



# AGENDA

## EL SEGUNDO CITY COUNCIL

6:00 PM Regular Session

December 1, 2020

DUE TO THE COVID-19 EMERGENCY, THIS MEETING WILL BE CONDUCTED PURSUANT TO THE GOVERNOR'S EXECUTIVE ORDER N-29-20.

TELECONFERENCE VIA ZOOM MEETING

MEETING ID: 940 6407 5863

PIN: 772176

**PUBLIC ADVISORY:**  
**THE CITY COUNCIL CHAMBER WILL NOT BE OPEN TO THE PUBLIC**

### How Can Members of the Public Observe and Provide Public Comments?

- Residents can watch the meeting live via Spectrum Channel 3 and 22, AT&T U-Verse Channel 99 and/or El Segundo TV at YouTube.com.
- Access remotely via Zoom from a PC, Mac, iPad, iPhone or Android device or by phone. Use URL <https://zoom.us/j/94064075863> and enter PIN: 772176; or visit [www.zoom.com](http://www.zoom.com) on device of choice, click on "Join a Meeting" and enter meeting ID: 940-6407-5863 and PIN: 772176
- Join by phone at 1-669-900-9128 and enter meeting ID and PIN.  
**NOTE: Your phone number is captured by the Zoom software and is subject to the Public Records Act, dial \*67 BEFORE dialing in to remain anonymous.**
- Note that you will be placed in a "listen only" mode and your video feed will not be shared with the Council or public.
- For Public Communications and comments during Public Hearings, please notify the meeting host by raising your virtual hand (see hand icon at bottom of screen) and you will be invited to speak. **(If you do not wish for your name to appear on the screen, then use the drop-down menu and click on "rename" to rename yourself "anonymous")**
- Do not simultaneously use a microphone through Zoom and a cellphone/telephone, this combination results in audio problems.
- For electronic public comments on a specific agenda item, submit comments to the following e-mail address, with a limit of 150 words and accepted up until 30 minutes prior to the meeting: PUBLICCOMMUNICATIONS@elsegundo.org, **in the subject line please state the meeting date and item number.** Depending on the volume of communications, the emails will be read to Council during public communications
- For Public Hearings: written communications will be accepted both before the meeting and during the open period of the Public Hearing at PUBLICCOMMUNICATIONS@elsegundo.org.
- All written communication, documents, email addresses of attendees captured by Zoom software will be considered a public document subject to possible posting on the City's website and are subject to disclosure under the Public Records Act.

**Additional Information:**

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 state: Your name and residence and the organization you represent, if desired. Please respect the time limits.

**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, DECEMBER 1, 2020 - 6:00 P.M.  
REGULAR SESSION**

**CALL TO ORDER**

**INVOCATION** – Pastor Wes Harding, Bridge Church

**PLEDGE OF ALLEGIANCE** – Mayor Pro Tem Pimentel

**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.*

**CITY MANAGER FOLLOW-UP COMMENTS** – (Related to Public Communications)

**SPECIAL PRESENTATIONS:**

- a) COVID-19 Update and Council direction re latest information available re City residents, business and facilities

**PROCEDURAL MOTIONS**

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

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Recommendation – Approval.

**A. CONSENT CALENDAR**

1. Approve Regular City Council Meeting Minutes of November 17, 2020.
2. Approve warrant numbers 3033578 thru 303678 on Register No. 4a in the total amount of \$758,140.37 and wire transfers from 11/09/2020 through 11/15/2020 in the total amount of \$2,924,938.37.
3. Accept the El Segundo Police Department Firing Range Remodel as complete, authorize the City Clerk to file a Notice of Completion with the County Recorder's Office and authorize an increase in construction contingencies from \$24,500 to \$29,716.39, an increase of \$5,216.93. Project No. PW 19-26
4. Adopt an ordinance to amend Development Agreement No. DA 03-01 (8th Amendment) for the Plaza El Segundo and The Point development projects (located at the northeast corner of Pacific Coast Highway and Rosecrans Boulevard) to increase the allowed percentage of non-sales tax generating uses to 40 percent.

**B. PUBLIC HEARINGS**

**C. STAFF PRESENTATIONS**

**D. COMMITTEES, COMMISSIONS AND BOARDS PRESENTATIONS:**

**E. REPORTS – CITY CLERK**

5. Approve proposed 2021 City Council meeting calendar

**F. REPORTS – CITY TREASURER**

**G. REPORTS – COUNCIL MEMBERS**

6. Receive and file Ad Hoc Pension Committee Update Report and direct staff to begin process to issue Pension Obligation Bonds (POBs) at 95% of the CalPERS Unfunded Actuarial Liability (UAL) at time of issuance in order to maximize the present value savings to take advantage of historically low interest rates.

