must comply with ESMC § 15-2-16.

17. The building must not be occupied by more persons than allowed by the California Building Code, as adopted by the ESMC.

18. The building and any outdoor seating must comply with California Building and Fire Code requirements, as adopted by the ESMC.

19. The Applicant agrees to indemnify and hold the City harmless from and against any claim, action, damages, costs (including, without limitation, attorney's fees), injuries, or liability, arising from the City's approval of Environmental Assessment No. 828 and Administrative Use Permit No. 09-01. Should the City be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of the City approval of EA-828 or AUP 09-01, the Applicant agrees to defend the City (at the City's request and with counsel satisfactory to the City) and will indemnify the City for any judgment rendered against it or any sums paid out in settlement or otherwise. For purposes of this section "the City" includes the City of El Segundo's elected officials, appointed officials, officers, and employees.

PLANNING COMMISSION

Please be advised that this does not conclude the review process. This determination will be transmitted to the Planning Commission at its September 10, 2009 meeting with the recommendation that the Planning Commission Receive and File the determination. The City Council will determine whether or not to protest the issuance of the ABC License (Type 41) at its meeting on October 6, 2009.

If you have any questions, please contact the project planner Maria Baldenegro at (310) 524-2341 for further information.

Sincerely,

[Signature]
Greg Carpenter, Director
Department of Planning and Building Safety
City of El Segundo
INTER-DEPARTMENTAL CORRESPONDENCE

Circulation Date: July 6, 2009

TO: Robert Cummings, Recreation and Parks Director
   (Attention: Mark Trujillo)
   David Cummings, Police Chief
   (Attention: Laurie Risk)
   Dana Greenwood, Public Works Director
   (Attention: Dan Garcia and Maryam Jonas)
   Sam Lee, Building Safety Manager/Building Official
   Kevin Smith, Fire Chief
   (Attention: James Carver and Steve Tsumura)
   Deborah Brighton, Library Services Director
   Karl Berger, Assistant City Attorney

CC: Jack Wayt, City Manager
    Deborah Culler, Finance Director

FROM: Greg Carpenter, Director
      Kimberly Christensen, AICP, Planning Manager

STAFF PLANNER: Maria Baldenegro, Assistant Planner

SUBJECT: Environmental Assessment No. EA-828 and AUP No. 09-01
         To allow the construction of a 740 square-foot outdoor dining area and the sale of beer and wine for on-site consumption (Type 41 ABC License) at an existing restaurant (Second City Bistro).

Address: 223 Richmond Street
Applicant(s): Scott Reed
Business Name: Second City Bistro
Owner(s): Star Restaurant Holdings LLC

The applicant requests the approval of an Administrative Use Permit to construct a new 740 square-foot outdoor dining area to the rear of the restaurant and to allow on-site sale and consumption of beer and wine (Type 41 Alcoholic Beverage Control license) at an existing restaurant at 223 Richmond Street. The project site is located in the Richmond Street District (RSD) Zone within the Downtown Specific Plan. The existing restaurant is approximately 2,492 square feet in total indoor area contains a total of 72 seats. The existing covered outdoor dining area on the front of the building provides seating for 12 and the remaining 60 seats are located inside of the restaurant. The new 740 square-foot outdoor
dining area at the rear of the building will allow for a total of 16 tables and 64 additional seats. The combined total restaurant area is 3,232 square feet with 136 seats.

The proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to 14 California Code of Regulations § 15301 as a Class 1 categorical exemption (Existing Facilities) and pursuant to 14 California Code of Regulations § 15303 as a Class 3 categorical exemption (New Construction or Conversion of Small Structures). The project includes an alcohol license for a new restaurant, which results in a minor alteration in the operation of an existing building involving a minor expansion of the existing use with the addition of a 740 square-foot outdoor dining patio. The project is not anticipated to have any significant impacts with regard to traffic, noise, air quality, or water quality. There are adequate utilities and public services to serve the project.

Attached for your review and comment is a copy of the application, and plans. Please return the plans along with any comments by Tuesday, July 14, 2009. Should you have any questions about the project, please contact Assistant Planner Maria Baldenegro at extension 2341.

Please email a copy of your comments to mbaldenegro@elsegundo.org.

COMMENTS:

Resolution #3448 requires an industrial waste permit for restaurants with seating capacity of 150 seats or more. The permit requires the installation of a clarifier of 750-gallon capacity or a minimum of 30-minute flow detention time, which ever is greater. Please ensure restaurant seating capacity is less than 150 seats.

Reviewed By:

Signature and Title
Encl.: Application, and plans
City of El Segundo
INTER-DEPARTMENTAL CORRESPONDENCE

Circulation Date: July 6, 2009

TO: Robert Cummings, Recreation and Parks Director
    (Attention: Mark Trujillo)
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COMMENTS:

Reviewed By:

Signature and Title

Date

Encl.: Application, and plans

\CH3X03\Shared Files\DeptPlanning & Building Safety\Planning - Old\PROJECTS (Planning)\1826-850\EA 840\2009.EA-828.IDC.doc
City of El Segundo
INTER-DEPARTMENTAL CORRESPONDENCE

TO: Maria Baldenegro, Assistant Planner
FROM: Dan Garcia, Assistant City Engineer
DATE: July 8, 2009
SUBJECT: Comments for EA-828 and AUP 09-01

After reviewing the proposed environmental assessment for the project at 223 Richmond Street, I have the following comments:

1. The applicant must ensure that encroachment permits if required and/or deemed to be required by the City are secured from the Public Works Department before commencing any and all work in the public right-of-way.

2. Owner agrees to indemnify and hold the City harmless from and against any claim, action, damages, costs (including, without limitation, attorney’s fees), injuries, or liability, arising from the City’s approval of Environmental Assessment No. 828. Should the City be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of the City approval of Environmental Assessment No. 828, agrees to defend the City (at the City’s request and with counsel satisfactory to the City) and will indemnify the City for any judgment rendered against it or any sums paid out in settlement or otherwise. For purposes of this section “the City” includes the City of El Segundo’s elected officials, appointed officials, officers, consultants, and employees.

DG:MT
TO:  Robert Cummings, Recreation and Parks Director  
(Attention: Mark Trujillo)  
David Cummings, Police Chief  
(Attention: Laurie Risk)  
Dana Greenwood, Public Works Director  
(Attention: Dan Garcia and Maryam Jonas)  
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Deborah Brighton, Library Services Director  
Karl Berger, Assistant City Attorney  

CC:  Jack Wayt, City Manager  
Deborah Cullen, Finance Director  

FROM:  Greg Carpenter, Director  
Kimberly Christensen, AICP, Planning Manager  

STAFF PLANNER:  Maria Balde negro, Assistant Planner  

SUBJECT:  Environmental Assessment No. EA-828 and AUP No. 09-01  
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Attached for your review and comment is a copy of the application, and plans. Please return the plans along with any comments by Tuesday, July 14, 2009. Should you have any questions about the project, please contact Assistant Planner Maria Baldenegro at extension 2341.

Please email a copy of your comments to mbaldenegro@elsegundo.org.

COMMENTS:

SEE ATTACHED

Reviewed By:

[Signature and Title]

[End. Application, and plans]

[Date]
Environmental Assessment
Number: EA-828
Address: 223 Richmond St.
Building Code 2007 CBC

Occupancy: B/A-3

Allowable floor area/Occupant Load:
- Outdoor dining area 740 sq. ft.
- Maximum occupant load/number of seats is 49

Exiting:
- Tables and chairs cannot block an exit or access to restrooms.

Disabled Access:
- Provide one 30”X60” disabled access area for each 20 seats or fraction thereof.
- Provide a minimum 36” aisle that gives access to the disabled access seating area.

Other note:
- Occupant load factor for the outdoor dining area, will be based on table A, which is 1/30 sq ft of area. Thus the occupant load will be less than 100.

/RK

RECEIVED
SEP 2, 2009
PLANNING DIVISION
Table A. Occupant Load Factor:

<table>
<thead>
<tr>
<th>Occupancy* , **</th>
<th>Occupant Load Factor (square feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Group A</strong></td>
<td>(CBC 2001, Table A-29A)</td>
</tr>
<tr>
<td>1. Auditoriums, convention halls, dance floors, lodge rooms, stadiums, and casinos (use 1/2 “one-half” the number of fixed seating)</td>
<td>15 (where no fixed seating is provided)</td>
</tr>
<tr>
<td>2. Conference rooms, dining rooms, drinking establishments, exhibit rooms, gymnasiums, lounges, stages, and similar uses, including restaurants classified as Group B occupancies</td>
<td>30</td>
</tr>
<tr>
<td>3. Worship places; principal assembly area, educational and activity unit (use 1/2 “one-half” the number of fixed seating)</td>
<td>30 (where no fixed seating is provided)</td>
</tr>
<tr>
<td><strong>Group B</strong></td>
<td>200 (Office or public buildings (area accessible to the public))</td>
</tr>
<tr>
<td><strong>Group E</strong></td>
<td>50 (Schools for daycare, elementary, secondary)</td>
</tr>
<tr>
<td><strong>Educational Facilities Other than Group E</strong></td>
<td>50</td>
</tr>
<tr>
<td><strong>Group F</strong></td>
<td>2,000 (Workshops, foundries and similar establishments)</td>
</tr>
<tr>
<td><strong>Group H</strong></td>
<td>2,000 (Hazardous materials fabrication and storage)</td>
</tr>
<tr>
<td><strong>Group I</strong></td>
<td>200 (Hospital general use area, health care facilities)</td>
</tr>
<tr>
<td><strong>Group M</strong></td>
<td>200 (Retail or Wholesale stores)</td>
</tr>
<tr>
<td><strong>Group R</strong></td>
<td>200 (Congregate residence, Group R-1)</td>
</tr>
<tr>
<td><strong>Group S</strong></td>
<td>5,000 (Warehouse)</td>
</tr>
</tbody>
</table>

* Any uses not specifically listed shall be based on similar uses listed in this table.

** For building or space with mixed occupancies, use appropriate occupancy group for each area (for example, a school may have an “A” occupancy for the gymnasium, a “B” occupancy for the office, etc.)

Accessory areas may be excluded (for example: hallway, restroom, stair enclosure)
City of El Segundo

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

APPLICATION FOR AN ADMINISTRATIVE USE PERMIT

Environmental Assessment No: EA-028
AUP No: 09-01

Date: __________________

Applicant: (REB INFO)

SCOTT REED
Name (print or type)
309, #C KANSAS
Address
EL SEGUNDO CA 90245
City/St/Zip

Check One: Owner X Lessee □

Property Owner: (BUS INFO)

SAME
Name (print or type)
223 RICHMOND ST.
Address
EL SEGUNDO CA 90245
City/St/Zip

Representative of applicant: (i.e., attorney, expediter, etc.)

Name (print or type)
Phone
Fax
Email
Signature

310 350 4971 310 322 2015
Phone
Fax
Email
Signature

310 350 4971 310 322 2015
Phone
Fax
Email
Signature

310 350 4971 310 322 2015
Phone
Fax
Email
Signature
Request: Under the provisions of Section 15-22-3 of the El Segundo Municipal Code, application for consideration of an Administration Use Permit for the above described property.

1. Describe in detail the entire proposed project (type of construction, materials to be used, uses involved, i.e., bank, general office, industrial, restaurant, etc.) buildings, and other equipment necessary to the project.

   RECONSTRUCTION OF BACK PATIO - PERIMETER FENCE, OVER HEAD SUPPORT SYSTEM, DUAL ACCESS DOUBLE GATES, FLOWER BOXES, FRONT PATIO DINING AND RAIL SYSTEM.

2. Describe the existing development on the site (include square footages and uses of each building).

   BACK PATIO 750 SQ FT - DINING, SPECIAL EVENTS
   FRONT PATIO ENCLOSEMENT 100 SQ FT - DINING
3. Explain in detail why this particular site is especially suited for the proposed development and how it is compatible with the purpose of the zone.

EXISTING - ADJUSTING TO COMPLY W/ CITY CODES.

4. Describe how the proposed project relates to the development of adjacent properties and the immediate area and will not have detrimental effects to the adjacent properties or neighborhood.

DOES NOT AFFECT OR IMPACT ANY ADDITIONAL USE AS IS AT CURRENT.

5. Describe the requested hours of operation of the proposed use/uses. Please list hours for each use if there are multiple uses on the site. If the application is for an alcohol permit, please also clarify if any entertainment is proposed and what are the requested hours of entertainment.

- HOURS OF OPERATION ARE THE SAME AS ON FILE.
- ABC LICENSE IS CURRENT.
- ENTERTAINMENT IS PERMITTED AT PROPERTY, BUT IS RARELY USED. IN PAST 6 YEARS, WE HAVE HAD 3 OCCASIONS TO HAVE LIVE ENTERTAINMENT.

6. If the application is for an alcohol permit, please list the type of alcohol license you are requesting (i.e., Type 41, On-site Sale and Consumption of beer and wine).

N/A - ABC IN PLACE.
NOTE: Separate Affidavits must be submitted if there are multiple owners.

OWNER'S AFFIDAVIT

I, We __________________ being duly sworn depose and say that I/we the OWNER of the property involved in this application and that I/we have familiarized myself (ourselves) with the rules and regulation of the City of El Segundo with respect to preparing and filing this application and that the foregoing statements herein contained and the information documents and all plans attached hereto are in all respects true and correct to the best of my/our knowledge and belief.

Signature ___________________________ Date ________________

STATE OF CALIFORNIA, )
County of Los Angeles )ss.

On his __________ day of __________, 20 ______, before me, the undersigned Notary Public in and for said County and State, personally appeared __________________________ known to me to be the person whose name _______________ subscribe to the within instrument, and acknowledged to me that he/she executed the same.

WITNESS my hand and official seal.

______________________________
Notary Public in and for said County and State
OWNER'S AUTHORIZATION

I hereby authorize ____________________________ to act for me in all matters relevant to this application. I understand that this person will be the primary contact on the project and will be sent all information and correspondence.

__________________________
Owner's Signature

__________________________
Date

APPLICANT AFFIDAVIT

I, We _________________ am (are) the APPLICANT(S) of the property involved in this application; I (we) have familiarized myself (ourselves) with the rules and regulation of the City of El Segundo with respect to preparing and filing this application; and the information documents and all plans is true and correct to the best of my (our) knowledge and belief.

__________________________
Applicant's Signature

__________________________
Date
Procedures for filing application

Submit the application with the signatures of the owner/owners of the property owner(s) and applicant(s) to the Planning Division along with the following documents:

1. Submit the properly completed application to the office of the Planning Division. Signature of the owner, owners, lessee, and/or agent shall be notarized before a Notary Public.

2. File application property completed in the office of the Planning and Building Safety Dept. along with completed Initial Study Applicant Questionnaire. Signature of the owner/owners, lessee (if applicant), and/or agent shall be required on all applications.

3. Applicant shall provide all information, drawings, and other materials as requested by the Planning Department as indicated.

4. Pay filing fee. (see fee schedule)

5. Applicant and affected property owners will be notified of time of hearing.

6. Applicant must be present at the hearing and may offer additional evidence to support his/her support.

7. There shall be an additional fee for filing an appeal.

8. A map of all properties within a 300-foot radius of the subject property, keyed to a list of names and address of the current property owner(s). Planning Staff can assist in the preparation of the radius map. The names and addresses of the property owner(s) can be obtained by contacting: Los Angeles County Assessors Office, 24330 Narbonne Avenue, Lomita, California. Phone number: (310) 534-6100.

9. Certification that the names and addresses provided are those of the property owner(s) currently listed in the latest available Tax Assessor’s records. (Your hearing may be delayed if an excessive number of notices are returned).

10. Unaddressed business envelopes with no return address, stamped with first class postage, of sufficient number to contact every property owner within the 300-foot radius map. The subject property owner(s), the applicant(s), and any other interested party which the applicant wants notified (sufficient for two mailings).

11. Two sets of adhesive mailing labels and one copy of a list of names and addresses, both keyed into the radius map in item #1 with the names and addresses of every person indicated in item #3.

12. Provide eight (8) sets of plans (site plans, floor plans, and elevations), preliminary title report (new construction only), and all other information request by the Planning Division. All plans must be folded to a maximum of 8 ½” x 11”.

13. Signature page of application must be notarized, as noted on the fee schedule.

14. Fish and Game Document Handling fee - $50.00 (all projects). County of Los Angeles Public Hearing Notice posting fee - $50.00 (for projects with an Initial Study and Negative Declaration. Mitigated Negative Declaration, or Environmental Impact Report. Not required for projects which are exempt from CEQA). Two separate checks, each made payable to the County of Los Angeles.

15. Any other information as determined necessary by the Director of Planning and Building Safety.
NEW OUTDOOR DINING AREA 100 SQ. FT.
EXPANSION IN PUBLIC RIGHT-OF-WAY
(6 ADDITIONAL SEATS)

CONCRETE CURB

2' X 4' FLOWER BOX

EXISTING INTERIOR

2' X 4' FLOWER BOX

EXISTING RECESSED FRONT COVERED ENTRY WAY
250 SQ. FT. (16 SEATS)
EL SEGUNDO CITY COUNCIL
AGENDA STATEMENT

MEETING DATE: October 6, 2009
AGENDA HEADING: Consent Agenda

AGENDA DESCRIPTION:
Consideration and possible action to approve a Professional Service Agreement with RRM Design Group for Architectural and Engineering Service to develop conceptual and final design plans for construction of a new Beach Lifeguard Station at the El Segundo Beach (south end of the beach parking lot, at the end of Grand Avenue on Vista Del Mar) with storage, and public restrooms including a shower and drinking fountain.
(Fiscal Impact: $294,554.00)

RECOMMENDED COUNCIL ACTION:
1. Approve a Professional Service Agreement with RRM Design Group
2. Authorize the City Manager to execute the agreement in a form as approved by the City Attorney.
3. Alternatively, discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
Scope of Work and Rate Schedule

FISCAL IMPACT: Included in Adopted Budget

<table>
<thead>
<tr>
<th>Amount Requested:</th>
<th>$294,554.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Additional Appropriation:</td>
<td>No</td>
</tr>
<tr>
<td>Account Number(s):</td>
<td>301-400-0000-0000</td>
</tr>
</tbody>
</table>

ORIGINATED BY: Maryam M. Jonas, Principal Civil Engineer
REVIEWED BY: Dana Greenwood, Public Works Director
APPROVED BY: Jack Wayt, City Manager

BACKGROUND AND DISCUSSION:

On July 24, 2009, staff issued a Request for Proposals for Design of Beach Lifeguard Station and received three (3) proposals on August 27, 2009. After initial review of the proposals, two (2) consultants were interviewed by a three (3) member selection panel from Planning and Building Safety and Public Works Departments.

The Panel evaluation was based on qualifications and experience. The rate structure was not used, however, in the selection process since State Law (Section 4526 of the Government Code) requires that professional services be selected on the basis of demonstrated competence and necessary professional qualifications.
The following ranking has been established by the panel members.

<table>
<thead>
<tr>
<th>RRM Design Group</th>
<th>$265,889 plus $28,665 for LEED Certification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rossetti Architectures</td>
<td>$327,508 plus $62,557 for CEQA and</td>
</tr>
<tr>
<td></td>
<td>Environmental planning/Costal Permit</td>
</tr>
</tbody>
</table>

The scope of services includes:

1. Preliminary Conceptual Design
   Survey the site, review geotechnical report, schematic design, recommend environmentally-responsible materials and design practices, building floor plans, sanitary sewer investigation and report, elevation and site plan.

2. Coastal Commission Permit and CEQA Documentation,
   Develop Coastal Commission, Categorical Exemption and provide required notifications including site survey and topographic map.

3. Design Development
   Develop construction documents suitable for bidding purposes, based upon the work completed in the preliminary report.

4. Construction Documents
   Prepare construction documents to include final drawings, specifications, calculations, and final cost estimate.

5. Bidding
   This task will involve responding to contractor questions during the bid, attending the pre-bid meeting, preparing addenda and bid review.