Council Member Giroux –

Council Member Nicol -

Council Member Pirsztuk -

Mayor Pro Tem Pimentel –

Mayor Boyles –

**H. REPORTS – CITY ATTORNEY**

**I. REPORTS/FOLLOW-UP – CITY MANAGER  
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)**

**MEMORIAL –**

**ADJOURNMENT**

POSTED:

DATE: 11/24/2020

BY: Tracy Weaver

TIME: 12pm

## **PLACE HOLDER**

### **SPECIAL PRESENTATIONS:**

- a) COVID-19 Update and Council direction re latest information available re City residents, business and facilities

MEETING OF THE EL SEGUNDO CITY COUNCIL  
TUESDAY, NOVEMBER 17, 2020 – 4:00 PM  
Closed Session  
**CANCELLED DUE TO LACK OF QUORUM**

REGULAR MEETING OF THE EL SEGUNDO CITY COUNCIL  
TUESDAY, NOVEMBER 3, 2020 - 6:00 P.M.  
***This meeting was conducted virtually via Zoom conferencing***

CALL TO ORDER - Virtually by Mayor Boyles at 6:00PM

INVOCATION – Pastor Rob McKenna, Bridge Church

PLEDGE OF ALLEGIANCE – Council Member Nicol

ROLL CALL

Mayor Boyles	-	Present via teleconferencing
Mayor Pro Tem Pimentel	-	Present via teleconferencing
Council Member Pirsztuk	-	Present via teleconferencing
Council Member Nicol	-	Present via teleconferencing
Council Member Giroux	-	Present via teleconferencing

PUBLIC COMMUNICATIONS – (Related to City Business Only – 5 minute limit per person, 30 minute limit total)  
None

CITY MANAGER FOLLOW-UP COMMENTS – (Related to Public Communications)  
None

SPECIAL PRESENTATIONS:

- a) Proclamation read by Council Member Giroux, proclaiming November 9, 2020 – December 18, 2020 as the Spark of Love Virtual Toy Drive. Chief Donovan accepted the Proclamation.
- b) Proclamation read by Mayor Boyles, proclaiming November 30, 2020 – December 6, 2020 as United Against Hate Week. Barbara Voss, Deputy City Manager, introduced Shad McFadden of the Diversity, Equity, and Inclusion (DEI) Committee and Mr. Mc Fadden accepted the Proclamation.
- c) COVID-19 update presentation given by Fire Chief Donovan

A. PROCEDURAL MOTIONS

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

MOTION by Council Member Pirsztuk, SECONDED by Council Member Nicol to read all ordinances and resolutions on the agenda by title only. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

**B. CONSENT CALENDAR**

1. Approve Regular City Council Meeting Minutes of November 3, 2020
2. Approve warrant numbers 3033404 – 3033509 and 9001689 - 9001689 on Register No. 3a in the total amount of \$448,412.33 and wire transfers from 10/26/20 through 11/01/20 in the total amount of \$20,764.45. Warrant numbers 3033510 – 3033577 and 9001690 – 9001729 on Register No. 3b in the total amount of \$280,898.68 and wire transfers from 11/02/20 through 11/08/20 in the total amount of \$589,964.76.
3. Authorize the City Manager to execute a Professional Services Agreement No. 5986 with CSG Consultants, Inc. for \$159,980 to provide Planning Consulting Services in relation to implementation of a SB 2 grant requirements.

[The project is exempt from environmental review pursuant to Title 14 (“CEQA Guidelines”) § 15061(b)(3) – the common-sense exemption as it can be seen with certainty that there will not be an impact, because the project involves community outreach activities and research regarding potential housing sites, activities which do not have any potential environmental impacts. Future actions relating to these ordinances relating to affordable housing will be subject to environmental review under the California Environmental Quality Act.]

4. Authorize the City Manager to execute a contract no. 5987 with Digital Networks Group, Inc. for \$438,109 to provide design and installation of an AV Equipment Upgrade for City Council Chamber and Conference Rooms, including \$15,000.00 for contingency.
5. Adopt an Ordinance No. 1620 (2<sup>nd</sup> reading) amending the El Segundo Municipal Code to reflect changes to the City’s internal organization, including revised names of certain departments and classifications.
6. Adopt Resolutions amending the City’s medical contribution for CalPERS medical coverage consistent with previously approved labor agreements for Medical Policy Year 2021 for Resolution No. 5234 Police Management Association (PMA), Resolution No. 5235 Police Officers’ Association (POA), Resolution No. 5236 Police Support Services Employee Association, Resolution No. 5237 Firefighters’ Association (FFA) and Resolution No. 5238 Supervisory and Professional Employee’s Association (SPEA).
7. Adopt a Resolution No. 5233 authorizing the City Manager to rescind the written notice of intent to withdraw membership from the Independent Cities Risk Management Authority (ICRMA).

**MOTION by Council Member Giroux, SECONDED by Council Member Pirsztuk, approving Consent Agenda items 1, 2, 3, 4, 5, 6, and 7. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0**



C. PUBLIC HEARINGS:

8. Conduct a Public Hearing, adopt a Resolution, waive first reading and introduce an Ordinance amending Development Agreement No. DA 03-01 (8th Amendment) amendment no. 5436A and conditions of approval for the Plaza El Segundo and The Point development project to increase the allowed percentage of non-sales tax generating uses to 40 percent.

[The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Title 14 California Code of Regulations § 15061(b)(3) – the common-sense exemption as it can be seen with certainty that there will not be an impact, because no substantial construction and no addition of building area is being proposed. The proposed change to the mix of uses will maintain the total daily and peak AM and PM traffic trips generated by the shopping center below the levels estimated previously; and no other impact areas should be affected; and CEQA Guidelines § 15305 – the Class 5 exemption for minor alterations in land use limitations as office and other non-retail uses are already allowed in the C-4 zone and the only change involves the ratio of office and other non-retail uses to retail uses.]