6. Construction Observation and Administration
   The consultant will provide responses to requests for information, review of shop drawings and preparation of as-built plans in Mylar and AutoCAD format.

The Base price for these services is $255,889. The base price does not cover reimbursable expenses for this project estimated to be $10,000. Reimbursable expenses include the consultant’s reproduction costs, plotting, copying, special delivery, handling of documents, and shipping. In addition, the cost for LEED Certification is estimated at $28,665.00 and it covers the followings:

- LEED Design $7,770.00
- Commissioning $8,400.00
- PV Panel Design $5,250.00
- LEED Construction $7,245.00

The total cost Including LEED Certification is of $294,554.00
Funding for this project is available through the proposed 2009-10 County of Los Angeles budget. On June 22, 2009, the Los Angeles County Board of Supervisor approved $1.7 million from Capital Project No. 77046 (Various 4th District Improvements) for the development, design, and construction of a new lifeguard station at El Segundo Beach.
### BASIC SERVICES

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<th>Task</th>
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<tr>
<td>A.1</td>
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<td>A.2</td>
<td>Coastal Commissioning Documentation (Optional)</td>
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<td>A.3</td>
<td>CEQA Documentation</td>
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<td>Site Survey and Topographic Map</td>
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<td>Geotechnical Investigation</td>
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<td>Sewage Investigation</td>
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<td>C.1</td>
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<td>D.1</td>
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### OPTIONAL SERVICES

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*Scope and fee are based off of information gathered from site visit, discussions with City Planning Staff and information contained within the RFP. It is understood that the desire of the City is to connect the sewer lift station to the nearest County of Los Angeles sewer main which our scope is based on. Should results of Task A.6 Sewage Investigations reveal that it is not feasible to connect to the County line and the neighboring City of Los Angeles line is more feasible the above scope of work would reduce along with associated fees. RRM Design Group would welcome the opportunity to discuss in greater detail the scope of services proposed on.

**Not including reimbursable.

Reimbursable budget to be $10,000. RRM Design Group reimbursable expenses shall include photocopies at $.20 per copy. All other types of RRM Design Group reproductions such as blueprinting, process camera, typesetting, mileage and printing shall be billed at the local vendor's current rate plus 10% to cover our overhead and administrative expenses.
Scope of Services

Task A: Preliminary Conceptual Design Phase

Task A.1: Site Investigation, Data Collection and Preliminary Design Approach:

A kick-off meeting will be conducted and serve to set a road map for the work ahead. This meeting will focus on project goals and procedures. The goals will be: budget, schedule, aesthetics and function. The procedures will be: key contacts for information and/ or decisions, anticipated ‘events’ for approval, regulatory agency requirements and design committee members and their role/ functions. Discussions will also focus on overall project schedule and focused schedules for each main task. Early and often involvement in developing the design and drawings by City staff will be paramount to keeping the project on schedule and running efficiently. Based on the Project Program and Site Analysis, RRM will collect data of work previously completed and will produce one (1) site and building arrangement plan. It will reflect the primary arrangements of the site and form of the building. Additionally, RRM will produce one (1) floor plan layout based on the site arrangement study developed. A working meeting with the City will be used to refine the floor plan design. Based on decisions from the floor plan review, one (1) exterior design concept will be presented for review of the facility. The exterior building elevations will show material options, roof profiles, building style and colors. A working meeting with the City and Planning Department will be used to select and refine the exterior building elevations and become the basis of design for future phases.

Included during this task are review/ comments on the Geotechnical Report completed concurrently. Discussions will focus on recommendations of the Geotechnical Engineer on foundation systems.

Products:
• Schematic Design: Building floor plans, elevations and site plan

Meetings:
• Two(2) working meetings: One (1) for project kick off and verification and one (1) to present site plan, floor plan and exterior elevations schemes

Task A.2: Coastal Commissioning Documentation Approach:

With respect to the permitting of the lifeguard facility, it is our understanding that the City of El Segundo has its own authority for issuing Coastal Development Permits within El Segundo’s Coastal Zone per its certified Local Coastal Plan (LCP) that was adopted in the 1980’s. Its LCP allows the lifeguard station and public restroom facility as an expressly permitted use in the location where it is being proposed farther, because the facility is of such limited size that is well under what may otherwise require further
analysis under CEQA, it is the City's intention to issue a Categorical Exemption for the project. Thus, on the surface, it would appear that there will be little need for the planning, design, and permitting process to require close coordination with the staff of the California Coastal Commission.

That being said, it must be remembered that the location of its proposed lifeguard facility falls within the "Appealable Area" of the Coastal Zone which allows the staff of the California Coastal Commission or members of the Coastal Commission itself to appeal locally issued Coastal Development Permits to the Coastal Commission. While the City does not anticipate any issues that would warrant an appeal of this facility, our experience in the coastal zone on similar projects in the past tells us that it would not be unwise to coordinate early in the process with the staff the Coastal Commission to ensure that there will be no surprises. Thus, we have included an optional task to have two (2) meetings with the staff of the California Coastal Commission, to ensure their support for the issuance of local permits for this critical beach facility.

If, for any reason there should be an appeal of this facility to the Commission, it will be important for the City to have a consultant on staff with the significant experience and a solid track record of success in obtaining Coastal Development Permits directly from the California Coastal Commission. At RRM Design Group, we will bring that experience and expertise to your project.

Products:
• California Coastal Commission documentation

Meetings (optional):
• Two(2) working meetings with the California Coastal Commission: One (1) at the outset of the process and One (1) after some conceptual alternatives have been completed

Task A.3: CEQA Documentation
Approach:
Based on preliminary evaluation and discussion with City Planning staff, the project is anticipated to qualify for a Class 3 Categorical Exemption (New Construction or Conversion of Small Structures) pursuant to CEQA Guidelines §15303. To support use of the Categorical Exemption, a review checklist will be prepared to summarize findings based on existing available documentation (no additional technical studies are proposed). The documentation and notice will be prepared by the RRM Team, with the notice to be posted by the City subsequent to City Council action. In the event the project does not qualify for a Categorical Exemption, the project scope of work would need to be revisited.
Products:
• Categorical Exemption documentation and notice

Task A.4: Site Survey and Topographic Map
Approach:
A topographic base map will be prepared for the selected Beach Lifeguard Station site to include adjacent streets to the center line. The survey will focus on existing utility documentation and topography. All improvements on each property and adjacent streets and include existing utilities and hardscape. Existing title information (provided by the City) will be used to indicate record boundaries and easements (if any) on the survey.

Products:
• Site survey and topographic map

Meetings:
• One (1) meeting to present site survey and topographic map

Task A.5: Geotechnical Investigation
Approach:
Our team’s Geotechnical Consultant will provide geotechnical services to gather known information about the site, obtain undisturbed soil samples (2 borings at accessible locations on the proposed site) to an approximate depth of 20 to 50 feet to identify if a water table is present within that depth for liquefaction assessment, perform laboratory tests on the samples and provide an engineering analysis of all field and lab data. The engineering analysis will discuss the site and underlying soils as well as the seismicity of the site and associated risks involved in developing the project at this location. The Geotechnical Report will provide soil profiles and sections, foundation and differential settlement assumptions, lateral pressures, subsurface water elevations, suitability of on-site soils for backfill, a plot plan showing boring locations and soils bearing pressure recommendations for different types of foundations and pavement sections that may be appropriate.

Products:
• Geotechnical Engineering Report

Meetings:
• One (1) meeting at site with Geotechnical Consultant and City Building Department Representative
Scope of Services

Task A.6: Sewage Investigation
Approach:
Our team's Civil Consultant will provide services to gather information about the site's proximity to adjacent sanitary sewage system connections. A report for the selected Beach Lifeguard Station site's sewage system shall include a proposed design, operational features, sustainable approach options to reduce impact on existing sewage systems and recommendation of connection to either LA County Sanitary District or City of Los Angeles. Opinions of probable cost will be developed with for each. A working meeting with the City and Planning Department will be used to select the desired approach. Sewage investigation shall start after completion of site survey.

Products:
- Sewage Investigation Report

Meetings:
- One (1) working meeting with the City Team to review the alternatives and select an approach.

Task A.7: Sustainable Practice Investigation
Approach:
RRM is committed to the benefits of sustainable projects and green building practices. RRM's in house LEED AP, Kirstie Acevedo and our consultant team will evaluate the Beach Lifeguard Station in regards to applicable environmentally sustainable features that might be recommended to the City Team for this project's inclusion. While LEED certification is not a part of this project, RRM will utilize the LEED checklist to present sustainable features along with an estimated construction budget increase for each feature.

Products:
- Recommendations for Environmentally-responsible materials and design practices

Meetings:
- One (1) working meeting with the City Team to review alternatives sustainable approaches and set sustainable design goals

Task A.8: City Council Presentation
Approach:
RRM will attend a City Council meeting and assist in the presentation of the design. Final conceptual architectural drawings of the building site plan, floor plans and elevations will be presented for approval.
Scope of Services

Products:
- Presentation materials for building site plan, floor plan and elevations

Meetings:
- One (1) meeting to present design to City Council for approval

Task B: Design Phase
Approach:
RRM and our Consultant Team will prepare Construction Documents and a construction cost estimate. RRM assumes that the project will be designed using the current applicable CBC as amended by the County of Los Angeles and the City of El Segundo and other applicable and current local codes. The Construction Documents will include plans, materials and systems specifications and engineering reports and calculations. It is anticipated that the design will include pier/pile foundations and that the structure will need to address being designed in a Type “A” flood zone. RRM anticipates submittals at 50% and 90% stages of Construction Documents. The 50% submittal shall include 50% drawings and reports. The 90% submittal shall include 90% drawings and reports and will be submitted to the Building Department for Plan Check. A detailed cost estimate will be generated at the 90% stage of Construction Documents.

Drawings will be submitted to the City and County Building Department for review and building department permit check. Upon receiving comments from all agencies, RRM and the Consultant Team will respond to review and plan check items and resubmit for building permit issuance. The plans incorporating City and County Building Department comments shall be considered the biddable plan set.

It is anticipated that the Design Team will respond to plan check comments generated out of first plan check. Any additional comments beyond first plan check comments will be billed on an hourly basis.

Products:
- Building and site improvement construction drawings
- Technical specifications
- Equipment and material cut sheets
- Engineering calculations and Title 24 energy documentation
- Construction cost estimate at 90% progress in CSI format
- T-24 Energy Analysis
- Water Quality Management Documentation

Meetings:
- One (1) Construction Document kickoff meeting with City Team
- One (1) 50% Construction Document meeting with City Team
Scope of Services

• One (1) meeting to present 90% Construction Document package to City Team and to submit to building department

Task C: Bid Phase
Approach:
During the bidding process, speed and accuracy are crucial. With most disciplines in-house and local, the RRM approach is to establish the means to quickly respond to the contractors' requests as well as client-initiated revisions.

Products:
• Assistance in clarifications and addenda
• Pre-bid review meeting minutes
• Interpretations of Contract Documents in answering bidder's questions
• Review of bid results and consulting with City on award of contract

Meetings:
• One (1) Pre-bid meeting
• One (1) Bid opening

Task D: Construction Phase
Approach:
During construction prompt response to contractor's request for information, submittal review and clarifications is critical. The RRM approach is to establish the means to quickly respond to the contractor's requests. RRM assumes a six (6) month construction schedule. During that time services to include:
• Attendance at Pre-Construction meeting at the site
• Eight (8) on-site reviews of construction progress with field reports attended by Architect
• Construction progress review by consultants at rough-in stages
• Submittal/ shop drawing review
• Product substitution review (limited to 5 total)
• Clarifications/ field questions/ requests for information response
• Review of Contractor Application for Payment
• Preparation of change orders/ architect's supplemental instructions if necessary
• Final walk-through and punch-list; establishment of Date of Substantial Completion

Additional Services
Task E: Leed Construction Documentation
Approach:
During the Design Phase and Construction phase of the project the RRM Team will collect data based upon the proposed design, and selected Contractor's submittals and prepare
documents for construction review and comment by the US Green Building Council. The Design Team will respond to comments from the USGBC and resubmit clarifications as required.

Task F: Color Rendering
Approach:
Should the City request a professional level color rendering RRM Design Group will produce a rendering suitable for framing and marketing purposes.

Products:
• One (1) color rendering
• One (1) CD-ROM containing electronic file ready for printing of rendering

Exclusions
The following services are excluded from our scope and fee:
• Off-site drainage
• Telecommunication and security systems – RRM will coordinate these efforts with City hired vendors and provide for ‘skeletal’ systems to be in place at time of construction.
• Hazardous materials/ asbestos abatement or evaluation. RRM will prepare specification sections supplied by City regarding guidelines for removing hazardous materials. Work to be completed by contractor at time of construction.
• Environmental documentation including a Negative Declaration/Mitigated Negative Declaration, Environmental Impact Report, National Environmental Protection Act (NEPA) Documentation
• Traffic, noise or air quality studies
• Preparation of any easement documents
• Preparation of a lot line adjustment
• Presentations to City Planning Commission
• Construction staking
• Street improvement/ signalization plans (minor street modifications are anticipated)
• Fire sprinkler drawings/ calculations other than riser location and performance specification section
• Permit/ Plan Check/ Agency/ USGBC fees
• Specialized foundation system (i.e. mat/ post-tensioned) other than those noted in scope of services
• Specialized framing system (i.e. moment and space frames)
• Independent verification of accuracy of City-provided information
• Preparation of Record Drawings at end of Construction
• Reproduction of plans for bidding and construction other than regular progress submittals
• Geotechnical construction observation services
Consideration and possible action regarding the Adoption of Plans and Specifications and Authorization to advertise for bid the Seismic Strengthening of the 3.1 Million Gallon Water Reservoir at 400 Lomita Street – Project No. PW 09-13 (Fiscal Impact: $1,500,000.00)

RECOMMENDED COUNCIL ACTION:

Recommendation – (1) Adopt Plans and Specifications; (2) Authorize staff to advertise the project for receipt of construction bids; (3) Alternatively, discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:

Estimate

FISCAL IMPACT: Budget Adjustment Required

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<th>Amount Budgeted:</th>
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<td>Account Number(s):</td>
<td>501-400-7103-8227 $18,450 (FY 08/09), $500,000 (FY 09/10)</td>
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ORIGINATED BY: Dan Garcia, Assistant City Engineer

REVIEWED BY: Dana Greenwood, Public Works Director

APPROVED BY: Jack Wayt, City Manager

BACKGROUND AND DISCUSSION:

In November 2008, Tetra Tech’s Final Structural Evaluation/Analysis Report for Reservoir Seismic Vulnerability of the 3.1 MG (million gallon) Water Reservoir revealed that the top of wall in-plane connection and diaphragm shear are not adequate on the existing facility to withstand the impact of a major earthquake. While the reservoir would still be capable of retaining the water in storage following a design seismic event, the analysis indicated that the roof of the structure needed additional reinforcement and the walls needed strengthening for the reservoir to remain fully operational as a source of potable water. CIPAC 09/10 evaluated this project recently and ranked it as the No. 1 priority project for this year.
The actual bid date will be scheduled after the November 3, 2009 City Council meeting where the recommended Water Rate increases will be considered. The funding for this project is as follows:

1. CIPAC 08/09 $ 18,450.00 (remainder after funding design)
2. CIPAC 09/10 $500,000.00 (FY 09/10 appropriation)
3. Fund 501 $981,550.00 (TBD after the Nov. 3 Rate Study)

**Total Estimated Cost** $1,500,000.00

Construction is currently scheduled to take place in the winter months when demand on the system is lower. The retrofit is expected to take 4 months to complete after the Notice to Proceed is issued.
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P:\25607\134-25607-08001\Engineering\Structural\Cost Estimates\Final Design Cost Estimate 25607-08001
AGENDA DESCRIPTION:
Consideration and possible action regarding the acceptance of the Douglas Street Gap Closure Project PW- 05-06.
(Fiscal Impact: $ None )

RECOMMENDED COUNCIL ACTION:
Recommendation - (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.

ATTACHED SUPPORTING DOCUMENTS:
Notice of Completion

FISCAL IMPACT: Included in Adopted Budget

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ORIGINATED BY: Dana Greenwood, Public Works Director
REVIEWED BY: Bill Crowe, Assistant City Manager
APPROVED BY: Jack Wayt, City Manager

BACKGROUND AND DISCUSSION:
Staff has been working with both Cal Trans and FHWA to finalize the paperwork associated with this complicated project. This project involved State, Local and Federal Grant Funds, in addition to a loan from the California Infrastructure and Economic Development Bank (I-Bank).

Accepting the work and filing the Notice of Completion will allow the City to drawn down the remaining funds in the I-Bank Account ($1,980,038.36). The Notice of Completion will be filed with the Los Angeles County Recorder’s Office if the City Council concurs.
NOTICE OF COMPLETION OF CONSTRUCTION PROJECT

Project Name: Acceptance of Douglas Street Gap Closure Project
Project No.: PW 05-06

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 street right-of-way

5. A work of improvement on the property hereinafter described was field reviewed by the City Engineer on September 18, 2009. The work done was: under the overpass

6. On October 6, 2009, the 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: SEMA Construction

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: Extension and connection of public roads.

9. The street address of said property is: Douglas Street between Park Place and Alaska Avenue.

Dated: ___________________________  Dana Greenwood
                   Director of Public Works/City Engineer

VERIFICATION

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

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

Executed on _________________, 2009 at El Segundo, California.

______________________________
Dana Greenwood
Director of Public Works/City Engineer
EL SEGUNDO CITY COUNCIL
AGENDA STATEMENT

MEETING DATE: October 6, 2009
AGENDA HEADING: Consent Agenda

AGENDA DESCRIPTION:
Consideration and possible action to extend the City’s agreement with Cassidy & Associates through September 30, 2010, for the provision of legislative advocacy services in Washington, D.C., and approve federal work plan. (Fiscal Impact: $160,000 for FY 2009-2010)

RECOMMENDED COUNCIL ACTION:
1. Authorize the Mayor to execute the attached agreement with Cassidy & Associates;
2. Approve the federal advocacy work plan as outlined in Cassidy & Associates Memorandum of September 22, 2009;
3. Authorize an additional appropriation of $20,000 from unappropriated reserves;
4. Instruct the City Manager, affected departments, and our Washington, D.C. advocate to work with the Congressional staff and local government associations to pursue the City’s federal funding and program objectives;
5. Alternatively, discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
1. Agreement between Cassidy & Associates and the City of El Segundo
2. Cassidy & Associates memorandum outlining a proposed work plan for FY 2009-2010

FISCAL IMPACT: Budget Adjustment Required
- Amount Budgeted: $140,000
- Additional Appropriation: Yes $20,000
- Account Number(s): 001-400-2901-6407

ORIGINATED BY: Bill Crowe, Assistant City Manager
REVIEWED BY: Bill Crowe, Assistant City Manager
APPROVED BY: Jack Wayt, City Manager

BACKGROUND AND DISCUSSION:
Over the past decade, Cassidy & Associates has been successful in federal advocacy on behalf of the City. In addition to their policy work, which has ranged from aviation noise impact related advocacy to base support and retention lobbying on behalf of Los Angeles Air Force Base, Cassidy has been successful at securing federal appropriations for the City on a variety of infrastructure projects. These included projects that supported implementation of the City’s Sewer Master Plan and the Douglas Street Gap Closure. Federal funds of over $10 million have been secured since fiscal year 2000 for these important infrastructure projects.
Earlier this year, Cassidy submitted three projects to Congresswoman Harman’s office for consideration in the federal FY 2010 appropriations cycle -- $2,500,000 for the Arterial Streets Rehabilitation Project, $1,000,000 for Energy Savings Projects at City Hall and Fire Station No. 2, and $2,260,315 for the city’s fiber optic network (I-Net). After discussions with her office, it was decided the best opportunity for securing increased funding for the City this calendar year would be in the reauthorization of the so called “SAFETEA” or highway bill. Consequently, Cassidy submitted and documented a detailed $5,000,000 request to the Transportation Reauthorization bill (reauthorization of SAFETEA) for the Park Place Extension. If appropriated, these funds would be dedicated primarily for the construction of the Park Place Extension and augment the initial $750,000 in federal funding secured toward this project.