Mayor Boyles stated this was the time and place to conduct a Public Hearing regarding adopting a Resolution, waiving first reading and introducing an Ordinance amending Development Agreement No. DA 03-01 (8th Amendment) and conditions of approval for the Plaza El Segundo and The Point development project to increase the allowed percentage of non-sales tax generating uses to 40 percent.

City Clerk Weaver stated that proper notice had been given in a timely manner and that no written communication had been received in the City Clerk's office.

Sam Lee, Development Services Director introduced the item and Paul Samaras, Planning Manager gave a presentation and answered questions on the item.

Public Comments:

Applicant: Federal Realty - Stuart MacDonald – VP Regional Development and Jeff Kreshek – Sr. VP West Coast Leasing presented and answered Council questions.

MOTION by Council Member Nicol, SECONDED by Council Member Giroux to close the public hearing. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

Council Discussion

Mark Hensley, City Attorney, answered Council questions

Mark Hensley, City Attorney read by title only;

RESOLUTION NO. 5239

A RESOLUTION APPROVING ENVIRONMENTAL ASSESSMENT NO. EA 1279 AND AMENDMENTS TO THE CONDITIONS OF APPROVAL FOR THE PLAZA EL SEGUNDO DEVELOPMENT PROJECT

MOTION by Council Member Giroux, SECONDED by Council Member Nicol, adopting Resolution No. XXX. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

Mark Hensley, City Attorney read by title only;

ORDINANCE NO. 1621

AN ORDINANCE APPROVING DEVELOPMENT AGREEMENT NO. DA 20-01 (EIGHTH AMENDMENT TO DEVELOPMENT AGREEMENT NO. DA 03-01) AND AN AMENDMENT TO THE CONDITIONS OF APPROVAL FOR THE PLAZA EL SEGUNDO AND THE POINT DEVELOPMENT.

Council Member Nicol introduced the Ordinance

Second reading and possible adoption of the Ordinance is scheduled for the regular City Council meeting of December 1, 2020.

- D. STAFF PRESENTATIONS: None
- E. COMMITTEES, COMMISSIONS AND BOARDS PRESENTATIONS: None
- F. REPORTS – CITY CLERK – No Report
- G. REPORTS – CITY TREASURER – Not Present
- H. REPORTS – COUNCIL MEMBERS

Council Member Giroux – Attended the LAWA Advisory Committee meeting – stated construction of 2 new concourses with a net gate increase of 3-12, will begin late 2021 and run thru 2028. The goal is to increase potential passengers up to 128 million by 2045.

Council Member Nicol – No Report

Council Member Pirsztuk – Stated the Chamber of Commerce is working with Recreation and Parks and several service organizations to reimagine the Annual Holiday Parade. The potential parade is scheduled for December 20<sup>th</sup>. Floats will be stationary and residents can view the floats driving by in their cars.

Mayor Pro Tem Pimentel – The South Bay Fiber Ring went into effect today! This project, made possible by Metro Funding, is a subtle

infrastructure change that is considered a big deal, in that it will make a big difference to the Community. Thanked and reiterated Council Member Giroux's LAWA report and stated this a Council priority.

Mayor Boyles – Commented on the ongoing LAWA expansion project and mentioned the Fiber Ring and thanked the City of Inglewood, Mayor Butts, with his help in procuring the Metro Funds for the project. Mayor Boyles asked the City Manager to give an overview regarding the City's efforts to counter LAWA's attempt at expansion.

- I. REPORTS – CITY ATTORNEY – The City Attorney's office will prepare documents stating and analyzing the impact the expansion will have on our Community. Mentioned the modified orders regarding COVID-19 were received and explained how the orders will impact businesses and residents.
- J. REPORTS/FOLLOW-UP – CITY MANAGER – Commented on the City's continued efforts to counter LAWA's attempt at expansion. Mentioned residents can access information regarding the expansion on the City's website. Mentioned the City will explain the negative impact the expansion will have on the Community.

MEMORIAL – Today on November 17, 1935, El Segundo Motorcycle Officer Robert Grow lost his life in the line of duty.