Looking forward to the federal FY 2011 work program, Cassidy will be assessing funding opportunities for various energy savings projects, the city’s I-Net, arterial streets rehabilitation, and additional funding for the Park Place Extension. Cassidy speculates there may be opportunities for funding these projects in Interior and Environment Appropriations bill, Commerce, Justice, and Science Appropriations bill, Transportation, Housing and Urban Development Appropriations bill, and Homeland Security Appropriations bill.

Therefore, it is recommended that City Council (1) approve an agreement with Cassidy & Associates for federal legislative advocacy services for a monthly retainer of $13,333 or $160,000 annually; (2) approve the federal advocacy work plan as outlined in Cassidy & Associates Memorandum of September 22, 2009; and (3) appropriate an additional $20,000 from unappropriated reserves; and (4) instruct the City Manager, affected departments, and Cassidy & Associates to work with congressional members, their staff and local government associations to pursue the City’s federal funding and program objectives.
AGREEMENT

FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made and entered into this 6th day of October, 2009, between the CITY OF EL SEGUNDO, a municipal corporation, hereinafter referred to as "City" and Cassidy & Associates hereinafter referred to as "Consultant". This Agreement shall be in full force and effect through September 30, 2010, unless extended by mutual agreement of City and Consultant. In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. **SCOPE OF SERVICES.** Consultant agrees to perform the services set forth in Exhibit "A" "SCOPE OF SERVICES" and made a part hereof. Consultant represents and warrants that it has the qualifications, experience and facilities to properly perform said services in a thorough, competent and professional manner and shall, at all times during the term of this Agreement, have in full force and effect, all licenses required of it by law, including, but not limited to, a valid El Segundo Business License. Consultants shall begin its services under this Agreement on October 1, 2008. Consultant shall complete each of the services set forth in Exhibit A to the City's satisfaction. If the City is not satisfied with any such services, the Consultant shall work on such matter until the City approves of the service. Further, Consultant shall complete the services set forth in Exhibit A strictly according to the schedule provided therein.

Additionally, Consultant shall provide the services specified in Exhibit A in compliance with the following conditions: All work performed by Consultant shall be directed through the City Manager or designee; all work requested of Consultant by the City shall be directed by the City Manager or designee; consultant shall submit periodic reports of work product and progress on stated goals outlined in Exhibit A to the City Manager not less frequently than once each month.

2. **STATUS OF CONSULTANT.** Consultant is and shall at all times remain as to the City a wholly independent contractor. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant’s exclusive direction and control. Neither City nor any of its officers, employees or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner officers, employees or agents of the City. Consultant shall not incur or have the power to incur any debt, obligation or liability whatever against City, or bind City in any manner. Consultant shall not disseminate any information or reports gathered or
created pursuant to this Agreement without the prior written approval of City except information or reports required by government agencies to enable Consultant to perform its duties under this Agreement.

3. **CONSULTANT'S KNOWLEDGE OF APPLICABLE LAWS.** Consultant shall keep itself informed of applicable local, state and federal laws and regulations which may affect those employed by it or in any way affect the performance of its services pursuant to this Agreement. Consultant shall observe and comply with all such laws and regulations affecting its employees. City and its officers and employees, shall not be liable at law or in equity as a result of any failure of Consultant to comply with this section. Without limiting the foregoing, Consultant shall not expend any funds in violation of: California Constitution, Article 16, Section 6; Government Code, Section 81000 et. seq. ("Political Reform Act"); or any other federal or state law governing the expenditure of public funds. Consultant shall be solely responsible for submittal of all documents, forms and other information that may be required by all applicable agencies as a result Contractor's performing the services specified in this Agreement.

4. **PERSONNEL.** Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff assigned to perform the services hereunder and shall obtain the approval of the City Manager of all proposed staff members performing services under this Agreement prior to any such performance.

5. **COMPENSATION AND METHOD OF PAYMENT.** Compensation to the Consultant shall be paid as a fixed monthly retainer not to exceed thirteen thousand three hundred and thirty-three dollars ($13,333) per month. Payments shall be made in approximately thirty (30) days after receipt of each invoice as to all non-disputed fees. If the City disputes any of consultant's fees it shall give written notice to Consultant in 30 days of receipt of an invoice of any disputed fees set forth on the invoice.

6. **ADDITIONAL SERVICES OF CONSULTANT.** Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein or listed in Exhibit "A", unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services.

7. **ASSIGNMENT.** All services required hereunder shall be performed by Consultant, its employees or personnel under direct contract with
Consultant. Consultant shall not assign to any subcontractor the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without the prior written consent of City Manager.

8. **FACILITIES AND RECORDS.** City agrees to provide: suitably equipped and furnished office space, public counter, telephone, and use of copying equipment and necessary office supplies for Consultant’s on-site staff, if any. Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by City that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of City or its designees at reasonable times to such books and records, shall give City the right to examine and audit said books and records, shall permit City to make transcripts therefrom as necessary, and shall allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

9. **TERMINATION OF AGREEMENT.** This Agreement shall expire on September 30, 2010, unless extended by mutual agreement of City and Consultant. The City upon 30 days written notice or 120 days by contractor written notice may terminate with or without cause this Agreement. In the event of such termination, Consultant shall be compensated for non-disputed fees under the terms of this Agreement up to the date of termination.

10. **COOPERATION BY CITY.** All public information, data, reports, records, and maps as are existing and available to City as public records, and which are necessary for carrying out the work as outlined in the Scope of Services, shall be furnished to Consultant in every reasonable way to facilitate, without undue delay, the work to be performed under this Agreement.

11. **OWNERSHIP OF DOCUMENTS.** Upon satisfactory completion of, or in the event of termination, suspension or abandonment of, this Agreement, all original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall, become the sole property of City. With respect to computer files, Consultant shall make available to the City, upon reasonable written request by the City, the necessary
computer software and hardware for purposes of accessing, compiling, transferring and printing computer files.

12. **RELEASE OF INFORMATION/CONFLICTS OF INTEREST.**

A. All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization excepting that information which is a public record and subject to disclosure pursuant to the California Public Records Act, Government Code, 6250, et seq. Consultant, its officers, employees, agents or subcontractors, shall not without written authorization from the City Manager or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

If Consultant or any of its officers, employees, consultants or subcontractors does voluntarily provide information in violation of this Agreement, City has the right to reimbursement and indemnity from Consultant for any damages caused by Consultant's conduct, including the City's attorney's fees.

Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed hereunder or with respect to any project or property located within the City. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

B. Consultant covenants that neither they nor any officer or principal of their firm has any interest in, or shall they acquire any interest, directly or indirectly which will conflict in any manner or degree with the performance of their services hereunder. Consultant further covenants that in the performance of this Agreement, no person having such interest shall be employed by them as an officer, employee, agent, or subcontractor without the express written consent of the City Manager.
13. **DEFAULT.** In the event that Consultant is in default of any provision of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Consultant.

14. **INDEMNIFICATION.** Consultant agrees to the following:

A. **Indemnification for Professional Services.** Consultant will save harmless and indemnify, including, without limitation, City’s defense costs (including reasonable attorney’s fees), from and against any and all suits, actions, or claims, of any character whatever, brought for, or on account of, any injuries or damages sustained by any person or property resulting or arising from any negligent or wrongful act, error or omission by Consultant or any of Consultant’s officers, agents, employees, or representatives, in the performance of this Agreement.

B. **Indemnification for other Damages.** Consultant indemnifies and holds City harmless from and against any claim, action, damages, costs (including, without limitation, attorney’s fees), injuries, or liability, arising out of this Agreement, or its performance. Should City be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of this Agreement, or its performance, Consultant will defend City (at City’s request and with counsel satisfactory to City) and will indemnify CITY for any judgment rendered against it or any sums paid out in settlement or otherwise.

C. For purposes of this section “City” includes City’s officers, officials, employees, agents, representatives, and certified volunteers.

D. It is expressly understood and agreed that the foregoing provisions will survive termination of this Agreement.

E. The requirements as to the types and limits of insurance coverage to be maintained by Consultant as required by this Agreement, and any approval of said insurance by City, are not intended to and will not in any manner limit or qualify the liabilities and obligations otherwise assumed by Consultant pursuant to this Agreement, including, without limitation, to the provisions concerning indemnification.

F. Consultant represents it is skilled in the professional calling necessary to perform the services and duties agreed to hereunder by Consultant, and City relies upon the skills and knowledge of Consultant. Consultant shall perform such services and duties consistent with the standards generally recognized as being employed by professionals performing similar service in the State of California.
G. Consultant is an independent contractor and shall have no authority to bind City nor to create or incur any obligation on behalf of or liability against City, whether by contract or otherwise, unless such authority is expressly conferred under this agreement or is otherwise expressly conferred in writing by City.

CONSULTANT HAS READ THIS SECTION 14 IN ITS ENTIRETY AND KNOWINGLY AND WILLINGLY ACCEPTS THE OBLIGATIONS CONTAINED HEREIN.

15. **INSURANCE.**

A. **Insurance Requirements.** Consultant shall provide and maintain insurance acceptable to the City Attorney in full force and effect throughout the term of this Agreement, against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by Consultant, its agents, representatives or employees. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII. Consultant shall provide the following scope and limits of insurance:

(a) **Minimum Scope of Insurance.** Coverage shall be at least as broad as:

(i) Insurance Services Office form Commercial General Liability coverage (Occurrence Form CG 0001).

(ii) Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, including code 1 "any auto" and endorsement CA 0025, or equivalent forms subject to the written approval of the City.

(iii) Workers' Compensation insurance as required by the Labor Code of State of California and Employer's Liability insurance and covering all persons providing services on behalf of the Consultant and all risks to such persons under this Agreement. (Not needed if Self-employed with no employees.)

(iv) Errors and omissions liability insurance appropriate to the Consultant's profession.

(b) **Minimum Limits of Insurance.** Consultant shall maintain limits of insurance no less than:

(i) **General Liability:** $1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the
general aggregate limit shall apply separately to the activities related to this Agreement or the general aggregate limit shall be twice the required occurrence limit.

(ii) **Automobile Liability:** Including owned, non-owned and hired vehicles for bodily injury and property damage with (See cover letter (page 1) for actual dollar level Requirements):
- At least $1,000,000 per occurrence.
- $100,000 - $300,000 per occurrence.
- As required by State Statutes. A copy of your current policy must be submitted naming yourself and or your company.

(iii) **Workers' Compensation and Employer's Liability:** Workers' Compensation as required by the Labor Code of the State of California and Employers Liability limits of $1,000,000 per accident.

(iv) **Errors and Omissions or Malpractice or Professional Liability:** At least $1,000,000 per occurrence.

B. **Other Provisions.** Insurance policies required by this Agreement shall contain the following provisions:

(a) **All Policies.** Each insurance policy required by this paragraph 15 shall be endorsed and state the coverage shall not be suspended, voided, canceled by the insurer or either party to this Agreement, reduced in coverage or in limits except after 30 days' prior written notice by Certified mail, return receipt requested, has been given to the City.

(b) **General Liability and Automobile Liability Coverages.**

(i) City, its officers, officials, and employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities Consultant performs, products and completed operations of Consultant; premises owned, occupied or used by Consultant, or automobiles owned, leased or hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, officials, or employees.
(ii) Consultant's insurance coverage shall be primary insurance as respect to City, its officers, officials, employees and volunteers. Any insurance or self insurance maintained by City, its officers, officials, employees or volunteers shall apply in excess of, and not contribute with, Consultant's insurance.

(iii) Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(v) Any failure to comply with the reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees or volunteers.

(c) **Workers' Compensation and Employer's Liability Coverage.** Unless the City Manager otherwise agrees in writing, the insurer shall agree to waive all rights of subrogation against City, its officers, officials, employees and agents for losses arising from work performed by Consultant for City.

C. **Other Requirements.** Consultant agrees to deposit with City, at or before the effective date of this contract, certificates of insurance necessary to satisfy City that the insurance provisions of this contract have been complied with. The City Attorney may require that Consultant furnish City with copies of original endorsements effecting coverage required by this Section. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. City reserves the right to inspect complete, certified copies of all required insurance policies, at any time.

(a) Consultant shall furnish certificates and endorsements from each subcontractor identical to those Consultant provides.

(b) Any deductibles or self-insured retentions must be declared to and approved by City. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims.
(c) The procuring of such required policy or policies of insurance shall not be construed to limit Consultant's liability hereunder nor to fulfill the indemnification provisions and requirements of this Agreement.

16. **ENTIRE AGREEMENT.** This Agreement is the complete, final, entire and exclusive expression of the Agreement between the parties hereto and supersedes any and all other agreements, either oral or in writing, between the parties with respect to the subject matter herein. Each party to this Agreement acknowledges that no representations by any party which are not embodied herein and that no other agreement, statement, or promise not contained in this Agreement shall be valid and binding.

17. **GOVERNING LAW.** The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the Los Angeles County Superior Court.

18. **ASSIGNMENT OR SUBSTITUTION.** City has an interest in the qualifications of and capability of the persons and entities who will fulfill the duties and obligations imposed upon Consultant by this Agreement. In recognition of that interest, neither any complete nor partial assignment of this Agreement may be made by Consultant nor changed, substituted for, deleted, or added to without the prior written consent of City. Any attempted assignment or substitution shall be ineffective, null, and void, and constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including summary termination of this Agreement.

18. **MODIFICATION OF AGREEMENT.** The terms of this Agreement can only be modified in writing approved by the City Council and the Consultant. The parties agree that this requirement for written modifications cannot be waived and any attempted waiver shall be void.

20. **AUTHORITY TO EXECUTE.** The person or persons executing this Agreement on behalf of Consultant warrants and represents that he/she/they has/have the authority to execute this Agreement on behalf of his/her/their corporation and warrants and represents that he/she/they has/have the authority to bind Consultant to the performance of its obligations hereunder.

21. **NOTICES.** Notices shall be given pursuant to this Agreement by personal service on the party to be notified, or by written notice upon such
party deposited in the custody of the United States Postal Service addressed as follows:

City:
Jack Wayt
City of El Segundo
350 Main Street
El Segundo, California 90245-3895
Telephone (310) 524-2301
Facsimile (310) 322-7137

Consultant:
Gerry Warburg
Cassidy & Associates
700 Thirteenth Street N.W., Suite 400
Washington D.C. 20005-5917

The notices shall be deemed to have been given as of the date of personal service, or three (3) days after the date of deposit of the same in the custody of the United States Postal Service.

22. **SEVERABILITY.** The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of the other provisions of this Agreement.

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

Company Name: Cassidy & Associates

By ________________________________

Title ________________________________

CITY OF EL SEGUNDO

_______________________________
Mayor

ATTEST: ________________________________

_______________________________
Cindy Mortesen
City Clerk

APPROVED AS TO FORM:

_______________________________
Mark D. Hensley
City Attorney

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TO: Mayor Kelly McDowell  
Members of the City Council  
City of El Segundo

FROM: Gerry Warburg and Christine O'Connor  
Cassidy & Associates

DATE: September 22, 2009

RE: Work on behalf of City of El Segundo in Washington

INTRODUCTION

Thank you for the privilege of working on behalf of your community as federal government relations advocates for the City of El Segundo in Washington D.C. This memorandum serves to briefly summarize past, present and future work plans, including results and goals. We welcome the opportunity to address any questions or suggestions members of the City Council or staff may have. We look forward to the continued opportunity to serve the taxpayers and citizens of El Segundo in the year ahead.

PAST ACCOMPLISHMENTS

Our work in Washington has focused on a series of infrastructure and funding issues crucial to El Segundo citizens. Some have been primarily regulatory and policy in nature—such as the continued struggle to shape city, state and federal policy towards the proposed renovation and expansion of Los Angeles International Airport, or the effort to discourage the Pentagon and the Base Closure Commission from acting to shut Los Angeles Air Force Base. Others have been primarily budget opportunities, such as our successful efforts to persuade and assist our congressional delegation to secure federal funds totaling nearly $10 million for El Segundo, funds available in a highly competitive process of lobbying for earmarks for infrastructure improvements. To date, these include:

$3,350,000 for Douglas Street Gap Closure  
$865,000 for Smoky Hollow sewage renovation  
$5,200,000 for the South Bay Corridor Transportation Improvement Project  
$750,000 for the Park Place Extension

Here, we have advanced successful City efforts to secure funds for projects as diverse as the Douglas Street Gap Closure or the Smoky Hollow sewage renovation. We have succeeded in
helping the City win numerous funding grants to support such projects, while ensuring bipartisan support, sympathy and understanding for the challenges confronting our City officials.

CURRENT EFFORTS

Earlier this year, we submitted three projects to Congresswoman Harman’s office for consideration in the FY 10 appropriations cycle -- $2,500,000 for the Arterial Streets Rehabilitation Project, $1,000,000 for Energy Savings Projects at City Hall and Fire Station No. 2, and $2,260,315 for the Institutional Network. After discussions with her office, it was decided the best opportunity for securing increased funding for the City of El Segundo this calendar year would be in the reauthorization of the so called “SAFETEA” or highway bill.

Therefore, we submitted and documented a detailed $5,000,000 request to the Transportation Reauthorization bill (reauthorization of SAFETEA) for the Park Place Extension. These funds would be dedicated in El Segundo primarily for the completion of the Park Place Extension. In FY 2008, we were able to secure an initial $750,000 in federal funding toward this project.

The House of Representative is eager to enact the highway bill before the end of the calendar year, while some in the Senate would rather enact a short extension and complete reauthorization next calendar year. While Congress has just returned from the August Recess, with health care, climate change and annual appropriations bills all in must pass situations, it is still not completely clear what the exact timeline for reauthorizing this essential highway bill legislation will be.

LOOKING FORWARD

We have begun discussions about funding opportunities for FY 11 with Mayor McDowell and City staff. Among projects currently under consideration are: Smoky Hollow, various energy savings projects, Institutional Network, Arterial Streets Rehabilitation, and last pieces of the Park Place Extension. There may be considerable opportunities for funding these projects in Interior and Environment Appropriations bill, Commerce, Justice, and Science Appropriations bill, Transportation, Housing and Urban Development Appropriations bill, and Homeland Security Appropriations bill.

We will continue to work with Mayor McDowell and City staff to prioritize and update these projects in the coming weeks for FY 11 consideration.

CONCLUSION

We appreciate the confidence placed in us by City staff and officials. We welcome the spirit of teamwork and candor that mark both our brainstorming sessions and our systematic, cooperative follow through. We look forward to continued success working together to advance your public interests in the twelve months ahead.
Rehabilitation Project, $1,000,000 for Energy Savings Projects at City Hall and Fire Station No. 2, and $2,260,315 for the city’s fiber optic network (I-Net). After discussions with her office, it was decided the best opportunity for securing increased funding for the City this calendar year would be in the reauthorization of the so called “SAFETEA” or highway bill. Consequently, Cassidy submitted and documented a detailed $5,000,000 request to the Transportation Reauthorization bill (reauthorization of SAFETEA) for the Park Place Extension. If appropriated, these funds would be dedicated primarily for the construction of the Park Place Extension and augment the initial $750,000 in federal funding secured toward this project.

Looking forward to the federal FY 2011 work program, Cassidy will be assessing funding opportunities for various energy savings projects, the city’s I-Net, arterial streets rehabilitation, and additional funding for the Park Place Extension. Cassidy speculates there may be opportunities for funding these projects in Interior and Environment Appropriations bill, Commerce, Justice, and Science Appropriations bill, Transportation, Housing and Urban Development Appropriations bill, and Homeland Security Appropriations bill.