ADJOURNMENT at - 7:34 PM

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Tracy Weaver, City Clerk

CITY OF EL SEGUNDO  
WARRANTS TOTALS BY FUND

3033576 - 3033678

DATE OF APPROVAL: AS OF 12/01/20

REGISTER # 4a

001	GENERAL FUND	386,963.66
104	TRAFFIC SAFETY FUND	-
109	STATE GAS TAX FUND	10.17
108	ASSOCIATED RECREATION ACTIVITIES FUND	-
109	ASSET FORFEITURE FUND	2,258.92
111	COMM. DEVEL. BLOCK GRANT	-
112	PROP "A" TRANSPORTATION	-
114	PROP "C" TRANSPORTATION	-
115	AIR QUALITY INVESTMENT PROGRAM	-
116	HOME SOUND INSTALLATION FUND	-
117	HYPERION MITIGATION FUND	-
118	TDA ARTICLE 3 - SB 821 BIKEWAY FUND	-
119	MTA GRANT	-
121	FEMA	-
120	C.O.P.S. FUND	-
122	L.A.W.A. FUND	-
123	PSAF PROPERTY TAX PUBLIC SAFETY	-
124	FEDERAL GRANTS	-
126	A/P CUPA Program Oversight Surcharge	109.45
130	AFFORDABLE HOUSING	-
131	COUNTY STORM WATER PROGRAM	-
202	ASSESSMENT DISTRICT #73	-
301	CAPITAL IMPROVEMENT FUND	256,594.50
302	INFRASTRUCTURE REPLACEMENT FUND	-
405	FACILITIES MAINTENANCE	-
501	WATER UTILITY FUND	1,739.96
502	WASTEWATER FUND	15,207.98
503	GOLF COURSE FUND	16,000.00
505	SOLID WASTE	21,052.50
601	EQUIPMENT REPLACEMENT	41,924.95
602	LIABILITY INSURANCE	30.40
603	WORKERS COMP. RESERVE/INSURANCE	15.46
701	RETIRED EMP. INSURANCE	-
702	EXPENDABLE TRUST FUND - DEVELOPER FEES	232.42
703	EXPENDABLE TRUST FUND - OTHER	16,000.00
708	OUTSIDE SERVICES TRUST	-

TOTAL WARRANTS

\$ 758,140.37 ✓

STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

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

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

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

CODES:

R = Computer generated checks for all non-emergency/urgency payments for materials, supplies and services in support of City Operations

For Ratification:

A = Payroll and Employee Benefit checks

B - F = Computer generated Early Release disbursements and/or adjustments approved by the City Manager. Such as: payments for utility services, petty cash and employee travel expense reimbursements, various refunds, contract employee services consistent with current contractual agreements, instances where prompt payment discounts can be obtained or late payment penalties can be avoided or when a situation arises that the City Manager approves.

H = <sup>9D</sup> Handwritten Early Release disbursements and/or adjustments approved by the City Manager.

FINANCE DIRECTOR

*Joseph [Signature]*

CITY MANAGER

*Barbara [Signature]*

DATE:

11-17-2020

DATE:

11/23/20

**CITY OF EL SEGUNDO  
 PAYMENTS BY WIRE TRANSFER  
 11/09/20 THROUGH 11/15/20**


<u>Date</u>	<u>Payee</u>		<u>Description</u>
11/9/2020	Cal Pers	10,916.55	EFT Retirement Safety-Fire-PEPRA New 25020
11/9/2020	Cal Pers	21,906.47	EFT Retirement Safety-Police-PEPRA New 25021
11/9/2020	Cal Pers	41,304.98	EFT Retirement Misc - PEPRA New 26013
11/9/2020	Cal Pers	49,217.60	EFT Retirement Misc - Classic 27
11/9/2020	Cal Pers	71,452.35	EFT Retirement Safety Police Classic - 1st Tier 28
11/9/2020	Cal Pers	56,013.72	EFT Retirement Safety Fire- Classic 30168
11/9/2020	Cal Pers	6,397.39	EFT Retirement Sfty Police Classic-2nd Tier 30169
11/10/2020	West Basin	1,986,602.05	H2O payment
11/10/2020	Cal Pers	555,014.81	EFT Health Insurance Payment
11/12/2020	Manufacturers & Traders	1,130.77	401(a) payment Vantagepoint
11/12/2020	Manufacturers & Traders	550.00	IRA payment Vantagepoint
11/13/2020	Manufacturers & Traders	65,521.46	457 payment Vantagepoint
11/02/20-11/08/20	Workers Comp Activity	19,153.62	SCRMA checks issued
11/02/20-11/08/20	Liability Trust - Claims	39,756.60	Claim checks issued
11/02/20-11/08/20	Retiree Health Insurance	0.00	Health Reimbursement checks issued
		<u>2,924,938.37</u>	

**DATE OF RATIFICATION: 11/13/20**

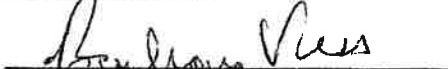
**TOTAL PAYMENTS BY WIRE:**

2,924,938.37

Certified as to the accuracy of the wire transfers by:

 11/13/2020  
 Deputy City Treasurer II Date

 11-17-2020  
 Director of Finance Date

 11/23/20  
 City Manager Date

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

**TITLE:**

El Segundo Police Department Firing Range Remodel Project

**RECOMMENDATION:**

1. Accept the El Segundo Police Department Firing Range Remodel Project No. PW 19-26 by Meggitt Training Systems, Inc. as complete.
2. Authorize the City Clerk to file a Notice of Completion with the County Recorder's Office.
3. Authorize an increase the construction contingencies by \$5,216.39 from \$24,500 to \$29,716.39.

**FISCAL IMPACT:**

The total construction cost was \$274,716.39.