Therefore, it is recommended that City Council (1) approve an agreement with Cassidy & Associates for federal legislative advocacy services for a monthly retainer of $13,333 or $160,000 annually; (2) approve the federal advocacy work plan as outlined in Cassidy & Associates Memorandum of September 22, 2009; and (3) instruct the City Manager, affected departments, and Cassidy & Associates to work with congressional members, their staff and local government associations to pursue the City’s federal funding and program objectives.
AGENDA DESCRIPTION:
Consideration and possible action to extend the City's agreement with MWW Group through September 30, 2010, for consultant and advocacy services related to the City's interests and efforts concerning Los Angeles International Airport. (Fiscal Impact: $87,000)

RECOMMENDED COUNCIL ACTION:
1. Authorize the Mayor to execute the attached agreement with the MWW Group;
2. Alternatively, discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
1. Agreement between MWW Group and the City of El Segundo
2. MWW Group memorandum outlining proposed work plan for FY 2009-2010

FISCAL IMPACT: Included in Adopted Budget

Amount Budgeted: $87,000
Additional Appropriation: N/A
Account Number(s): 01-400-2901-6406

ORIGINATED BY: Bill Crowe, Assistant City Manager
REVIEWED BY:
APPROVED BY: Jack Wayt, City Manager

BACKGROUND AND DISCUSSION:
The City’s current agreement with the MWW Group expired on October 1, 2009. Over recent years, the MWW Group has served as an advisor and advocate for the City regarding issues relating to Los Angeles World Airports (LAWA) and Los Angeles International Airport (LAX). MWW Group has worked with elected and appointed officials of the City of Los Angeles advocating El Segundo’s position with regard to the implementation of the Settlement Agreement with LAWA and safety and operational improvements to the north airfield complex. It is clear that significant work remains to ensure development and implementation of a balanced airfield plan, which does not over rely upon the capacity of the southern runways. During the coming year, MWW Group also proposes to work with all parties on addressing concerns over runway selection and early turns on the South Airfield, as well as, to continue advocating that the City of Los Angeles make good on its commitments to “regionalize” air service at its Ontario Airport. Additionally, MWW Group has offered to represent the City’s transportation interests as they relate to the Green Line extension, Crenshaw Transit Corridor and Harbor Subdivision projects.
Staff is recommending an extension of the current agreement at a funding level of $87,000; a reduction of $9,000 from FY 2008-2009.
AGreement

FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made and entered into this 6th day of October, 2009, between the CITY OF EL SEGUNDO, a municipal corporation, hereinafter referred to as "City" and MWW Group hereinafter referred to as "Consultant". This Agreement shall be in full force and effect through September 30, 2010, unless extended by mutual agreement of City and Consultant. In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. SCOPE OF SERVICES. Consultant agrees to perform the services set forth in Exhibit "A" "SCOPE OF SERVICES" and made a part hereof. Consultant represents and warrants that it has the qualifications, experience and facilities to properly perform said services in a thorough, competent and professional manner and shall, at all times during the term of this Agreement, have in full force and effect, all licenses required of it by law, including, but not limited to, a valid El Segundo Business License. Consultants shall begin its services under this Agreement on October 1, 2008. Consultant shall complete each of the services set forth in Exhibit A to the City's satisfaction. If the City is not satisfied with any such services, the Consultant shall work on such matter until the City approves of the service. Further, Consultant shall complete the services set forth in Exhibit A strictly according to the schedule provided therein.

Additionally, Consultant shall provide the services specified in Exhibit A in compliance with the following conditions: All work performed by Consultant shall be directed through the City Manager or designee; all work requested of Consultant by the City shall be directed by the City Manager or designee; consultant shall submit periodic reports of work product and progress on stated goals outlined in Exhibit A to the City Manager not less frequently than once each month.

2. STATUS OF CONSULTANT. Consultant is and shall at all times remain as to the City a wholly independent contractor. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City nor any of its officers, employees or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner officers, employees or agents of the City. Consultant shall not incur or have the power to incur any debt, obligation or liability whatever against City, or bind City in any manner. Consultant shall not disseminate any information or reports gathered or
created pursuant to this Agreement without the prior written approval of City except information or reports required by government agencies to enable Consultant to perform its duties under this Agreement.

3. **CONSULTANT'S KNOWLEDGE OF APPLICABLE LAWS.** Consultant shall keep itself informed of applicable local, state and federal laws and regulations which may affect those employed by it or in any way affect the performance of its services pursuant to this Agreement. Consultant shall observe and comply with all such laws and regulations affecting its employees. City and its officers and employees, shall not be liable at law or in equity as a result of any failure of Consultant to comply with this section. Without limiting the foregoing, Consultant shall not expend any funds in violation of: California Constitution, Article 16, Section 6; Government Code, Section 81000 et. seq. ("Political Reform Act"); or any other federal or state law governing the expenditure of public funds. Consultant shall be solely responsible for submittal of all documents, forms and other information that may be required by all applicable agencies as a result Contractor's performing the services specified in this Agreement.

4. **PERSONNEL.** Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff assigned to perform the services hereunder and shall obtain the approval of the City Manager of all proposed staff members performing services under this Agreement prior to any such performance.

5. **COMPENSATION AND METHOD OF PAYMENT.** Compensation to the Consultant shall be paid as a fixed monthly retainer not to exceed seven thousand two hundred and fifty dollars ($7,250) per month. Payments shall be made in approximately thirty (30) days after receipt of each invoice as to all non-disputed fees. If the City disputes any of consultant's fees it shall give written notice to Consultant in 30 days of receipt of an invoice of any disputed fees set forth on the invoice.

6. **ADDITIONAL SERVICES OF CONSULTANT.** Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein or listed in Exhibit "A", unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services.

7. **ASSIGNMENT.** All services required hereunder shall be performed by Consultant, its employees or personnel under direct contract with
Consultant. Consultant shall not assign to any subcontractor the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without the prior written consent of City Manager.

8. **FACILITIES AND RECORDS.** City agrees to provide: suitably equipped and furnished office space, public counter, telephone, and use of copying equipment and necessary office supplies for Consultant's on-site staff, if any. Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by City that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of City or its designees at reasonable times to such books and records, shall give City the right to examine and audit said books and records, shall permit City to make transcripts therefrom as necessary, and shall allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

9. **TERMINATION OF AGREEMENT.** This Agreement shall expire on September 30, 2010, unless extended by mutual agreement of City and Consultant. The City upon 30 days written notice or 120 days by contractor written notice may terminate with or without cause this Agreement. In the event of such termination, Consultant shall be compensated for non-disputed fees under the terms of this Agreement up to the date of termination.

10. **COOPERATION BY CITY.** All public information, data, reports, records, and maps as are existing and available to City as public records, and which are necessary for carrying out the work as outlined in the Scope of Services, shall be furnished to Consultant in every reasonable way to facilitate, without undue delay, the work to be performed under this Agreement.

11. **OWNERSHIP OF DOCUMENTS.** Upon satisfactory completion of, or in the event of termination, suspension or abandonment of, this Agreement, all original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall, become the sole property of City. With respect to computer files, Consultant shall make available to the City, upon reasonable written request by the City, the necessary
computer software and hardware for purposes of accessing, compiling, transferring and printing computer files.

12. RELEASE OF INFORMATION/CONFLICTS OF INTEREST.

A. All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization excepting that information which is a public record and subject to disclosure pursuant to the California Public Records Act, Government Code, 6250, et seq. Consultant, its officers, employees, agents or subcontractors, shall not without written authorization from the City Manager or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

If Consultant or any of its officers, employees, consultants or subcontractors does voluntarily provide information in violation of this Agreement, City has the right to reimbursement and indemnity from Consultant for any damages caused by Consultant's conduct, including the City's attorney's fees.

Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder or with respect to any project or property located within the City. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

B. Consultant covenants that neither they nor any officer or principal of their firm has any interest in, or shall they acquire any interest, directly or indirectly which will conflict in any manner or degree with the performance of their services hereunder. Consultant further covenants that in the performance of this Agreement, no person having such interest shall be employed by them as an officer, employee, agent, or subcontractor without the express written consent of the City Manager.
13. **DEFAULT.** In the event that Consultant is in default of any provision of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Consultant.

14. **INDEMNIFICATION.** Consultant agrees to the following:

A. **Indemnification for Professional Services.** Consultant will save harmless and indemnify, including, without limitation, City's defense costs (including reasonable attorney's fees), from and against any and all suits, actions, or claims, of any character whatever, brought for, or on account of, any injuries or damages sustained by any person or property resulting or arising from any negligent or wrongful act, error or omission by Consultant or any of Consultant's officers, agents, employees, or representatives, in the performance of this Agreement.

B. **Indemnification for other Damages.** Consultant indemnifies and holds City harmless from and against any claim, action, damages, costs (including, without limitation, attorney's fees), injuries, or liability, arising out of this Agreement, or its performance. Should City be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of this Agreement, or its performance, Consultant will defend City (at City's request and with counsel satisfactory to City) and will indemnify City for any judgment rendered against it or any sums paid out in settlement or otherwise.

C. For purposes of this section "City" includes City's officers, officials, employees, agents, representatives, and certified volunteers.

D. It is expressly understood and agreed that the foregoing provisions will survive termination of this Agreement.

E. The requirements as to the types and limits of insurance coverage to be maintained by Consultant as required by this Agreement, and any approval of said insurance by City, are not intended to and will not in any manner limit or qualify the liabilities and obligations otherwise assumed by Consultant pursuant to this Agreement, including, without limitation, to the provisions concerning indemnification.

F. Consultant represents it is skilled in the professional calling necessary to perform the services and duties agreed to hereunder by Consultant, and City relies upon the skills and knowledge of Consultant. Consultant shall perform such services and duties consistent with the standards generally recognized as being employed by professionals performing similar service in the State of California.
G. Consultant is an independent contractor and shall have no authority
to bind City nor to create or incur any obligation on behalf of or liability
against City, whether by contract or otherwise, unless such authority is
expressly conferred under this agreement or is otherwise expressly
conferred in writing by City.

CONSULTANT HAS READ THIS SECTION 14 IN ITS ENTIRETY
AND KNOWINGLY AND WILLINGLY ACCEPTS THE
OBLIGATIONS CONTAINED HEREIN.

15. **INSURANCE.**

A. **Insurance Requirements.** Consultant shall provide and
maintain insurance acceptable to the City Attorney in full force and effect
throughout the term of this Agreement, against claims for injuries to
persons or damages to property which may arise from or in connection
with the performance of the work hereunder by Consultant, its agents,
representatives or employees. Insurance is to be placed with insurers
with a current A.M. Best's rating of no less than A:VII. Consultant shall
provide the following scope and limits of insurance:

(a) **Minimum Scope of Insurance.** Coverage shall be at
least as broad as:

(i) Insurance Services Office form Commercial
General Liability coverage (Occurrence Form
CG 0001).

(ii) Insurance Services Office form number CA
0001 (Ed. 1/87) covering Automobile Liability,
including code 1 "any auto" and endorsement
CA 0025, or equivalent forms subject to the
written approval of the City.

(iii) Workers' Compensation insurance as required
by the Labor Code of State of California and
Employer's Liability insurance and covering all
persons providing services on behalf of the
Consultant and all risks to such persons under
this Agreement. (Not needed if Self-employed
with no employees.)

(iv) Errors and omissions liability insurance
appropriate to the Consultant's profession.

(b) **Minimum Limits of Insurance.** Consultant shall
maintain limits of insurance no less than:

(i) **General Liability:** $1,000,000 per occurrence for
bodily injury, personal injury and property damage. If
Commercial General Liability Insurance or other form
with a general aggregate limit is used, either the
general aggregate limit shall apply separately to the activities related to this Agreement or the general aggregate limit shall be twice the required occurrence limit.

(ii) **Automobile Liability**: Including owned, non-owned and hired vehicles for bodily injury and property damage with (See cover letter (page 1) for actual dollar level Requirements):

- At least $1,000,000 per occurrence.
- $100,000 - $300,000 per occurrence.
- As required by State Statutes. A copy of your current policy must be submitted naming yourself and/or your company.

(iii) **Workers' Compensation and Employer's Liability**: Workers' Compensation as required by the Labor Code of the State of California and Employers Liability limits of $1,000,000 per accident.

(iv) **Errors and Omissions or Malpractice or Professional Liability**: At least $1,000,000 per occurrence.

B. **Other Provisions.** Insurance policies required by this Agreement shall contain the following provisions:

(a) **All Policies.** Each insurance policy required by this paragraph 15 shall be endorsed and state the coverage shall not be suspended, voided, canceled by the insurer or either party to this Agreement, reduced in coverage or in limits except after 30 days' prior written notice by Certified mail, return receipt requested, has been given to the City.

(b) **General Liability and Automobile Liability Coverages.**

(i) City, its officers, officials, and employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities Consultant performs, products and completed operations of Consultant; premises owned, occupied or used by Consultant, or automobiles owned, leased or hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, officials, or employees.
(ii) Consultant's insurance coverage shall be primary insurance as respect to City, its officers, officials, employees and volunteers. Any insurance or self insurance maintained by City, its officers, officials, employees or volunteers shall apply in excess of, and not contribute with, Consultant's insurance.

(iii) Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(v) Any failure to comply with the reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees or volunteers.

(c) **Workers' Compensation and Employer's Liability Coverage.** Unless the City Manager otherwise agrees in writing, the insurer shall agree to waive all rights of subrogation against City, its officers, officials, employees and agents for losses arising from work performed by Consultant for City.

C. **Other Requirements.** Consultant agrees to deposit with City, at or before the effective date of this contract, certificates of insurance necessary to satisfy City that the insurance provisions of this contract have been complied with. The City Attorney may require that Consultant furnish City with copies of original endorsements effecting coverage required by this Section. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. City reserves the right to inspect complete, certified copies of all required insurance policies, at any time.

(a) Consultant shall furnish certificates and endorsements from each subcontractor identical to those Consultant provides.

(b) Any deductibles or self-insured retentions must be declared to and approved by City. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims.
(c) The procuring of such required policy or policies of insurance shall not be construed to limit Consultant's liability hereunder nor to fulfill the indemnification provisions and requirements of this Agreement.

16. ENTIRE AGREEMENT. This Agreement is the complete, final, entire and exclusive expression of the Agreement between the parties hereto and supersedes any and all other agreements, either oral or in writing, between the parties with respect to the subject matter herein. Each party to this Agreement acknowledges that no representations by any party which are not embodied herein and that no other agreement, statement, or promise not contained in this Agreement shall be valid and binding.

17. GOVERNING LAW. The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the Los Angeles County Superior Court.

18. ASSIGNMENT OR SUBSTITUTION. City has an interest in the qualifications of and capability of the persons and entities who will fulfill the duties and obligations imposed upon Consultant by this Agreement. In recognition of that interest, neither any complete nor partial assignment of this Agreement may be made by Consultant nor changed, substituted for, deleted, or added to without the prior written consent of City. Any attempted assignment or substitution shall be ineffective, null, and void, and constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including summary termination of this Agreement.

18. MODIFICATION OF AGREEMENT. The terms of this Agreement can only be modified in writing approved by the City Council and the Consultant. The parties agree that this requirement for written modifications cannot be waived and any attempted waiver shall be void.

20. AUTHORITY TO EXECUTE. The person or persons executing this Agreement on behalf of Consultant warrants and represents that he/she/they has/have the authority to execute this Agreement on behalf of his/her/their corporation and warrants and represents that he/she/they has/have the authority to bind Consultant to the performance of its obligations hereunder.

21. NOTICES. Notices shall be given pursuant to this Agreement by personal service on the party to be notified, or by written notice upon such
party deposited in the custody of the United States Postal Service addressed as follows:

City:
Jack Wayt
City of El Segundo
350 Main Street
El Segundo, California 90245-3895
Telephone (310) 524-2301
Facsimile (310) 322-7137

Consultant:
Coby King
MWW Group
660 South Figueroa Street, Suite 1400
Los Angeles, CA 90017
Telephone (213) 486-6560
Facsimile (213) 486-6501

The notices shall be deemed to have been given as of the date of personal service, or three (3) days after the date of deposit of the same in the custody of the United States Postal Service.

22. **SEVERABILITY.** The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of the other provisions of this Agreement.

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

Company Name: MWW Group

By __________________________

Title __________________________

CITY OF EL SEGUNDO

______________________________
Mayor
ATTEST:

Cindy Mortesen
City Clerk

APPROVED AS TO FORM:

Mark D. Hensley
City Attorney
MEMORANDUM

September 24, 2009

To: Jack Wayt
City Manager

Fm: Coby King
Senior Vice President & General Manager/Los Angeles

RE: Continued Public Affairs Work on LAX Issues

MWW Group is pleased to continue to serve as advisor to the City of El Segundo (the City or El Segundo) on issues relating to Los Angeles World Airports (LAWA) and Los Angeles International airport (LAX).

With South Airfield issues mostly resolved, it is in the City’s interest to remain actively engaged on North Airfield issues, in particular how and when improvements to the Northside are planned and implemented. Special attention needs to be paid to the dynamic between improvements that address the legitimate safety issues which exist on the Northside, and LAWA’s desire to make improvements to fully accommodate the New Large Aircraft which are now operating at LAX.

It is our belief that while safety-only improvements can be implemented relatively quickly, efforts by LAWA to implement broader improvements will be met with fierce resistance by both the Westchester residential and business communities, and will be delayed for a long period of time. It is in the city’s interest that any improvements on the Northside be made as quickly as possible.

Additionally, as airport improvements are implemented, it is important to keep the channels of communication open with LAWA as to any possible impacts on El Segundo and its residents. I will continue to be a leading part of this dialogue between El Segundo and LAWA on resolving LAX operational issues. We will continue to work with all parties to attempt to resolve concerns over runway selection and early turns on the South Airfield.

We will continue to serve as El Segundo’s representative to LAWA and City of Los Angeles officials on all matters concerning LAX and its future. We are also working with appropriate offices of the Los Angeles County Board of Supervisors. We will also continue to attend all meetings of the Specific Plan Advisory Committee as well as the myriad of other meetings that are held concerning LAX issues.

We also realize the importance of continuing to push the City of Los Angeles to “make good” on its commitments to regionalize air service at its Ontario Airport as well as to push other municipalities to do their part in meeting regional aviation demand as well. We will continue to be an advocate for El Segundo in this regard. To this end, we will continue to help coordinate and actively participate in the regular regionalization meetings between LAWA and the "Petitioners"
from the settlement. We are also working with the City of Palmdale in connection with their takeover of Palmdale Airport.

In addition, we are pleased to be able to bring our expertise in transportation issues to the Green Line extension and the proposed Crenshaw Transit Corridor, as well as the Harbor Subdivision. As these issues directly relate to LAX ground transportation issues, including the proposed LAX People Mover, we see this as well within our scope.

Please let me know if you have any questions. Thank you.
AGENDA DESCRIPTION:

Consideration and possible action to amend the City’s agreement with Shute, Mihaly & Weinberger, for legal services to the City of El Segundo in connection with Los Angeles International Airport. (Fiscal Impact: $125,000)

RECOMMENDED COUNCIL ACTION:

1. Authorize the Mayor to execute an amendment to Contract No. 3649 with Shute, Mihaly & Weinberger, in a form approved by the City Attorney;
2. Alternatively, discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:

1. Contract agreement between Shute, Mihaly & Weinberger and the City of El Segundo

FISCAL IMPACT: Budget Adjustment Required

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ORIGINATED BY: Bill Crowe, Assistant City Manager

REVIEWED BY:

APPROVED BY: Jack Wayt, City Manager

BACKGROUND AND DISCUSSION:

Since 1999, the City of El Segundo has utilized the legal services of Shute, Mihaly & Weinberger in connection with Los Angeles International Airport (LAX). The expertise and services of Shute, Mihaly & Weinberger were instrumental in achieving the landmark Settlement Agreement with LAWA, and the firm remains a key resource in representing El Segundo’s ongoing interests in connection with LAX.

While expenses for airport related legal services have run on average less than $150,000 over the past three years, Shute, Mihaly & Weinberger projects a 10-15% reduction expenditures during FY 2009-2010. To accomplish this, Shute, Mihaly & Weinberger will voluntarily reduce its rate by approximately 11% effective October 1, 2009. Additionally, they will continue to find opportunities to streamline and limit their activities on behalf of the City.

Primary activities for Shute, Mihaly & Weinberger in the coming fiscal year are: (1) Represent El Segundo in Caltrans variance proceeding for LAX; (2) Assist El Segundo with its efforts to improve compliance with LAX preferential runway policy and address problem of early turns; (3) Monitor and advise regarding LAX Master Plan implementation (major projects include
TBIT expansion, Midfield Satellite Concourse, Crossfield Taxiway Project, Specific Plan Advisory Study Process, North Airfield, Consolidated Rental Car Facility) and prepare comment letters and take other actions as directed; (4) Monitor and advise regarding LAWA compliance with Settlement Agreement (including continued gate monitoring approximately once each year); (5) Assist El Segundo staff with LAWA grant funding process for residential sound insulation; and (6) Monitor and advise regarding LAWA's air pollution apportionment study.

Staff is recommending the City Council authorize an amendment to Contract No. 3649 at a funding level of $125,000, and appropriate an additional $82,000 from unappropriated reserves to augment the $43,000 account balance.
August 1, 2006

Jeff Stewart, City Manager
City of El Segundo
350 Main Street
El Segundo, CA 90245

Re: Legal Retainer Agreement

Dear Jeff,

This letter sets forth the terms under which Shute, Mihaly & Weinberger LLP ("Firm") will continue to provide legal services to the City of El Segundo ("Client") in connection with the Los Angeles International Airport ("LAX"). If you agree to the terms of this retainer agreement ("Agreement"), please sign one copy of this letter and return it to me at your earliest convenience. The second copy of this letter is for your files.

1. Legal Services to Be Provided

The Firm has been retained to provide the following legal services: represent and advise Client with respect to administrative and planning processes for the ongoing operation of and proposed modifications to LAX. The Firm is not being retained for litigation at this time.

2. Legal Fees, Costs and Billing Practices

The Firm's hourly billing rates for these services will be as follows:

- Partner/Senior Counsel $ 395
- Jr. Partner $ 325
- Sr. Associate $ 250
- Jr. Associate/Fellow $ 225
- Planner $ 200
- Assoc. Planner $ 175
- Law Clerk $ 100
Clem Shute is a Senior Counsel with the Firm, Robert Perlmutter is a Partner and I am currently a Jr. Partner. Our time will be billed at the corresponding rates on the above list. Other more junior members of the Firm will be billed at rates corresponding to their position at the Firm. In the event any other attorneys at the Firm begin billing on this matter at the Partner, Senior Counsel or Junior Partner rates on the above list, the Firm will notify Client in writing.

Fees will be charged in increments of one-tenth of an hour. Travel time will be billed at rates one half of those listed on the above schedule. The hourly rates on the above schedule may be changed by the Firm on written notice to Client. These rates are subject to reasonable increases, and we anticipate reviewing and updating our rates on an annual basis. At your request, we have agreed that we will not increase our rates until January 2008. If Client declines to pay for the Firm’s services at any increased rates, the Firm will have the right to withdraw as Client’s attorneys. The Firm has errors and omission insurance coverage applicable to the services being provided under this Agreement.

Client will also reimburse Firm for costs incurred in the course of representation, including fees fixed by law or assessed by public agencies, long-distance telephone, facsimile, messenger services, postage, photocopying, and charges for electronic legal research time. The Firm will provide detailed monthly billing statements for fees and costs incurred. Client agrees to pay the Firm’s billed costs and fees within thirty (30) days of billing.

3. **Authorized Representative of Client**

Client designates Kelly McDowell, Mayor of the City of El Segundo, as the authorized representative to direct the Firm and to be the primary person to communicate with the Firm regarding the subject matter of this Agreement. This designation is intended to establish a clear line of authority and to minimize potential uncertainty, but not to preclude communication between the Firm and other representatives of Client. Unless directed otherwise by Client, all correspondence and bills will be directed to the City Manager.

4. **Discharge and Withdrawal**

Client may discharge the Firm at any time by providing written notice to the Firm, which is effective upon receipt by the Firm. In the event of such discharge, if the Firm is Client’s attorney of record in any proceeding, the Firm will promptly provide Client with a substitution of attorney form. Client will execute and return the substitution of attorney form immediately upon receipt from the Firm.

The Firm may withdraw at any time as permitted under the Rules of Professional Conduct of the State Bar of California. A valid reason for withdrawal by the Firm would include, but not be limited to, Client’s consent, Client’s breach of this Agreement, Client’s failure to pay fees and costs as provided in this Agreement, Client’s conduct renders it unreasonably difficult for the Firm to carry out the representation effectively, or any fact or
circumstances that would render the Firm’s continuing representation unlawful or unethical. At such time as the Firm’s services conclude, all unpaid fees for legal and related services and costs and expenses will immediately become due and payable.

5. Case Files

After the Firm’s services conclude, the Firm will, upon Client’s request, deliver the files for this matter to Client. If Client does not request the files for this matter, the Firm will retain them for a period of five years after the matter is closed. If Client does not request delivery of the files for this matter before the end of the five-year period, the Firm will have no further obligation to retain the files and may, at the Firm’s discretion, destroy them without further notice to Client. At any point during the five-year period, Client may request delivery of the files.

6. No Guarantee

Nothing in this Agreement and nothing in the Firm’s statements to Client will be construed as a promise or guarantee about the outcome of this matter. The Firm makes no such promises or guarantees.

We look forward to continuing to work with you on this matter. If this Agreement is satisfactory, please execute one of the enclosed copies and return it to me. The other copy is for your records.

7. Amendment

Any amendment to this Agreement shall be in writing.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP

OSA L. WOLFF

ACCEPTED AND AGREED:

JEFF STEWART
CITY MANAGER

DATED: 9/11/06
Approved as to Form:

MARK HEMSLEY
CITY ATTORNEY
EL SEGUNDO CITY COUNCIL
AGENDA STATEMENT

MEETING DATE: October 6, 2008
AGENDA HEADING: Consent Agenda

AGENDA DESCRIPTION:
Consideration and possible action authorizing the recording of the Notices of Completion and authorizing the City Manager to accept completion of work for 27 homes related to the City's Residential Sound Insulation Program's Group 29 (Project No. RSI 08-17). (Final Contract Amount: $502,655.89)

RECOMMENDED COUNCIL ACTION:
1. Authorize the City Clerk to file the City's Planning and Building Safety Director's Notice of Completion in the County Recorder's Office;
2. Authorize the City Manager, or designee, to close out Project No. RSI 08-17; and/or
3. Alternatively discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
List of homes included in Groups 29
Planning and Building Safety Director's Notice of Completion

FISCAL IMPACT: Included in Adopted Budget

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

BACKGROUND AND DISCUSSION:

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

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

At its meeting on November 18, 2008 the City Council awarded a construction contract to S&L Specialty Contracting, Inc. (S&L) for construction for 27 homes, commonly referred to as Group 29 of the RSI Program. The final contract amount is $502,655.89.
### Residential Sound Insulation Program

**Group 29**

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<th>Project Address</th>
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<td>900 Cedar St., #201</td>
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<tr>
<td>29.02</td>
<td>900 Cedar St., #101</td>
</tr>
<tr>
<td>29.03</td>
<td>915 Pepper Street, Unit 1</td>
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<td>29.04</td>
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<td>915 Pepper Street, Unit 5</td>
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<tr>
<td>29.08</td>
<td>915 Pepper Street, Unit 6</td>
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<tr>
<td>29.09</td>
<td>332 E. Imperial Avenue, Unit 1</td>
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<td>29.11</td>
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<td>332 E. Imperial Avenue, Unit 16</td>
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<td>332 E. Imperial Avenue, Unit 18</td>
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<tr>
<td>29.27</td>
<td>332 E. Imperial Avenue, Unit 19</td>
</tr>
</tbody>
</table>
NOTICE OF COMPLETION OF CONSTRUCTION PROJECT

Project Name: Residential Sound Insulation Program – Group 29

Project No.: RSI 08-17

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

1. The undersigned is an officer of the owner of interest stated below in the property hereinafter described.

2. The project owner’s name is: City of El Segundo

3. The full addresses of the project are: attached as Exhibit A and incorporated by reference

4. The nature of the interest of the owner is:

5. A work of improvement on the property hereinafter described was field reviewed by City representatives on: see attached Exhibit A

6. The work done was: Residential Sound Insulation Program Improvements

7. On October 6, 2009, City Council of the City of El Segundo accepted the work of this contract as being complete and directed the recording of this Notice of Completion in the Office of the County Recorder.

8. The name of the Contractor for such work of improvement was: S&L Specialty Contractors, Inc.

9. The property on which said work of improvement was completed is in the City of El Segundo, County of Los Angeles, State of California, and is described as follows: Private Residence(s) listed in Exhibit A

10. The street address of said properties are: set forth in Exhibit A

Dated: October 7, 2009

Greg Carpenter
Planning and Building Safety Director

VERIFICATION

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

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

Executed on October 7, 2009 at El Segundo, California.

Greg Carpenter
Planning and Building Safety Director

Notice of Completion
AGENDA DESCRIPTION:
Consideration of whether to deny a proposal to allow: 1) the construction of a six-story, 71,005 square-foot, 152-guest suite hotel in-lieu of a six-story, 61,104 square-foot, 167-room hotel involving a change in brand from an Aloft Hotel to a Cambria Suites Hotel; and 2) a Specific Plan to allow a maximum floor area ratio (FAR) of 0.92 at 101 Continental Boulevard. Applicant: JF El Segundo Owner, LLC (Fiscal Impact: N/A)

RECOMMENDED COUNCIL ACTION:
1. Consider whether to deny a request by JF El Segundo Owner, LLC to allow for the construction of a 71,005 square-foot, 152-guest suite hotel with a 0.92 FAR; or

2. Alternatively, receive and file this report. If the City Council does not deny the request, the applicant may submit a full application, including, without limitation, environmental documentation to comply with the requirements of the California Environmental Quality Act ("CEQA"), a Conditional Use Permit, and a Specific Plan; or,

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

ATTACHED SUPPORTING DOCUMENTS:
1. Planning Commission Staff Report, dated September 10, 2009 and attachments

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

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

BACKGROUND AND DISCUSSION:
I. Introduction

The applicant, JF El Segundo Owner, LLC, proposes a slightly larger hotel with fewer rooms than currently allowed by Conditional Use Permit No. 07-07 and to implement a Specific Plan to allow an increase in the maximum allowable floor area ratio (FAR). The proposed Specific Plan would impose requirements for a LEED certified building and the incorporation of public art to be located on site. The property is located in the Corporate Office (CO) Zone.
II. **Background**

On September 25, 2008, the El Segundo Planning Commission approved Environmental Assessment No. EA-773 and Conditional Use Permit No. 07-07 to allow construction of a six-story, 61,104 square-foot hotel on a 1.75 acre site located at 101 Continental Boulevard, at the northwest corner of El Segundo Boulevard and Continental Boulevard, immediately north and adjacent to the Northrop Tower (formerly the Xerox Tower). The Hotel (Aloft Hotel) was approved for a total of 167 rooms at a maximum FAR of 0.80 as permitted in the Corporate Office (CO) Zone.

On August 24, 2009, JF El Segundo Owner, LLC proposed to modify the existing approvals. The proposal would reduce the number of rooms in the approved hotel and implement a Specific Plan to allow for a maximum floor area ratio (FAR) of 0.92 that would be limited to the parcel for the hotel.

[The remainder of this page is intentionally left blank]
III. Proposed Project/Analysis

JF El Segundo Owner, LLC proposes to change the approved 167-room Aloft Hotel to a 152-room Cambria Suites Hotel. The proposed change would result in a reduction of 15 rooms due to the larger room size provided in the Cambria Suites brand and the amount and size of amenities and open space, and would result in an increase in total net floor area from 61,104 square-feet to 71,005 square-feet. The proposed Cambria Suites building would be constructed in approximately the same location on the site. The proposed Cambria Suites Hotel would be similar to the Aloft Hotel, however, the visual building mass of the Cambria Suites Hotel would decrease due to a more compact design. The building footprint of the Aloft Hotel is roughly 15,885 square-feet and the Cambria Suites footprint is roughly 14,744 square-feet. The following diagram (Exhibit A) shows the Aloft Hotel building footprint superimposed in red over the proposed Cambria Suites.
The following renderings further illustrate the difference in building mass when viewed from El Segundo Boulevard looking north. The second rendering shows the outline of the Aloft Building superimposed in red over the Cambria Suites Hotel.
The smaller footprint would allow for additional green space around the property which would enhance the overall aesthetics of the building and surrounding grounds. A comparison of the two projects is shown in Table 1; differences are highlighted in bold text.

**Table 1**  
**Aloft and Cambria Suites Comparison**

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<th>Project Item</th>
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<th>Change</th>
</tr>
</thead>
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<td>Construct a six-story, 71,005 square-foot hotel</td>
<td>+ 9,901 Square feet</td>
</tr>
<tr>
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<td>1.75 acre site (76,370 square feet)</td>
<td>No Change</td>
</tr>
<tr>
<td>FAR (Max for the CO Zone, 0.80:1)</td>
<td>0.80:1</td>
<td>0.92:1</td>
<td>+.12</td>
</tr>
<tr>
<td>Total Rooms</td>
<td>167 Rooms</td>
<td>152 Rooms</td>
<td>- 15 Rooms</td>
</tr>
<tr>
<td>Room Size</td>
<td>304 Square-feet</td>
<td>344 Square-feet</td>
<td>+40 Square feet</td>
</tr>
<tr>
<td>Fitness Area</td>
<td>579 Square-feet</td>
<td>1,257 Square-feet</td>
<td>+678 Square feet</td>
</tr>
<tr>
<td>Conference Rooms</td>
<td>1 Conference Room @ 690 Square-feet</td>
<td>3 Conference Rooms @ 1,307 Square-feet total</td>
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<tr>
<td>Restaurant/Bar</td>
<td>1,059 S.F.</td>
<td>1,625 S.F.</td>
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<tr>
<td>Parking @ 1 each first 100 rooms &amp; ¾ for each of the next 100 rooms possible</td>
<td>150 plus 2 loading spaces</td>
<td>139 plus 2 loading spaces (-11 Parking spaces)</td>
<td>-11</td>
</tr>
<tr>
<td>Public Benefit</td>
<td>N/A</td>
<td>LEED Certified Building Public Art Incorporated</td>
<td>As noted</td>
</tr>
<tr>
<td>Approximate Daily Vehicle Trips/Traffic (Weekday)</td>
<td>1,236</td>
<td>1,125</td>
<td>-111</td>
</tr>
</tbody>
</table>
Access to the site would remain unchanged and would be available via two driveways. Primary access would be from Continental Boulevard and secondary access would be from El Segundo Boulevard. A reciprocal access agreement would still be required with the office tower for shared driveway access.

The applicant believes that this new concept (Cambria Suites) with larger rooms and more generous amenities would be a better fit for the El Segundo market which caters more to the surrounding office towers and the business traveler. The Cambria Suites concept would essentially double the size of the fitness area and the conference room space. Additionally, the applicant expressed concerns about the Aloft Hotel which reportedly entered into several markets very quickly resulting in, according to the applicant, underperformance. The applicant believes that the Cambria Suites would be a more stable and suitable choice for themselves and for the City of El Segundo.

**Green Building and Public Art**

In October and November of 2008, the City Council directed staff to research the possibility of a Public Art and/or Green Building program in exchange for other development incentives such as, increased FAR, relaxed parking standards, etc. While no specific action was taken, Council directed staff to research the matter further and report back at a later date. The applicant has indicated that the Cambria Suites would be built as a LEED certified building. The applicant has also indicated that they would contribute up to one-half of one percent of the total building valuation of the project, which equates to approximately $75,000, toward on-site public art.

**Specific Plan**

In order to achieve a more defined project with specific development standards and design guidelines, the applicant proposes a Specific Plan be prepared for the project. The Specific Plan is an implementation tool that City staff could use to control and define development within the defined project area by detailing the design, type, location and intensity of uses within the project area. The Specific Plan would give the City the flexibility to create standards for the development of a wide range of projects or solutions to any type of land use issue; for example, flexibility in FAR could be defined for specific uses within the plan area such as limiting it to a hotel use and LEED certification could be required for any hotel development within the project area. A Specific Plan area can cover a very large area or it can be as small as one acre in size and involve a single project. For example, the Smoky Hollow Specific Plan area covers roughly 123 acres; the Corporate Campus Specific Plan area which covers 46 acres; and the Downtown Specific Plan area which covers 25.8 acres. In this case, the Cambria Suites project site is 1.75 acres (76,370 square-feet).

In place of a Specific Plan, staff is researching the potential of advising the applicant to utilize the Development Agreement process. The Development Agreement could incorporate similar public benefit requirements.
Fiscal Analysis

While a fiscal analysis of the project is not required or relevant to the land use decision, the applicant has provided an analysis for the Cambria Suites Hotel as an informational item; the analysis is based on the following assumptions:

1. Expected construction start up on the Cambria Suites in March of 2010, and the construction period to last for 14 months, with an estimated open date of May 1, 2011.

2. Year 1 figures are based on the opening date shown to the end of the calendar year.

3. Year 1 occupancy is a “ramp up” period. The Cambria Suites project would have a much higher occupancy rate since it will be open for a longer period in Year 1.

4. The applicant believes that there will be a higher daily room rate with the Cambria Suites than the ALOFT since the rooms are bigger and this hotel has more extensive amenities. (The total revenue is only slightly higher however due to the decrease in the number of rooms.)

The applicant believes that once the economy rebounds, the occupancy and rates may rise above the projections below. However, the occupancy rates and transient occupancy tax figures provided below on the next page are based on a more conservative estimate.

[The remainder of this page is intentionally left blank]
<table>
<thead>
<tr>
<th>Table 2</th>
<th>Fiscal Analysis</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Cambria Suites Hotel</td>
</tr>
<tr>
<td></td>
<td>Guest Rooms – 152</td>
</tr>
<tr>
<td><strong>Calendar Year 1</strong></td>
<td>Opening 5/1/2011</td>
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<tr>
<td>Occupancy</td>
<td>60%</td>
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<tr>
<td>Average Daily Rate</td>
<td>$135</td>
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<tr>
<td>Revenue Per Available Room</td>
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<tr>
<td><strong>Revenue</strong></td>
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<td><strong>Year 2 (Full Year 2012)</strong></td>
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<tr>
<td>Occupancy</td>
<td>78%</td>
</tr>
<tr>
<td>Average Daily Rate</td>
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<td>Revenue Per Available Room</td>
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<tr>
<td><strong>Revenue</strong></td>
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<tr>
<td><strong>Year 3</strong></td>
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<tr>
<td>Occupancy</td>
<td>83%</td>
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<tr>
<td>Average Daily Rate</td>
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<td>Revenue Per Available Room</td>
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<td><strong>Revenue</strong></td>
<td>$7,156,920</td>
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<tr>
<td><strong>Year 4</strong></td>
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<tr>
<td>Occupancy</td>
<td>83%</td>
</tr>
<tr>
<td>Average Daily Rate</td>
<td>$160</td>
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<tr>
<td>Revenue Per Available Room</td>
<td>$133</td>
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<tr>
<td><strong>Revenue</strong></td>
<td>$7,378,840</td>
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<tr>
<td><strong>Year 5</strong></td>
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<tr>
<td>Occupancy</td>
<td>83%</td>
</tr>
<tr>
<td>Average Daily Rate</td>
<td>$164</td>
</tr>
<tr>
<td>Revenue Per Available Room</td>
<td>$136</td>
</tr>
<tr>
<td><strong>Revenue</strong></td>
<td>$7,545,280</td>
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<tr>
<td><strong>“BED” TAX TOTAL (2011-2015):</strong></td>
<td>31,360,640</td>
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</table>

Source: JF El Segundo Owners, LLC, July 2009

Based on the applicant’s analysis submitted for the Aloft Hotel, the Cambria Suites Hotel would generate more Transient Occupancy Tax revenue based on the increase in room size and the increase in average daily room rate.
IV. Conclusion

On September 10, 2009, this proposal was presented to the Planning Commission to provide the Planning Commission an opportunity to advise the City Council regarding whether to deny the proposal outright, or allow a full application to be processed. The Planning Commission discussed the proposal and voted 4-0 to receive and file the request and refer the matter to the City Council for further consideration. The Planning Commission discussed the reduced environmental impacts of the revised hotel proposal and the benefits of incorporating public art and a LEED certified building into the project. The City Council can either deny the request or, if the City Council does not deny the request, the applicant may submit a full application for processing. If an application were processed, the City would still have the discretion of denying any proposed project. This matter is an informational item only. If the City Council does not take any action regarding this matter, the City would then process an application in accordance with applicable law. Should the City Council deny the proposal, no additional CEQA review is required.