<b>Project Cost Summary</b>	
<b>Description</b>	<b>Budget</b>
Police Development Impact Fee	\$ 245,000
General Fund	\$24,500
Additional project budget	
Police Department Upgrades	\$5,216.39
<b>Total Project Budget</b>	<b>\$ 274,716.39</b>
<b>Description</b>	<b>Expenditures</b>
Contract Amount	\$245,000
Previous approved contingency	\$24,500
Requested Contingency	\$5,216.39
<b>Total Project Costs</b>	<b>\$274,716.39</b>

Amount Budgeted: \$269,500

Additional Appropriation: No.

Account Number: \$203,088 from 301-400-8202-8226

\$24,500 from 301-400-8201-8209

\$47,128.39 from 301-400-8201-8708

**BACKGROUND:**

The El Segundo Police Department's (ESPD) firing range was in dire need of improvements. The acoustic sound-proof material had not been replaced in many years and was far beyond its usable service life. The previously installed foam sound-proofing material was missing in certain areas as it was deteriorated over time. Furthermore, the ESPD desired to replace the outdated and aged firing range targeting system. The previous targeting system continuously broke down and limited range shooting trainings by the ESPD. These firing range shooting activities are mandated by Department policy and every police officer on duty needs to complete these monthly shooting trainings throughout the year.

**DISCUSSION:**

On March 3, 2020, City Council awarded a standard Public Works Contract to Meggitt Training Systems, Inc. (Meggitt) in the amount of \$245,000 and approved an additional \$24,500 for construction related contingencies.

Construction began on August 24, 2020 and was completed by Meggitt on October 22, 2020. The inspection of the work was performed by Public Works and Development Services staff and it was determined that the project was completed in accordance with the plans and specifications and to the satisfaction of the City staff. Ceiling and fire sprinkler system modifications and electrical upgrades were added as necessary change orders for amount of 29,716.39. An additional \$5,216.39 is needed to augment the budget for these additional modifications and upgrades. However, no additional appropriation is needed because there is sufficient fund left in the Police Department Upgrades account #301-400-8201-8708 as the other ESPD upgrades were completed under budget.

Staff recommends that City Council approve the recommended actions as noted.

**CITY STRATEGIC PLAN COMPLIANCE:**

Goal 4: Develop Quality Infrastructure and Technology

Objective A: El Segundo's physical infrastructure supports an appealing, safe and effective City

Goal 3: Develop as a Choice Employer & Workforce

Objective: El Segundo is the city employer of choice and consistently hires for the future, with a workforce that is inspired, world-class, and engaged, demonstrating increasing stability and innovation.