P:\Planning & Building Safety\0 Planning - Old\PROJECTS (Planning)\826-850\EA 844\Council Meeting 10.06.09\EA-844.CC Report.10.06.09.doc
CITY OF EL SEGUNDO

PLANNING COMMISSION STAFF REPORT

PUBLIC HEARING: September 10, 2009

SUBJECT: Environmental Assessment No. EA-844, Conditional Use Permit No. 09-05, and Specific Plan No. 09-02

APPLICANT: JF El Segundo Owner, LLC

PROPERTY OWNER: JF El Segundo Owner, LLC

REQUEST: Proposal to modify the original approval of Environmental Assessment No. 773 for a Mitigated Negative Declaration and Conditional Use Permit No. 07-07 to allow the construction of a 1) a six-story, 71,005 square-foot, 152-guest suite hotel in-lieu of a six-story, 61,104 square-foot, 167-room hotel involving a change of the brand from an Aloft Hotel to a Cambria Suites Hotel and 2) a Specific Plan to allow a maximum floor area ratio (FAR) of 0.92.

PROPERTY LOCATION: 101 Continental Boulevard

I. Introduction

The applicant, JF El Segundo Owner, LLC is proposing to modify the original approval, for Environmental Assessment No. 773 and Conditional Use Permit No. 07-07, which allowed for the construction of a six-story, 61,104 square foot Aloft Hotel on a 1.75 acre site located at 101 Continental Boulevard. The proposal is a request for a slightly larger hotel with fewer rooms and a Specific Plan to allow an increase in the maximum allowable floor area ratio (FAR). The requested Specific Plan proposes requirements for a LEED certified building and the incorporation of public art to be located on site. The property is located in the Corporate Office (CO) Zone.

II. Recommendation

Planning staff recommends that the Planning Commission Receive and File this report and refer the matter to the City Council for further consideration.
III. **Background**

On September 25, 2008, the El Segundo Planning Commission approved Environmental Assessment No. EA-773 and Conditional Use Permit No. 07-07 to allow construction of a six-story, 61,104 square-foot hotel on a 1.75 acre site located at 101 Continental Boulevard, at the northwest corner of El Segundo Boulevard and Continental Boulevard, immediately north and adjacent to the Northrop Tower (formerly the Xerox Tower). The Hotel (Aloft Hotel) was approved for a total of 167 rooms at a maximum FAR of 0.80 as permitted in the Corporate Office (CO) Zone.

On August 24, 2009, JF El Segundo Owner, LLC submitted Environmental Assessment No. 844, Conditional Use Permit No. 09-05 and Specific Plan No. 09-02 requesting modification of the original approval. The modification would require an amendment to the Environmental Assessment that was prepared for the Aloft Hotel (a Mitigated Negative Declaration), an amendment to the Conditional Use Permit which is required for a hotel in the CO Zone, and a proposed Specific Plan to allow for a maximum floor area ratio (FAR) of 0.92 that would be limited to the parcel for the hotel.

[The remainder of this page is intentionally left blank]
IV. **Proposed Project/Analysis**

JF El Segundo Owner, LLC proposes to change the approved 167-room Aloft Hotel to a 152-room Cambria Suites Hotel. The proposed change would result in a reduction of 15 rooms due to the larger room size provided in the Cambria Suites brand and the amount and size of amenities and open space, and would result in an increase in total net floor area from 61,104 square-feet to 71,005 square-feet. The proposed Cambria Suites building would be constructed in approximately the same location on the site. The proposed Cambria Suites Hotel would be similar to the Aloft Hotel, however, the overall building mass of the Cambria Suites Hotel would decrease; the building footprint of the Aloft Hotel is roughly 15,885 square-feet and the Cambria Suites footprint is roughly 14,744 square-feet. The following diagram (Exhibit A) shows the Aloft Hotel building footprint superimposed in red over the proposed Cambria Suites.
The following renderings further illustrate the difference in building mass when viewed from El Segundo Boulevard looking north. The second rendering shows the outline of the Aloft Building superimposed in red over the Cambria Suites Hotel.
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Table 1
Aloft and Cambria Suites Comparison
Access to the site would remain unchanged and would be available via two driveways. Primary access would be from Continental Boulevard and secondary access would be from El Segundo Boulevard. A Reciprocal Access Agreement would still be required with the office tower for shared driveway access. The zoning and surrounding land uses are as follows:

<table>
<thead>
<tr>
<th>Existing Land Use</th>
<th>Zone/General Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>North: General Office Buildings</td>
<td>Corporate Office (CO)</td>
</tr>
<tr>
<td>South: Raytheon Campus</td>
<td>Light Manufacturing (M-1)</td>
</tr>
<tr>
<td>East: General Office/Hotel Uses</td>
<td>Corporate Office (CO)</td>
</tr>
<tr>
<td>West: General Office Parking Structures</td>
<td>Corporate Office (CO)</td>
</tr>
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The applicant believes that this new concept (Cambria Suites) with larger, more spacious rooms and more generous amenities would be a better fit for the El Segundo market which caters more to the surrounding office towers and the business traveler. The Cambria Suites concept would essentially double the size of the fitness area and the conference room space. Additionally, the applicant has indicated concerns about the Aloft Hotel, which has entered into several markets very quickly, which in turn, has caused the brand to under perform nationwide at an even greater pace than most other hotel brands; the applicant believes that the Cambria Suites would be a more stable and suitable choice for themselves and for the City of El Segundo.

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and involve a single project; for example the Smoky Hollow Specific Plan area which covers roughly 123 acres, the Corporate Campus Specific Plan area which covers 46 acres, and the Downtown Specific Plan area which covers 25.8 acres. In this case, the Cambria Suites project site is 1.75 acres (76,370 square-feet).

**Fiscal Analysis**

While a fiscal analysis of the project is not required or relevant to the land use decision, the applicant has provided an analysis for the Cambria Suites Hotel as an informational item; the analysis is based on the following assumptions:

1. Expected construction start up on the Cambria Suites in March of 2010, and the construction period to last for 14 months, with an estimated open date of May 1, 2011.

2. Year 1 figures are based on the opening date shown to the end of the calendar year.

3. Year 1 occupancy is a “ramp up” period. The Cambria Suites project would have a much higher occupancy rate since it will be open for a longer period in Year 1.

4. The applicant believes that there will be a higher daily room rate with the Cambria Suites than the ALOFT since the rooms are bigger and this hotel has more extensive amenities. (The total revenue is only slightly higher however due to the decrease in the number of rooms.)

The applicant believes that once the economy rebounds, the occupancy and rates may rise above the projections below. However, the occupancy rates and transient occupancy tax figures provided below on the next page are based on a more conservative estimate.
<table>
<thead>
<tr>
<th>Fiscal Analysis</th>
<th>Cambria Suites Hotel</th>
<th>Transient Occupancy Tax (&quot;Bed&quot; Tax)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Guest Rooms – 152</td>
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<tr>
<td><strong>Calendar Year 1</strong></td>
<td>Opening 5/1/2011</td>
<td>8%</td>
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<tr>
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<td>60%</td>
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<td>Average Daily Rate</td>
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<tr>
<td>Revenue Per Available Room</td>
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<td><strong>Revenue</strong></td>
<td>$2,954,880</td>
<td>$236,390</td>
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<tr>
<td><strong>Year 2 (Full Year 2012)</strong></td>
<td></td>
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</tr>
<tr>
<td>Occupancy</td>
<td>78%</td>
<td></td>
</tr>
<tr>
<td>Average Daily Rate</td>
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<td></td>
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<tr>
<td>Revenue Per Available Room</td>
<td>$114</td>
<td></td>
</tr>
<tr>
<td><strong>Revenue</strong></td>
<td>$6,324,720</td>
<td>$505,978</td>
</tr>
<tr>
<td><strong>Year 3</strong></td>
<td></td>
<td></td>
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<tr>
<td>Occupancy</td>
<td>83%</td>
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<tr>
<td>Average Daily Rate</td>
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<tr>
<td>Revenue Per Available Room</td>
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<td></td>
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<tr>
<td><strong>Revenue</strong></td>
<td>$7,156,920</td>
<td>$572,554</td>
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<td><strong>Year 4</strong></td>
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<td>Occupancy</td>
<td>83%</td>
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<tr>
<td>Average Daily Rate</td>
<td>$160</td>
<td></td>
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<tr>
<td>Revenue Per Available Room</td>
<td>$133</td>
<td></td>
</tr>
<tr>
<td><strong>Revenue</strong></td>
<td>$7,378,840</td>
<td>$590,307</td>
</tr>
<tr>
<td><strong>Year 5</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Occupancy</td>
<td>83%</td>
<td></td>
</tr>
<tr>
<td>Average Daily Rate</td>
<td>$164</td>
<td></td>
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<tr>
<td>Revenue Per Available Room</td>
<td>$136</td>
<td></td>
</tr>
<tr>
<td><strong>Revenue</strong></td>
<td>$7,545,280</td>
<td>$603,622</td>
</tr>
<tr>
<td><strong>&quot;BED&quot; TAX TOTAL:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>$2,508,851</td>
</tr>
</tbody>
</table>

Source: JF El Segundo Owners, LLC, July 2009
Based on the analysis submitted for the Aloft Hotel, the Cambria Suites Hotel would generate more Transient Occupancy Tax revenue based on the increase in room size and the increase in average daily room rate.

V. Environmental Review

The proposed project (Cambria Suites Hotel) would at minimum require an Addendum to the Mitigated Negative Declaration in accordance with the California Environmental Quality Act (CEQA). The Addendum to the Initial Study and Mitigated Negative Declaration would be processed once formal, fully detailed Specific Plan and Conditional Use Permit Applications are submitted for the proposed new Cambria Suites hotel development.

VI. Conclusion

This proposed matter is being presented to the Planning Commission to provide the Planning Commission an opportunity to advise the City Council regarding whether to deny the proposal outright, or allow a full application to be processed. If an application were processed, the City would still have the discretion of denying any proposed project. This matter is an informational item only. If the City Council does not take any action regarding this matter, the City would then process an application in accordance with applicable law. Should the City Council deny the proposal, no additional CEQA review is required.

VII. Exhibits

A. Applicant's Modification Application  
B. Applicant's Brand Change Analysis  
C. Conceptual color renderings and plans  
D. Cambria Suites Sustainable Building Operations & Maintenance Memorandum

Prepared by: Travy Nelson, Project Consultant

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

Greg Carpenter, Director  
Department of Planning & Building Safety
City of El Segundo

APPLICATION FOR A MODIFICATION
TO A DISCRETIONARY APPROVAL

Environmental Assessment No: 944
Modification to Project EA No: 773 & CUP 07-01

Date: 8-24-09

Applicant:
JF El Segundo Owner UC
Name (print or type)
340 Royal Poinciana Way Ste 300
Address
Palm Beach FL 33480
City/St/Zip

Check One: Owner □ Lessee □ Agent □

Property Owner:

Name (print or type)

Address

City/St/Zip

Phone (561) 227-1366
Fax (561) 659-7318
Email

Signature

265
Representative of applicant: (i.e., attorney, expeditor, etc.)

Richard A. Mielbye  (361) 227-1366  (512) 659-7318

Name (print or type)  Phone  Fax
340 Royal Encinae Way St. 306  mielbye@ih-corp.com
Address  Email
Palm Beach 38450
City/St/Zip

Zoning: C-0  General Plan Land Use Designation: C-0

El Segundo Municipal Code Sections Relating to Request:

1. Describe the proposed modification with this application. (Attach additional sheets if necessary).
   
   see attached letter

2. Provide a description to justify the modification: (Attach additional sheets, if necessary).
   
   see attached letter

3. Describe the existing development on the site, include square footages, and uses of each building.
   
   parking lot
NOTE: Separate Affidavits must be submitted if there are multiple owners.

OWNERS AFFIDAVIT

I, We Richard Nielbye being duly sworn deposite and say that I/we am the OWNER of the property involved in this application and that I/we have familiarized myself (ourselves) with the rules and regulation of the City of El Segundo with respect to preparing and filing this application and that the foregoing statements herein contained and the information documents and all plans attached hereto are in all respects true and correct to the best of my/our knowledge and belief.

Signature 8/24/09 Date 2009

STATE OF CALIFORNIA, County of Los Angeles )
) ss.

On this ______________ day of ______________ 20____, before me, the undersigned Notary Public in and for said County and State, personally appeared ________________________________ known to me to be the person whose name ________________________________ subscribe to the within instrument, and acknowledged to me that he/she executed the same.

WITNESS my hand and official seal.

Notary Public in and for said County and State
STATE OF FLORIDA,  
County of Palm Beach  

On this 24th day of August, 2009, before me, the undersigned Notary Public in and for said County and State, personally appeared __________ before me, known to me to be the person whose name, Richard A Mielbye, subscribe to the within instrument, and acknowledged to me that he/she executed the same.

WITNESS my hand and official seal.

Notary Public State of Florida
Adriana V Vasquez
My Commission DO83596
Expires 03/15/2013

Notary Public in and for said County and State
AGENT AUTHORIZATION

I hereby authorize to act for me/us in all matters relevant to this application.

I understand that this person will be the exclusive contact on the project and will be sent all information and correspondence.

Owner's Signature

Date 20

AGENT AFFIDAVIT

I, We being duly sworn depose and say that I/we am the AGENT of the property involved in this application and that I/we have familiarized myself (ourselves) with the rules and regulation of the City of El Segundo with respect to preparing and filing this application and that the foregoing statements herein contained and the information documents and all plans attached hereto are in all respects true and correct to the best of my/our knowledge and belief.

Signature

Date 20

STATE OF CALIFORNIA, )
County of Los Angeles )ss.

On this __________ day of __________ 20 _____, before me, the undersigned Notary Public in and for said County and State, personally appeared ____________________________ known to me to be the person whose name subscribe to the within instrument, and acknowledged to me that he/she executed the same.

WITNESS my hand and official seal.

Notary Public in and for said County and State
Application for Modification to a Discretionary Approval

(Question 1 & 2)

Fisher Property Group proposes to change the currently approved 167 key Aloft Hotel at 101 Continental Blvd. to a 152 key Cambria Suites Hotel.

Since we designed the Aloft hotel and it was approved, a new concept has been created that we think is a better fit for the El Segundo market, the Cambria Suites. The Cambria Suites offers larger guestrooms and more amenities than the Aloft, making it a more attractive option for the business traveler. In addition, it is an attractive design, both interior and exterior, that will be independently striking and maintain a strong synergy with the surrounding office towers. Something else that has occurred since we selected the Aloft brand is a shift in the brand itself to something we no longer feel is the right fit for El Segundo. The Aloft has expanded in locations that we consider detrimental to the brand integrity, and as a result has been underperforming nationwide to an even greater extent than most other hotel brands.

Although the site FAR of the Cambria Suites would increase to .92 from the Aloft’s .80, which is the number approved by City Code, we are requesting a Specific Plan with conditions that would serve to restrict or limit this project's development. The Specific Plan would limit the increase in FAR to this project only and would not open the entire C-O zone to this increase. The increase in FAR would not increase environmental impacts, in fact, the actual impact of the hotel would be reduced because the number of rooms would decrease by 15, from 167 to 152. This would result in less traffic, less sewer, water, noise and air quality impacts, and any other environmental factors. The proposed design utilizes less land area on the site. The Aloft has a 15,885 square feet footprint but the Cambria Suites is only 14,744 square feet. This 1,141 square feet reduction of ground building area will allow for more landscaping and is accomplished while keeping the building at its approved 6-story height. This additional green space can be seen from El Segundo Blvd., enhancing the aesthetics of the building and surrounding grounds. This can be seen in the site plans, where the Aloft floor plan is superimposed over the proposed Cambria Suites plan to show the differences in building mass.

The reason the Cambria Suites has an increased FAR despite fewer guestrooms and a smaller footprint than the Aloft is due to its increased room sizes, and amount and size of amenities and open space. For example, the average guestroom size in the Cambria Suites is 344 sq. ft. versus 304 sq. ft. in the Aloft. The conference and meeting space in the Cambria Suites includes a full executive boardroom and totals 1,307 sq. ft. whereas the Aloft has one meeting room that is 690 sq. ft. (617 sq. ft. difference) The bar & restaurant and seating area totals 1,624 sq. ft. in the Cambria Suites and 1,059 sq. ft. in the Aloft (565 sq. ft. difference). The fitness area is 1,257 sq. ft. in the Cambria Suites versus 579 sq. ft. in the Aloft (678 sq. ft. difference). The table in Exhibit A shows a more detailed breakdown of these calculations.

As we have discussed, we are willing to do the following: 1) The Cambria Suites can be made a LEED-certified building. 2) We are happy to contribute up to $75,000 toward the public art on our site. As part of this, we will either personally hire an art consultant and have the Council approve their proposal, or cater to whatever process the Council envisions.

The hotel industry has been hit hard, and it is more important than ever to find the best fit for the market. In El Segundo, with the prevalence of class “A” businesses and the new companies coming to the area, the size of the guestrooms and amount and types of guest amenities are extremely important.
Guests today want larger, more attractive workout facilities, more dining options available more hours of the day, and a suite-style room with space to work and live. Cambria Suites furnishes the right product in the right location. The last reason for the change is fiscal, and we have prepared an analysis of both the Aloft and Cambria Suites showing future revenue and bed tax. The numbers provided are only an estimate, and they are based on a later construction start date for the Aloft due to our unease over the brand. The assumptions are as follows:

1) We would expect to start construction on the Cambria Suites in March of 2010 and the construction period to last for 14 months, with an estimated open date of May 1, 2011. We estimate (at the earliest) to begin construction on the Aloft in June of 2010 and the construction period to last for 16 months, with an estimated open date of October 1, 2011.

2) Year 1 figures are based on the opening date shown to the end of the calendar year. Year 1 occupancy is a “ramp up” period. The Cambria Suites project has a much higher occupancy rate since it will be open for a longer period in Year 1.

3) We believe that we will receive a higher daily rate with the Cambria Suites than the Aloft since the rooms are bigger and this hotel has more and better amenities. (The total revenue is only slightly higher however due to the decrease in the number of rooms.)