PW 19-26: ESPD Firing Range Remodel Project  
December 1, 2020  
Page 3 of 3

**PREPARED BY:** Arianne Bola, Senior Associate Engineer

**REVIEWED BY:** Elias Sassoon, Public Works Director

**APPROVED BY:** Scott Mitnick, City Manager *BV (for SM)*

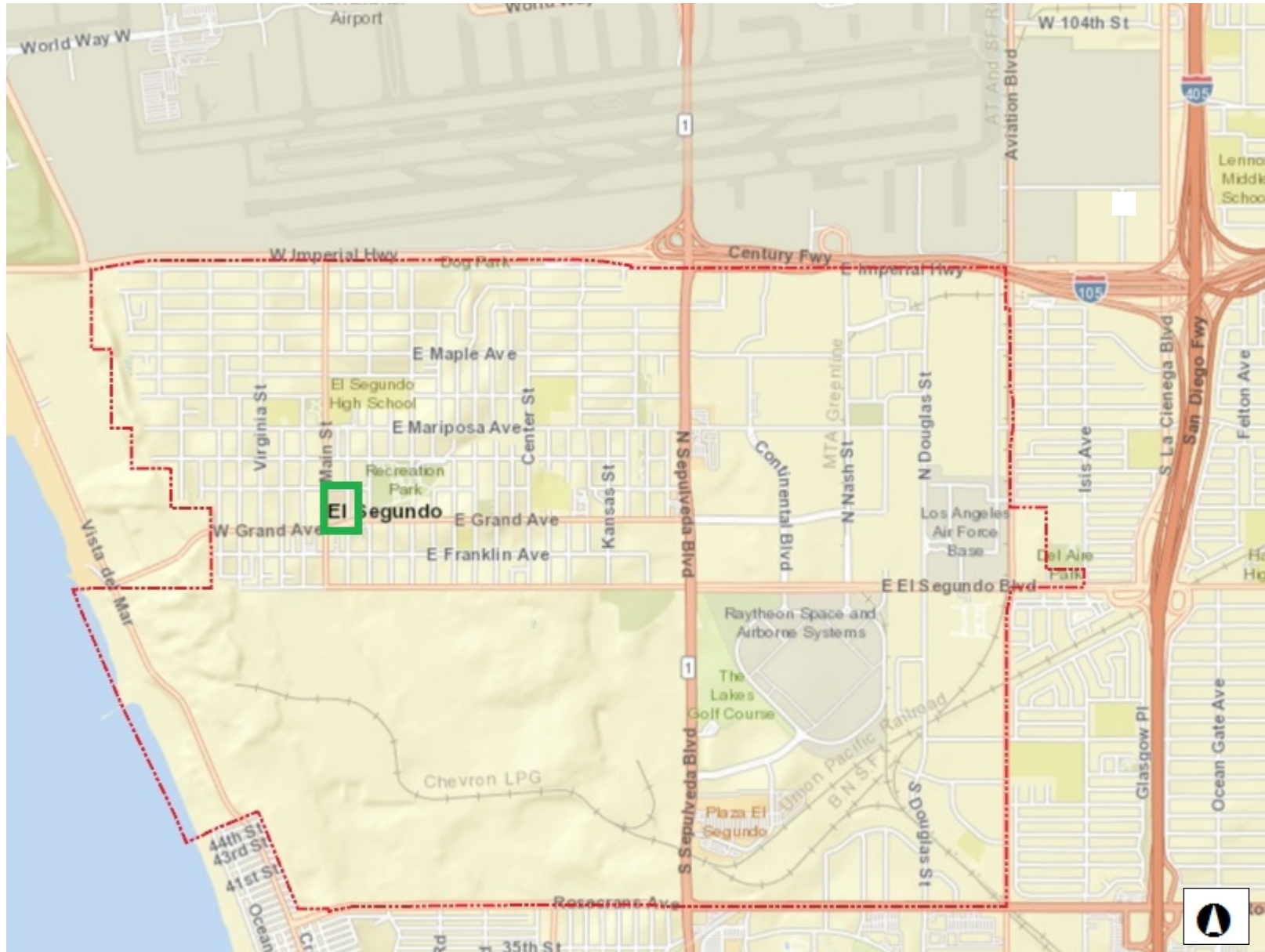
**ATTACHED SUPPORTING DOCUMENTS:**

1. Vicinity Map
2. Location Map
3. Notice of Completion
4. Before and After Pictures





# PW 19-26: El Segundo Police Department Firing Range Remodel Vicinity Map



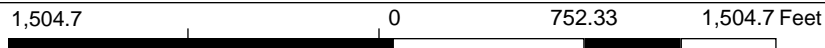
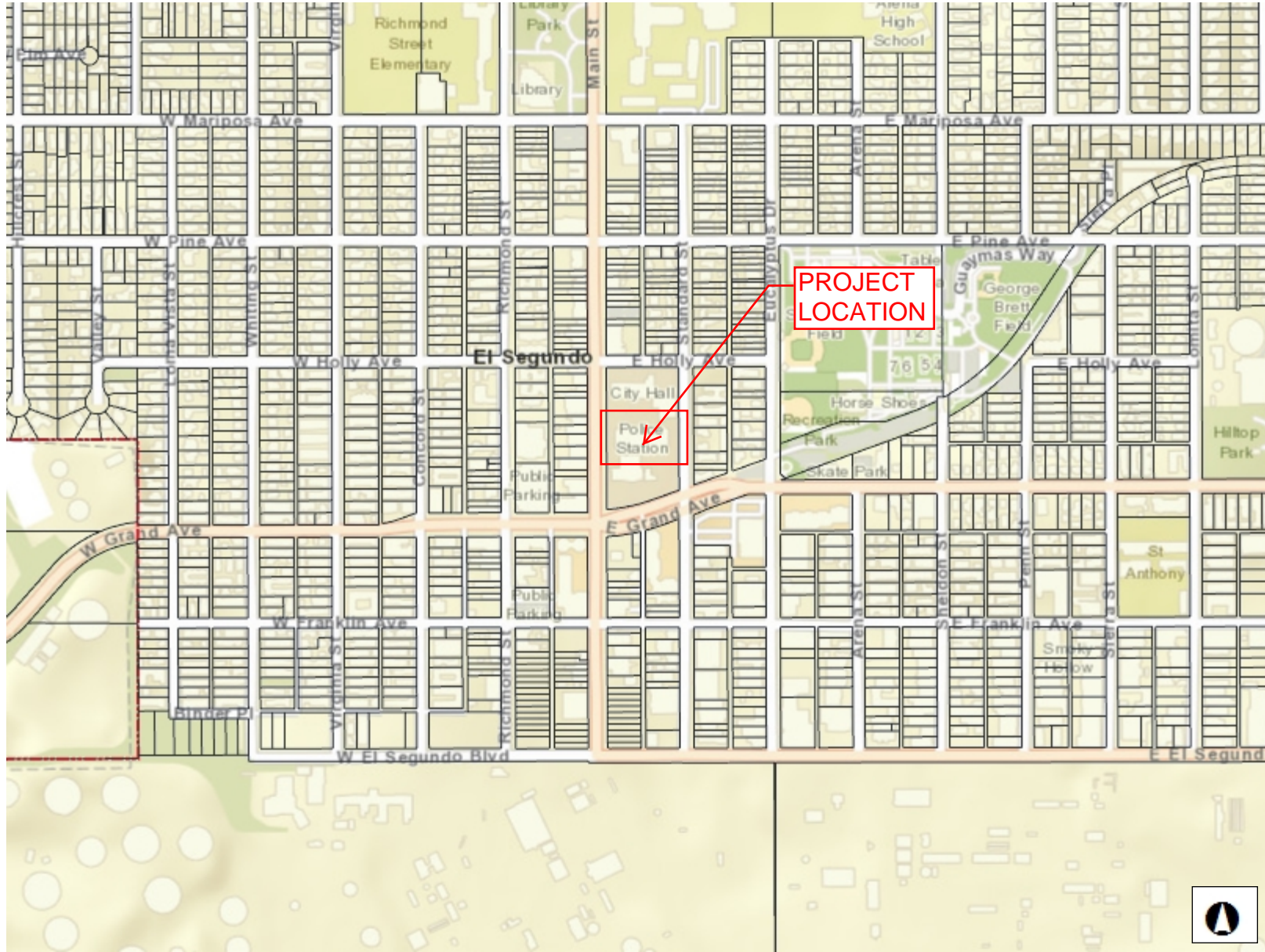
6,018.7 0 3,009.33 6,018.7 Feet

WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere

*DISCLAIMER: The information shown on this map was compiled from different GIS sources. The land base and facility information on this map is for display purposes only and should not be relied upon without independent verification as to its accuracy. The City of El Segundo will not be held responsible for any claims, losses or damages resulting from the use of this map.*



# PW 19-26: EL SEGUNDO POLICE DEPARTMENT FIRING RANGE REMODEL LOCATION MAP



WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere

DISCLAIMER: The information shown on this map was compiled from different GIS sources. The land base and facility information on this map is for display purposes only and should not be relied upon without independent verification as to its accuracy. The City of El Segundo will not be held responsible for any claims, losses or damages resulting from the use of this map.

**Recording Requested by  
and When Recorded Mail To:**

**City Clerk, City Hall  
350 Main Street  
El Segundo, CA 90245**

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**NOTICE OF COMPLETION OF CONSTRUCTION PROJECT**

Project Name: El Segundo Police Department Firing Range Remodel

Project No. : PW 19-26                      Contract No. 5903

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

1.        The undersigned is an officer of the owner of the interest stated below in the property hereinafter described.
2.        The full name of the owner is: City of El Segundo
3.        The full address of the owner is: City Hall, 350 Main Street, El Segundo, CA, 90245
4.        The nature of the interest of the owner is: Public Facilities
5.        A work of improvement on the property hereinafter described was field reviewed by the City Engineer on October 22, 2020. The work done was: firing range remodel
6.        On December 1, 2020, 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: Meggitt Training Systems, Inc.
8.        The property on which said work of improvement was completed is in the City of El Segundo, County of Los Angeles, State of California, and is described as follows: Police Department Firing Range Remodel
9.        The street address of said property is: 348 Main St. in El Segundo, CA 90245

Dated: \_\_\_\_\_

\_\_\_\_\_  
Elias Sassoon  
Public Works Director

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**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 \_\_\_\_\_, 2020 at El Segundo, California. 90245

\_\_\_\_\_  
Elias Sassoon  
Public Works Director

## El Segundo Police Department Firing Range Remodel Project

Before construction photos:



After construction photos:



**TITLE:**

Second reading of ordinance to amend Development Agreement No. DA 03-01 (8<sup>th</sup> Amendment) for the Plaza El Segundo and The Point development project to increase the allowed percentage of non-sales tax generating uses to 40 percent.

[Case numbers: Environmental Assessment No. EA-1279 and Development Agreement No. DA 20-01]

**RECOMMENDATION:**

1. Adopt an ordinance to amend Development Agreement No. DA 03-01 (8<sup>th</sup> Amendment) for the Plaza El Segundo and The Point development project to increase the allowed percentage of non-sales tax generating uses to 40 percent.

**FISCAL IMPACT:**

Potential for a reduction in sales tax generated from the subject property that may be somewhat offset by an increase in the Business license Tax generated. If building improvements are made to attract and accommodate nonretail tenants, this could have a positive impact on the assessed value of the property and result in an increase in the property tax received for the subject property.

**BACKGROUND:**

On November 17, 2020, the City Council introduced an Ordinance and waived the first reading to amend the Development Agreement for the Plaza El Segundo and The Point development project to increase the allowed percentage of non-sales tax generating uses to 40 percent.

If the Ordinance is adopted by the City Council at its December 1<sup>st</sup> meeting, the effective date of the Ordinance will be December 31, 2020, which is thirty (30) days from the adoption date.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE:**

The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Title 14 California Code of Regulations § 15061(b)(3) – the common sense exemption as it can be seen with certainty that there will not be an impact, because no substantial construction and no addition of building area is being proposed. The proposed change to the mix of uses will maintain the total daily and peak AM and PM traffic trips generated by the shopping center below the levels estimated

previously; and no other impact areas should be affected; and CEQA Guidelines § 15305 – the Class 5 exemption for minor alterations in land use limitations as office and other non-retail uses are already allowed in the C-4 zone and the only change involves the ratio of office and other non-retail uses to retail uses.

**CITY STRATEGIC PLAN COMPLIANCE:**

Goal 1: Champion Economic Development and Fiscal Sustainability

Objective A: El Segundo promotes economic growth and vitality for businesses and the community.