4) We believe that once the economy rebounds, the occupancy and rates may rise above the projections below. However, we cannot assume this to be the case and therefore took a conservative view.
<table>
<thead>
<tr>
<th></th>
<th>ALOFT</th>
<th>Bed Tax</th>
<th>Cambria Suites</th>
<th>Bed Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>keys - 167</td>
<td>8%</td>
<td>keys - 152</td>
<td>8%</td>
<td></td>
</tr>
<tr>
<td><strong>Calendar Year 1</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Opening 10/1/2011</td>
<td></td>
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<tr>
<td>Occupancy</td>
<td>35%</td>
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<td>60%</td>
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<tr>
<td>Average Daily Rate</td>
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<td>$236,390</td>
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<td><strong>Year 2 (Full Year 2012)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Occupancy</td>
<td>73%</td>
<td></td>
<td>78%</td>
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</tr>
<tr>
<td>Average Daily Rate</td>
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<td>$146</td>
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<td><strong>Year 3</strong></td>
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<td></td>
</tr>
<tr>
<td>Occupancy</td>
<td>80%</td>
<td></td>
<td>83%</td>
<td></td>
</tr>
<tr>
<td>Average Daily Rate</td>
<td>$144</td>
<td></td>
<td>$155</td>
<td></td>
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<tr>
<td>Revenue Per Available Room</td>
<td>$115</td>
<td></td>
<td>$129</td>
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<tr>
<td>Revenue</td>
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<td><strong>Year 4</strong></td>
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<td><strong>Year 5</strong></td>
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<td>$7,545,280</td>
<td>$603,622</td>
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<td><strong>BED TAX TOTAL:</strong></td>
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<tr>
<td>ALOFT</td>
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<td></td>
</tr>
<tr>
<td>Cambria</td>
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<td></td>
<td>$2,508,851</td>
<td></td>
</tr>
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# Exhibit A

Room and Amenities Breakdown for Aloft and Cambria

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<th></th>
<th>Aloft</th>
<th></th>
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</thead>
<tbody>
<tr>
<td></td>
<td>ALOFT keys</td>
<td>square feet</td>
<td>Cambria Suites keys</td>
</tr>
<tr>
<td>King</td>
<td>102</td>
<td>280</td>
<td>108</td>
</tr>
<tr>
<td>King Suite</td>
<td>4</td>
<td>520</td>
<td>4</td>
</tr>
<tr>
<td>Double Queen</td>
<td>55</td>
<td>327</td>
<td>13</td>
</tr>
<tr>
<td>One Bedroom Suite</td>
<td>1</td>
<td>606</td>
<td>1</td>
</tr>
<tr>
<td>One Bedroom Tower Suite</td>
<td>15</td>
<td>345</td>
<td>4</td>
</tr>
<tr>
<td>Two Bedroom Suite</td>
<td>3</td>
<td>606</td>
<td>1</td>
</tr>
<tr>
<td>Accessible King</td>
<td>5</td>
<td>404</td>
<td>4</td>
</tr>
<tr>
<td>Acc Double Queen</td>
<td>5</td>
<td>449</td>
<td>1</td>
</tr>
<tr>
<td>Acc One Bedroom</td>
<td>2</td>
<td>345</td>
<td>1</td>
</tr>
<tr>
<td>Acc Two bedroom</td>
<td>1</td>
<td>606</td>
<td>1</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>167</strong></td>
<td><strong>304 avg sq ft</strong></td>
<td><strong>152</strong></td>
</tr>
<tr>
<td>Conference Rooms</td>
<td>1</td>
<td>690</td>
<td>2</td>
</tr>
<tr>
<td>Board Room</td>
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<td>0</td>
<td>1</td>
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<tr>
<td>Meeting Storage</td>
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<td>Back of House</td>
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<tr>
<td><strong>Amenities TOTAL</strong></td>
<td><strong>ALOFT 5,501 sq ft</strong></td>
<td><strong>CAMBRIA 8,623 sq ft</strong></td>
<td></td>
</tr>
</tbody>
</table>
EL SEGUNDO PROPOSED BRAND CHANGE ANALYSIS

167 Key ALOFT Hotel vs. 152 Key Cambria Suites Hotel

July 24, 2009

Fisher Property Group proposes to change the currently approved 167 key ALOFT Hotel to a 152 key Cambria Suites Hotel. This is a reduction of 15 keys, but an increase in adjusted FAR square footage from 61,104 square feet to 71,005 square feet*, for an increase of 9,901 square feet.

I. Square Footage and Amenities

The following chart shows a square footage breakdown comparing the two brands. In addition, we have attached a copy of the proposed 152 key Cambria Suites breakdown of rooms, public spaces, and amenities*. This will help explain why with less rooms and a smaller footprint, there is actually more square footage in the Cambria due to its increased room sizes and amenities.

*Please be advised that the amenities chart shows a total building square footage of 84,622 sq ft. which does not reflect the adjusted FAR square footage of 71,005 sq ft. This is obtained by removing the elevator shafts, mechanical rooms, stairways, and thickness of interior walls, elements that account for the 4,682 sq ft differential. Please refer to the Cambria Suites plans in the package (Scheme 6) dated 6/22/09 – First Floor Plan, Second Floor Plan and Typical Floor Plan to see as indicated by the shading on the plans the elements that are removed in the adjusted FAR calculation.*
<table>
<thead>
<tr>
<th></th>
<th>ALOFT</th>
<th></th>
<th>Cambria Suites</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>keys</td>
<td>square feet</td>
<td>keys</td>
<td>square feet</td>
</tr>
<tr>
<td>King</td>
<td>102</td>
<td>280</td>
<td>108</td>
<td>319</td>
</tr>
<tr>
<td>King Suite</td>
<td></td>
<td></td>
<td>4</td>
<td>520</td>
</tr>
<tr>
<td>Double Queen</td>
<td>55</td>
<td>327</td>
<td>13</td>
<td>392</td>
</tr>
<tr>
<td>One Bedroom Suite</td>
<td>1</td>
<td>606</td>
<td>15</td>
<td>345</td>
</tr>
<tr>
<td>One Bedroom Tower Suite</td>
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<td>606</td>
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<td>345</td>
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<td>345</td>
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<tr>
<td>Acc King</td>
<td>5</td>
<td>404</td>
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<td>319</td>
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<tr>
<td>Acc Double Queen</td>
<td>5</td>
<td>449</td>
<td>1</td>
<td>392</td>
</tr>
<tr>
<td>Acc One Bedroom</td>
<td></td>
<td></td>
<td>2</td>
<td>345</td>
</tr>
<tr>
<td>Acc Two bedroom</td>
<td></td>
<td></td>
<td>1</td>
<td>606</td>
</tr>
<tr>
<td>TOTAL</td>
<td>167</td>
<td>304 avg sq ft</td>
<td>152</td>
<td>344 avg sq ft</td>
</tr>
<tr>
<td>Conference Rooms</td>
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<td>690</td>
<td>2</td>
<td>1,097</td>
</tr>
<tr>
<td>Board Room</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>148</td>
</tr>
<tr>
<td>Meeting Storage</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>62</td>
</tr>
<tr>
<td>Bar / Dining/ Lounge Area</td>
<td>1</td>
<td>1,059</td>
<td>1</td>
<td>1,624</td>
</tr>
<tr>
<td>Fitness / Workout</td>
<td>1</td>
<td>579</td>
<td>1</td>
<td>1,257</td>
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<tr>
<td>Back of House</td>
<td>1</td>
<td>3,173</td>
<td>1</td>
<td>4,435</td>
</tr>
</tbody>
</table>
II. Footprint and Site Plan

The Cambria Suites utilizes less land area on the site as shown on the site plan by Law-Kingdon Architecture (scheme 6) dated June 22, 2009. This plan (including the floor plans), as well as the approved ALOFT site plan, are attached. The ALOFT floor plan is superimposed over the proposed Cambria Suites plan to show the differences in building mass.

ALOFT: 15,885 square feet footprint

Cambria Suites: 14,744 square feet footprint

This 1,141 square feet reduction of ground building area will allow for more landscaping and is accomplished while keeping the building at its approved 6-story height. This additional green space can be seen from El Segundo Blvd enhancing the aesthetics of the building and surrounding grounds.

III. Fiscal Analysis of ALOFT and Cambria Suites

As per your request, the following chart is a Fiscal Analysis of both hotel types showing future revenue and bed tax, based on the following assumptions:

1) We anticipate starting construction sooner on the Cambria Suites because we are not willing to move forward with the ALOFT as scheduled based on recent decisions by Starwood. (They are expanding in locations that we consider detrimental to the brand integrity.)

2) We would expect to start construction on the Cambria Suites in March of 2010 and the construction period to last for 14 months, with an estimated open date of May 1, 2011. We estimate (at the earliest) to begin construction on the ALOFT in June of 2010 and the construction period to last for 16 months, with an estimated open date of October 1, 2011.

3) Year 1 figures are based on the opening date shown to the end of the calendar year.

4) Year 1 occupancy is a “ramp up” period. The Cambria Suites project has a much higher occupancy rate since it will be open for a longer period in Year 1.

5) We believe that we will receive a higher daily rate with the Cambria Suites than the ALOFT since the rooms are bigger and this hotel has more and better amenities. (The total revenue is only slightly higher however due to the decrease in the number of rooms.)
We believe that once the economy rebounds, the occupancy and rates may rise above the projections below. However, we cannot assume this to be the case and we are forced to take a conservative view as is shown on the chart below.

<table>
<thead>
<tr>
<th>Calendar Year 1</th>
<th>ALOFT</th>
<th>Bed Tax</th>
<th>Cambria Suites</th>
<th>Bed Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>keys - 167</td>
<td>8%</td>
<td>keys - 152</td>
<td>8%</td>
</tr>
<tr>
<td>Opening 10/1/2011</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Occupancy</td>
<td>35%</td>
<td>60%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Average Daily Rate</td>
<td>$125</td>
<td>$135</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Revenue Per Available Room</td>
<td>$44</td>
<td>$81</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Revenue</td>
<td>$661,320</td>
<td>$52,906</td>
<td>$2,954,880</td>
<td>$236,390</td>
</tr>
<tr>
<td>Year 2 (Full Year 2012)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Occupancy</td>
<td>73%</td>
<td>78%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Average Daily Rate</td>
<td>$135</td>
<td>$146</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Revenue Per Available Room</td>
<td>$99</td>
<td>$114</td>
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<tr>
<td>Revenue</td>
<td>$6,034,545</td>
<td>$482,764</td>
<td>$6,324,720</td>
<td>$505,978</td>
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<tr>
<td>Year 3</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Occupancy</td>
<td>80%</td>
<td>83%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Average Daily Rate</td>
<td>$144</td>
<td>$155</td>
<td></td>
<td></td>
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<tr>
<td>Revenue Per Available Room</td>
<td>$115</td>
<td>$129</td>
<td></td>
<td></td>
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<tr>
<td>Revenue</td>
<td>$7,009,825</td>
<td>$560,786</td>
<td>$7,156,920</td>
<td>$572,554</td>
</tr>
<tr>
<td>Year 4</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Occupancy</td>
<td>80%</td>
<td>83%</td>
<td></td>
<td></td>
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<tr>
<td>Average Daily Rate</td>
<td>$149</td>
<td>$160</td>
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<tr>
<td>Revenue Per Available Room</td>
<td>$119</td>
<td>$133</td>
<td></td>
<td></td>
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<td>Revenue</td>
<td>$7,253,645</td>
<td>$580,292</td>
<td>$7,378,840</td>
<td>$590,307</td>
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<tr>
<td>Average Daily Rate</td>
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<tr>
<td>Revenue Per Available Room</td>
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<td>$136</td>
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<tr>
<td>Revenue</td>
<td>$7,436,510</td>
<td>$594,921</td>
<td>$7,545,280</td>
<td>$603,622</td>
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**Bed Tax Total:**
- ALOFT: $2,271,668
- Cambria: $2,508,851
IV. Lodging Trends in LA County

We included lodging trend reports by PKF, a nationally recognized hotel research expert, for the months of April and May 2009 showing the trends for the LA market. The purpose of these reports is to show that the hotel industry has been hit hard, and it is more important than ever to find the best fit for the market. In El Segundo, with the prevalence of class "A" businesses and the new companies coming to the area, the size of the guestrooms and amount and types of guest amenities are extremely important. Guests today want larger, more attractive workout facilities, more dining options available more hours of the day, and a suite-style room with space to work and live. Based on the analysis above, Cambria Suites furnishes the right product in the right location. We are confident enough in the brand that we are willing to sacrifice room count by 15 keys. The Cambria Suites is a new concept and was not available at the time we started this project.
I. Cambria Breakdown
IV. PFK Reports
U.S. LODGING TURNING POINT ARRIVES BUT GROWTH REMAINS ON DISTANT HORIZON

PKF Hospitality Research (PKF-HR) recently announced that, according to its June 2009 edition of Hotel Horizons®, rooms revenue per available room (RevPAR) will reach its cyclical low point in the third quarter of 2009. This will bring to a close the escalating trend of declines in RevPAR that began in the third quarter of 2008, according to Smith Travel Research (STR).

In May 2009, Moody’s Economy.com downgraded its outlook of a 2.9 percent national employment declines to 3.8 percent, causing PKF-HR to revise its RevPAR forecast for the year. Given the correlation between employment and lodging demand, the new expectation is for RevPAR to decline 17.5 percent in 2009, followed by another 3.5 percent decline in 2010.

The good news is that the bottom of the current cycle for the U.S. hotel industry is soon to arrive. The bad news is that 2009 will be the weakest year on record for the domestic lodging industry, and 2010 is going to be disappointing as well. Accordingly, industry participants need to calibrate their expectations when analyzing lodging performance measurements. If you are wondering when we'll start to see actual growth in RevPAR, then you’ll have to wait until 2011. However, if you want to know when the operating environment is going to get a little less painful, that's happening right now.

While many markets are experiencing the lingering effects of new supply openings, the light at the end of the lodging demand tunnel has now appeared. According to STR, hotel demand first began to contract in the first quarter of 2008 and we expect this to persist through the end of this year; thus, we are now more than half way home towards a demand turnaround.

PKF-HR has identified the turning points and inflection points on the current business cycle. Knowing these milestones allows hotel owners and operators to properly prepare their operating and capital budgets, as well as investment strategies, for the remainder of 2009 and the years to come. Given where we are at in the cycle, turning points denote the bottoming out of a measure, while inflection points mark when the important indicators exhibit positive growth. Accordingly, all the major lodging statistics turn in 2009, but occupancy won't begin to inflect until 2010, and ADR will not exhibit growth until 2011.

Hotel Horizons® is a quarterly series of reports containing five-year forecasts of performance for the U.S. lodging industry and 50 major markets across the country. The lodging forecasts presented in the June 2009 edition of Hotel Horizons® are based on Smith Travel Research (STR) hotel performance data through March 2009 and Moody's Economy.com's May 2009 economic forecast for the nation.

Less of a Decline

Year-over-year quarterly declines in the demand for U.S. lodging accommodations started in the first quarter of 2008 and peaked at negative 8.0 percent in the first quarter of 2009. The June 2009 edition of Hotel Horizons® forecasts demand to decline each of the remaining quarters of 2009, but at a diminishing pace. The projected quarterly declines in demand for the remainder of 2009 average just 4.7 percent. Beyond 2009, the forecast calls for average annual increases in demand of 3.2 percent for the next four years, well above the 1.9 percent long-term average.

Concurrent to lower declines in demand is a similar reduction in the opening of new hotel rooms. As we progress through 2009 and into 2010, we will begin to see a contraction in residual effects of the construction activity that started in 2006 and 2007. New hotel openings peaked in the first quarter of 2009 when year-over-year supply grew 3.2 percent. For the remainder of 2009, supply growth diminishes each quarter. In 2010, the annual change in supply is forecast to drop to 1.4 percent.

The deceleration in supply growth is a bit deceiving. The investment money that funded the current surge in new hotels is all chasing the same customer. If you look at the types of hotels that will open up in 2009 and 2010, they are heavily concentrated in two chain-scales. Just over 76 percent of net room growth this year and next occurs in the upscale and mid-scale without food and beverage chain-scale segments.

Source: PKF Consulting
<table>
<thead>
<tr>
<th>MONTH OF APRIL 2009</th>
<th>AVERAGE DAILY RATE</th>
<th>OCCUPANCY PERCENT</th>
<th>REVPAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>DOWNTOWN</td>
<td>$121.64 $140.00 -13.1%</td>
<td>50.11% 72.07% -30.5%</td>
<td>$60.95 $100.90 -39.6%</td>
</tr>
<tr>
<td>DOWNTOWN 2</td>
<td>$79.77 $89.53 -10.9%</td>
<td>74.92% 82.08% -8.7%</td>
<td>$59.77 $73.48 -18.7%</td>
</tr>
<tr>
<td>HOLLYWOOD</td>
<td>$182.13 $196.16 -7.2%</td>
<td>71.04% 79.18% -10.3%</td>
<td>$129.38 $155.32 -16.7%</td>
</tr>
<tr>
<td>SAN FERNANDO VALLEY</td>
<td>$112.57 $129.70 -13.2%</td>
<td>66.31% 78.49% -15.5%</td>
<td>$74.65 $101.81 -26.7%</td>
</tr>
<tr>
<td>PASADENA</td>
<td>$146.18 $175.68 -16.8%</td>
<td>65.09% 79.51% -18.1%</td>
<td>$95.14 $139.68 -31.9%</td>
</tr>
<tr>
<td>SAN GABRIEL VALLEY</td>
<td>$95.11 $105.79 -10.1%</td>
<td>58.74% 70.70% -16.9%</td>
<td>$55.67 $74.80 -25.3%</td>
</tr>
<tr>
<td>SANTA MONICA</td>
<td>$233.18 $277.17 -15.9%</td>
<td>77.17% 83.72% -7.8%</td>
<td>$179.96 $232.06 -22.5%</td>
</tr>
<tr>
<td>AIRPORT</td>
<td>$94.95 $109.68 -13.4%</td>
<td>71.87% 81.34% -11.6%</td>
<td>$68.25 $89.21 -23.5%</td>
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<tr>
<td>MARINA DEL REY</td>
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<td>66.66% 79.39% -16.0%</td>
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<tr>
<td>SOUTH BAY</td>
<td>$112.83 $126.79 -11.0%</td>
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</tr>
<tr>
<td>LONG BEACH</td>
<td>$145.25 $162.01 -10.3%</td>
<td>66.09% 71.77% -7.9%</td>
<td>$96.00 $116.27 -24.7%</td>
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<tr>
<td>BEVERLY HILLS</td>
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<td>$239.17 $336.06 -28.8%</td>
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<tr>
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<td>$186.82 $226.84 -17.6%</td>
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</tr>
<tr>
<td>OTHER WEST L.A.</td>
<td>$212.38 $274.27 -22.6%</td>
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<td>$141.45 $191.27 -26.1%</td>
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<tr>
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<td>$89.90 $99.54 -9.7%</td>
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<td>$64.62 $78.65 -17.8%</td>
</tr>
<tr>
<td>SANTA CLARITA</td>
<td>$108.23 $119.03 -9.1%</td>
<td>63.46% 69.15% -8.2%</td>
<td>$68.68 $82.32 -16.6%</td>
</tr>
</tbody>
</table>

**OVERALL AVERAGE** $141.26 $163.26 -13.5% 65.89% 77.22% -14.7% $93.07 $126.08 -26.2%

<table>
<thead>
<tr>
<th>JANUARY TO APRIL 2009</th>
<th>AVERAGE DAILY RATE</th>
<th>OCCUPANCY PERCENT</th>
<th>REVPAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>DOWNTOWN</td>
<td>$137.32 $139.67 -1.7%</td>
<td>55.68% 74.31% -25.1%</td>
<td>$76.47 $103.79 -26.3%</td>
</tr>
<tr>
<td>DOWNTOWN 2</td>
<td>$78.29 $83.41 -6.1%</td>
<td>75.46% 83.05% -9.1%</td>
<td>$59.08 $69.27 -14.7%</td>
</tr>
<tr>
<td>HOLLYWOOD</td>
<td>$177.95 $197.44 -9.9%</td>
<td>70.29% 78.77% -10.8%</td>
<td>$125.08 $155.52 -19.6%</td>
</tr>
<tr>
<td>SAN FERNANDO VALLEY</td>
<td>$115.65 $128.75 -10.2%</td>
<td>64.59% 73.68% -12.3%</td>
<td>$74.69 $94.86 -21.3%</td>
</tr>
<tr>
<td>PASADENA</td>
<td>$156.90 $174.88 -10.3%</td>
<td>62.53% 76.37% -18.1%</td>
<td>$98.11 $133.56 -26.5%</td>
</tr>
<tr>
<td>SAN GABRIEL VALLEY</td>
<td>$99.71 $105.89 -5.8%</td>
<td>61.82% 69.58% -11.1%</td>
<td>$61.64 $73.68 -16.3%</td>
</tr>
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<td>SANTA MONICA</td>
<td>$243.00 $279.86 -13.2%</td>
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<td>AIRPORT</td>
<td>$100.49 $111.34 -9.7%</td>
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<td>$72.73 $89.45 -18.7%</td>
</tr>
<tr>
<td>MARINA DEL REY</td>
<td>$152.38 $167.04 -8.8%</td>
<td>63.34% 73.99% -14.4%</td>
<td>$96.52 $123.80 -21.9%</td>
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<tr>
<td>SOUTH BAY</td>
<td>$115.40 $125.77 -8.2%</td>
<td>69.63% 79.26% -12.1%</td>
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</tr>
<tr>
<td>LONG BEACH</td>
<td>$145.99 $148.16 -1.5%</td>
<td>66.24% 72.93% -9.2%</td>
<td>$96.70 $108.05 -10.5%</td>
</tr>
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<td>$118.27 $172.84 -31.6%</td>
</tr>
<tr>
<td>OTHER WEST L.A.</td>
<td>$237.06 $277.35 -14.5%</td>
<td>66.40% 74.38% -10.7%</td>
<td>$157.41 $206.23 -23.7%</td>
</tr>
<tr>
<td>I-5 CORRIDOR/WHITTIER</td>
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<td>70.13% 78.94% -11.2%</td>
<td>$64.86 $79.18 -18.1%</td>
</tr>
<tr>
<td>SANTA CLARITA</td>
<td>$113.20 $121.55 -6.9%</td>
<td>59.33% 66.86% -11.3%</td>
<td>$67.16 $81.27 -17.4%</td>
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**OVERALL AVERAGE** $147.66 $163.46 -9.7% 65.96% 76.34% -13.6% $97.40 $124.79 -22.0%
## BY RATE

<table>
<thead>
<tr>
<th>MONTH OF APRIL 2009</th>
<th>AVERAGE DAILY RATE</th>
<th>OCCUPANCY PERCENT</th>
<th>REVPAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $55.00</td>
<td>$48.59</td>
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<td>$93.98</td>
<td>$107.22</td>
<td>-12.4%</td>
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<td>Over $300.00</td>
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<tr>
<td><strong>OVERALL AVERAGE</strong></td>
<td><strong>$141.26</strong></td>
<td><strong>$163.26</strong></td>
<td><strong>-13.5%</strong></td>
</tr>
</tbody>
</table>

### JANUARY TO APRIL 2009

| Less than $55.00   | $48.31 | $50.61 | -4.5% | 70.27% | 78.20% | -10.1% | $33.95 | $39.58 | -14.2% |
| $55.01 - $85.00    | $72.74 | $81.49 | -10.7% | 69.78% | 76.85% | -9.2% | $50.76 | $62.63 | -19.0% |
| $85.01 - $100.00   | $92.15 | $103.36 | -10.8% | 66.85% | 75.93% | -12.0% | $61.60 | $76.48 | -21.5% |
| $100.01 - $150.00  | $123.52 | $132.47 | -6.8% | 65.12% | 75.88% | -14.2% | $80.43 | $100.52 | -20.0% |
| $150.01 - $200.00  | $172.42 | $190.48 | -9.5% | 67.03% | 77.33% | -13.3% | $115.57 | $147.29 | -21.5% |
| $200.01 - $300.00  | $235.22 | $263.31 | -10.7% | 65.76% | 77.00% | -14.6% | $154.67 | $202.75 | -23.7% |
| Over $300.00       | $596.45 | $555.87 | -6.9% | 58.84% | 74.31% | -20.8% | $298.01 | $413.04 | -27.8% |
| **OVERALL AVERAGE** | **$147.66** | **$163.46** | **-9.7%** | 65.96% | 76.34% | -13.6% | **$97.40** | **$124.79** | **-22.0%** |

## BY SIZE

### MONTH OF APRIL 2009

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<tr>
<th>AVERAGE DAILY RATE</th>
<th>OCCUPANCY PERCENT</th>
<th>REVPAR</th>
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</thead>
<tbody>
<tr>
<td>Under 100 rooms</td>
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<tr>
<td>100 - 199 rooms</td>
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<td>200 - 299 rooms</td>
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<td>300 - 600 rooms</td>
<td>$158.00</td>
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</tr>
<tr>
<td>Over 600 rooms</td>
<td>$115.15</td>
<td>$130.27</td>
</tr>
<tr>
<td><strong>OVERALL AVERAGE</strong></td>
<td><strong>$141.26</strong></td>
<td><strong>$163.26</strong></td>
</tr>
</tbody>
</table>

### JANUARY TO APRIL 2009

| Under 100 rooms    | $131.15 | $153.36 | -14.5% | 69.07% | 78.78% | -12.3% | $90.58 | $120.81 | -25.0% |
| 100 - 199 rooms    | $144.86 | $164.79 | -12.1% | 66.44% | 75.08% | -11.5% | $96.24 | $123.73 | -22.2% |
| 200 - 299 rooms    | $147.44 | $169.10 | -12.8% | 63.44% | 71.40% | -11.2% | $93.53 | $120.74 | -22.5% |
| 300 - 600 rooms    | $166.41 | $180.72 | -7.9% | 66.99% | 77.66% | -13.7% | $111.48 | $140.35 | -20.6% |
| Over 600 rooms     | $126.99 | $134.03 | -5.3% | 65.48% | 80.19% | -18.3% | $83.16 | $107.48 | -22.6% |
| **OVERALL AVERAGE** | **$147.66** | **$163.46** | **-9.7%** | 65.96% | 76.34% | -13.6% | **$97.40** | **$124.79** | **-22.0%** |
Despite the overall slowdown in hotel openings, the extreme reductions in demand will still cause the national occupancy level to decline in both 2009 and 2010. However, the pace of the occupancy diminution will ease considerably as the reality of new competition subsides. PKF-HR forecasts occupancy to decrease by 8.1 percent in 2009 and another 0.2 percent in 2010.

**Pricing Power Plummeted**

In an environment with all-time record low occupancy levels, the pressure on hotel operators to discount their room rates is significant. Best practices may state that discounting does not induce demand, and we know the negative impact that rate reductions have on the bottom-line. However, we are simply in a time and place when the laws of supply and demand trump a more optimal practice. At every hotel there is a fixed minimal level of operating expenses that needs to be offset by any revenue that a manager believes they can get.

PKF-HR is forecasting average daily room rates to decline 10.2 percent in 2009, and decrease another 3.3 percent in 2010. We'll see the greatest degree of rate concessions this summer, but the level of discounting will diminish from then on. Nine consecutive quarters of year-over-year reductions in room rates (fourth quarter 2008 to fourth quarter 2010) is great news for travelers, but a major cause of concern for hotel owners and their lenders.

**Local Markets Vary**

The RevPAR inflection points for the nation's largest hotel markets do vary from city to city. Our research has found that 70 to 80 percent of a hotel's performance systematically is linked to the local economy. Given the variations in the economic outlook for the different regions of the nation, our forecasts of RevPAR growth differ accordingly. Fourteen of the 50 markets in the Hotel Horizons® universe are forecast to achieve year-over-year gains in RevPAR during the first half of 2010, while another 30 cities will not enjoy RevPAR growth until the last half of next year. RevPAR increases for the remaining six markets are delayed until 2011.

**Brutal Bottom Line**

Given the forecast 17.5 percent decline in RevPAR for 2009, PKF-HR is projecting total hotel revenues to decrease 16.0 percent for the year. U.S. hotel managers, as they have in the past, will cut costs by 7.5 percent, but that will not be enough to avoid a decline in the typical hotel's net operating income (NOI). PKF-HR is forecasting that the typical U.S. hotel will suffer a 37.8 percent decline in NOI in 2009 and an additional 9.2 percent in 2010. It should be noted that U.S. hotels will continue to generate a negative NOI. However, given the projected declines in NOI, hotel profit margins are forecast to be well below the long-term average of 25.7 percent.

Fewer guests paying lower prices is a recipe for evaporating profits. Add to that the potential for an increase in fixed charges such as utility costs, insurance, and property taxes and the situation could get ugly quickly. Not many current industry participants were around 72 years ago, the last time PKF-HR recorded a unit-level profit decline in excess of 20 percent. Needless to say, profit declines in excess of 30 percent have a wide-ranging impact on hotel values, debt coverage, default covenants, and solvency. As of June 9, 2009, TREPP was reporting that 3.2 percent of the commercial mortgage-backed securities lodging loans that they track were in delinquency. This is up from 0.5 percent in June of 2008.

**Strong Inflation Beyond 2010**

While the cumulative declines in revenue and profits during the current industry recession exceed those of previous industry downturns, the magnitude of forecast recovery will be exceptionally robust. In 2011 and 2012, PKF-HR forecasts that RevPAR will increase on an average annual basis of 9.2 percent, while profits will rise at a 17.8 percent pace. If you are an owner, investor, or lender that can weather this year and next, the return to prosperity should be strong and quick.

To purchase Hotel Horizons® forecast reports for the United States, or one of 50 individual markets, please visit the firm's online store at www.HotelHorizons.com, or call (866) 842-8754.
May 2009

Los Angeles County

Questions?...
We Have Answers!

In the midst of what is perhaps the greatest decline in the hotel industry in modern history, many hoteliers find themselves looking for answers. When will key metrics such as average daily rate and occupancy turn positive again? How have new supply additions changed the market dynamics of the local area? Why have guest levels declined and what can be done to generate roomnights from the various segments of demand? Answers to these questions, and more like them, have been the specific focus of PKF Consulting for more than 75 years. Interestingly enough, the firm traces its roots back to the Great Depression and was formed at that time to specifically address the needs of financial institutions, who following bankruptcy proceedings, found themselves owning unfamiliar hotel assets, and seeking operational advice.

Similarly, many hotel owners today find themselves in an analogous predicament. At the peak of the recent hotel cycle a large collection of buyers purchased hotel properties in the last few years taking advantage of an abundance of capital and attractive financing options. In doing so, many of these transactions were undertaken with optimistic expectations. As a result, many of these recent owners find themselves in an uncomfortable position as total revenues are predicted to fall as much as 20 percent year-over-year, and hoteliers can only slash expenses to a certain degree without jeopardizing the integrity and service levels of their respective properties. At this point, relatively new hotel owners may find themselves asking and hoping to answer difficult questions, both those posed within the organization and by outside sources. At the property level, discussions are likely to focus on how and where to position the property, the kinds of packages or value-added amenities and activities that can be offered, as well as other strategic initiatives that are likely to be discussed by hotel ownership, members of the executive committee, and the management company as applicable. From the owner's prospective it is also likely that the individuals, institution or groups responsible for the financing of the hotel will also have a keen interest in the property's future projected cash flows. Indeed, the continued future operation of the hotel may depend on the accuracy of these forecasts and the ability of stakeholders involved to reach a consensus.

At PKF Consulting we believe that we are in a unique position to assist owners and operators facing the challenges present in today's unprecedentedly tumultuous hospitality industry. Headquartered in San Francisco, PKF Consulting has offices in Atlanta, Boston, Bozeman, Dallas, Houston, Indianapolis, Los Angeles, New York, Philadelphia, and Washington, DC, so that we may better serve the needs of our clients on a regional and local basis. In addition, many local offices also track local market conditions and prepare reports similar to the one that you are holding in your hand today. Further, in order to provide a more complete range of services, PKF Consulting is the parent company of PKF Capital, which offers real estate transaction and capital markets services, and PKF Hospitality Research, a hospitality-related market research firm.

>>>Continued on Page 4 >>
## Statistics And Trends Of Rooms Business In Los Angeles

**PKF Consulting**

<table>
<thead>
<tr>
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<th>AVERAGE DAILY RATE</th>
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<th>REVPAR</th>
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# Statistics And Trends Of Rooms Business In Los Angeles

PKF Consulting

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Given this multilayered approach and wealth of market data, PKF Consulting is staffed and equipped to provide the hotel and real estate industries with key services such as:

- Real Estate Valuations
- Resort and Recreation Studies
- Conference Center and Public Assembly Studies
- Asset Advisory Services
- Market Positioning
- Financial Feasibility Studies
- Litigation Support
- Market Research
- Workouts and Receiverships

We would be pleased to assist you with all of your hospitality needs and do not hesitate to contact us if we can be of assistance in the future.

* * * * * * *

To learn more about PKF Consulting, our Annual Trends® in the Hotel Industry report, or our local Monthly Trends® Publication please visit www.pkfc.com/store/ or contact us at latrends@pkfc.com.
September 2, 2009

Rick Mielbye
Senior Vice President – Development
Fisher Property Group, Inc.
50 Cocoanut Row, Suite 211
Palm Beach, FL 33480

RE: El Segundo Cambria Suites - Sustainable Building Operations and Maintenance

Mr. Mielbye:

Choice Hotels International is currently considering various sustainable building design, operations and maintenance programs aimed at achieving LEED certification, through the U.S. Green Building Council. In particular we are currently reviewing our Cambria Suites brand for these opportunities and look to release a “LEED compatible” prototype, version 1.5, by fall of 2010. However, we are in the process that if approved by the City of El Segundo, to employ as many of these items as practically possible in order to obtain LEED certification for our proposed El Segundo project.

Under the LEED Version 3 released earlier this year, achieving LEED certification is dependent on meeting the USGBC’s minimum score of 40 points. Points are earned through careful site selection, building design and construction, product selection, and operations and maintenance. Based on our preliminary review of the El Segundo site, Choice Hotels, its licensees and developers, will seek to obtain LEED certification in part by employing practices from Choice Hotel’s “Room to be Green” program. Examples of operation and maintenance strategies from this program include:

Energy Conservation:

- Hotel uses energy efficient indoor lighting solutions, such as compact fluorescent (CFL) bulbs and LED exit signs. Addressable areas include common space, corridors, guestrooms, or back office.
- Programmable on/off timers and/or occupancy sensors for lighting and HVAC for common areas
- High efficiency and/or EnergySTAR™ compliant appliances, such as in-room PTAC units
- Double-paned, Low E or Thermapane windows
- Solar, geothermal, or other renewable energies for hot water or other major systems
- Ozone washing machines (no hot water)
- Use of the EnergySTAR™ Portfolio Manager tool to record energy usage, available through www.energystar.gov
- Seal air leaks in walls, ceilings, windows, doors, and floors
- Use of elastomeric cool roof coating
- Frequent filter changes for PTAC and other major appliances as per manufacturers recommendation
- Light dimmers in common areas

Water Conservation:

- Hotel offers all guests a towel and linen re-use program (both are encouraged) via approved in-room collateral and signage.
- Low-flow showerheads in guest bathrooms
- Low-flow toilets in guest bathrooms
• High efficiency laundry equipment
• Water-efficient landscaping around building exterior
• Use of a rain water collection system for exterior irrigation
• Use of flush-free appliance, like urinals, in appropriate locations

Recycling and Waste Reduction:
• In accordance with State or Local Recycling Laws, the hotel has a program with designated recycling receptacles for staff and guest use. Addressable areas include common space, corridors, vending areas, guestrooms, and back-office.
• Proper recycling efforts for bulk deliveries containers, including corrugated cardboard
• Storage of old and/or burned out fluorescent lamps, CFLs, and CRTs in a central accumulation area to send to proper consolidation or recycling facilities
• Donate leftover edible food to food pantries or other charitable organizations in local area
• On or off-site composting for leftover food and food products
• Use of recyclable materials for to-go food containers (non-Styrofoam)
• Waste cooking oils sent for reuse to an approved DEM facility
• Purchase and store supplies in bulk to reduce package waste
• Use of proper recycling and/or removal techniques for business machines, computers, printers, ink, and toner
• Use office paper products with 20% or more post consumer recycled content

Sustainable Product Usage:
• Use environmentally preferable cleaning products wherever possible, eliminating toxic chemicals which are hazardous to human and environmental health
• Use some locally farmed food
• Use some organically grown foods
• Use ionization process to clean pool or other water
• Use of vacuums and cleaning device filters that have been certified for air quality control
• Use of automated hand towel dispensers in appropriate locations
• Use of toilet and tissue paper made from 100% recycled materials.

Choice recognizes that obtaining LEED Certification is achieved through whole building systems analysis and understanding how the hotel will function as efficiently as possible. Therefore, while employing many of these strategies may assist us in achieving LEED certification, not all will prove to be practical. As such this list should not be considered a list of minimum requirements nor should it be considered exhaustive of our efforts in obtaining LEED Certification.

In closing, Choice recognizes the importance of employing environmentally friendly operation and maintenance programs on this project, and will consider all practical strategies.

Regards,

A. Rob Tessar, Jr., LEED AP
Director of Real Estate Development Services
Choice Hotels International
AGENDA DESCRIPTION:
Consideration and possible action regarding introduction and first reading of an Ordinance amending El Segundo Municipal Code § 1-4-4 to allow City Council meetings scheduled for the same date as any regular or special election as defined by Election Code § 318 to be held on election day. (Fiscal Impact: None)

RECOMMENDED COUNCIL ACTION:
1. Introduce and waive first reading of the Ordinance.
2. Schedule second reading and adoption of the Ordinance on October 20, 2009
3. Alternatively discuss and take other action related to this item

ATTACHED SUPPORTING DOCUMENTS:
Draft Ordinance

FISCAL IMPACT: None

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

ORIGINATED BY: Carl Jacobson, Council Member
REVIEWED BY:  
APPROVED BY: Jack Wayt, City Manager

BACKGROUND AND DISCUSSION:
In 2000 the City Council decided to pass Ordinance No. 1317 to change from the traditional Tuesday meeting date on election day to moving it to the next business day. This has caused Council Members to miss important committee assignments.

The City Clerk’s office has prepared a draft ordinance amending the Municipal Code to allow Council meetings scheduled for the same date as any election, where voters registered in El Segundo are eligible to vote, to be held on election day.

General municipal elections are held on the second Tuesday in April of even years and will not be affected by this amendment.
ORDINANCE NO.

AN ORDINANCE AMENDING EL SEGUNDO MUNICIPAL CODE
SECTION 1-4-4 RELATING TO CITY COUNCIL MEETINGS.

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

SECTION 1: El Segundo Municipal Code ("ESMC") § 1-4-4 B is amended to read as follows:

"1-4-4: MEETINGS:

B. Holidays: Should the date of a regular meeting fall upon a holiday when city hall offices are closed or on an election date for an election as defined by Elections Code § 318, and any successor statute for elections, where voters registered in El Segundo are eligible to vote, then the regular meeting will be scheduled for the next succeeding business day."

SECTION 2: 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 3: 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 4: This Ordinance will become effective thirty (30) days following its passage and adoption.

PASSED AND ADOPTED this____ day of ______________, 2009.

__________________________
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 ______, 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 ______, and the same was so passed and adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Cindy Mortesen, City Clerk

APPROVED AS TO FORM:

Mark D. Hensley, City Attorney

By: ____________________________

Karl H. Berger
Assistant City Attorney
AGENDA DESCRIPTION:
Consideration and possible action to direct staff to prepare necessary documents to return the Transient Occupancy Tax to the pre-1996 rate of 10% on the April 2010 ballot. (Fiscal Impact: Approximately $1,053,000)

RECOMMENDED COUNCIL ACTION:
1) Alternatively, discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
None

FISCAL IMPACT: Potential
Amount Budgeted: $4,450,000 FY 2009-2010 TOT Revenue Budget
Additional Appropriation: Yes $1,053,000

ACCOUNT NUMBER(S):

ORIGINATED BY: Deborah Cullen, Finance Director
REVIEWED BY: Eric Busch, Mayor Pro Tem
APPROVED BY: Jack Wayt, City Manager

BACKGROUND AND DISCUSSION:
Currently the Transient Occupancy Tax (TOT) rate for the City is 8%. This tax rate was decreased from 10% to 8% in April 1996 and has remained at 8% since that time.

A survey of 457 cities in California showed that the median TOT rate is 10% and the median rate for surrounding cities is 12%:
- 10% Hermosa Beach
- 10% Manhattan Beach
- 12% Redondo Beach
- 12% Hawthorne
- 14% Los Angeles (Westchester)

A 1% increase in the tax would increase TOT revenue by an estimated $525,000 over the FY 08/09 projected year-end revenues.