**PREPARED BY:** Paul Samaras, Principal Planner

**REVIEWED BY:** Sam Lee, Director of Development Services

**APPROVED BY:** Barbara Voss, Deputy City Manager



**ATTACHED SUPPORTING DOCUMENTS:**

1. Ordinance  
Exhibit A – Development Agreement
2. Staff Report Introducing the Ordinance on November 17, 2020

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE APPROVING DEVELOPMENT AGREEMENT NO DA 20-01 (EIGHTH AMENDMENT TO DEVELOPMENT AGREEMENT NO. DA 03-01) AND AN AMENDMENT TO THE CONDITIONS OF APPROVAL FOR THE PLAZA EL SEGUNDO AND THE POINT DEVELOPMENT.**

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

SECTION 1: The Council finds and declares as follows:

- A. On March 15, 2005, the City Council approved a development known as Plaza El Segundo. Approvals for that development were subsequently amended to allow for different types of uses including, among others, Health Clubs and Fitness Center (2007); Health/Skin Care and automobile sale uses (2008); fast food restaurants, banks, dance/music studios (2009); and medical and dental offices (2010);
- B. On September 3, 2013, the City Council further amended the approvals for the development to, among other amendments, increase the size of the previously approved shopping center floor area by 49,613 square feet;
- C. On October 3, 2017, the City further amended the permitted uses including among others, daycare centers, personal services, public assembly and recreational uses (2017);
- D. On March 9, 2020, Street Retail, Inc. filed applications for an Environmental Assessment and an amendment of the Development Agreement and Conditions of Approval for the Plaza El Segundo and The Point development project to increase the proportion of non-sales tax generating uses to 40 percent;
- E. The City reviewed the project's environmental impacts under the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, "CEQA"), the regulations promulgated thereunder (14 Cal. Code of Regulations §§15000, *et seq.*, the "CEQA Guidelines"), and the City's Environmental Guidelines (City Council Resolution No. 3805, adopted March 16, 1993);
- F. The Planning and Building Safety Department completed its review and scheduled a public hearing regarding the application before the Planning Commission for October 22, 2020;
- G. On October 22, 2020, the Planning Commission held a public hearing to receive public testimony and other evidence regarding the application including, without limitation, information provided to the Planning



Commission by city staff; and, adopted Resolution No. 2888 recommending that the City Council approve the proposed project;

- H. On November 17, 2020, the City Council held a public hearing and considered the information provided by City staff and public testimony regarding this Ordinance; and
- I. This Ordinance and its findings are made based upon the entire administrative record including, without limitation, testimony and evidence presented to the City Council at its November 17, 2020 hearing and the staff report submitted by the Planning and Building Safety Department.

SECTION 2: *Factual Findings and Conclusions.* The City Council finds that the proposed amendments would result in the following:

- A. Amend the development agreement and conditions of approval to increase the maximum percentage of project floor area dedicated to non-sales tax generating uses to 40 percent for both the Plaza El Segundo and The Point shopping centers;

SECTION 3: *General Plan Findings.* As required under Government Code Section 65860, the amendments proposed by the Ordinance are consistent with the El Segundo General Plan as follows:

- A. The proposed ordinance is consistent with Goal LU4 of the General Plan Land Use Element in that it will help maintain a high quality retail center in proximity to major employment centers and provide new office uses.
- B. The proposed ordinance is consistent with Goal ED1 of the General Plan Economic Development Element in that it will help diversify the City's employment and tax base by permitting a mix of retail, office and other uses.
- C. The proposed ordinance is consistent with Objective ED1-2 of the General Plan Economic Development Element in that would permit several new uses in the C-4 zone, which promotes the diversification of the City's retail and commercial base.

SECTION 4: *Development Agreement Findings.* In accordance with Government Code § 64867.5 and Resolution No. 3268, adopted June 26, 1984, the City Council finds as follows:

- A. The Development Agreement is consistent with the General Plan of El Segundo and there are no applicable Specific Plans. The Revised and Restated Development Agreement is an extension of that Development Agreement originally approved in March 2005 and therefore a continuation of the Development Agreement Findings set forth in Section 5 of Ordinance No. 1382 which findings are incorporated by reference. By expanding the

allowed uses, the Development Agreement continues to provide the following benefits:

1. Protection against the Plaza El Segundo development (both Phase 1A and Phase 1B) from becoming blighted due to a change in retail sales by allowing additional uses which will create a synergy;
  2. Provision of an attractive urban destination;
  3. Increasing and stabilizing the City's tax base by allowing new commercial development;
  4. Provision of long-term employment and increase the employment opportunities for the residents of the City of El Segundo;
  5. Add to the diversification of economic base in the City;
  6. Provision of significant fiscal benefit to the City through additional business licenses and sales tax revenues; and
  7. Provision of additional retail use and commercial services to the adjacent employment centers.
- B. The Development Agreement is compatible with the uses authorized in and regulations prescribed for the Commercial Center (C-4) zoning district.
- C. The Development Agreement is in conformity with the public convenience, general welfare and good land use practice as it provides expanded commercial opportunities in a synergistic manner with the existing Plaza El Segundo development and adjacent land uses but does not increase the overall allowed traffic.
- D. The Development Agreement will not adversely affect the orderly development of property or the preservation of property values as it does not expand development beyond the physical boundaries of Plaza El Segundo (Phase 1A and Phase 1B), which is already developed.

SECTION 5: Environmental Assessment. The project is categorically exempt from environmental review pursuant to California Code of Regulations, Title 14 ("CEQA guidelines") § 15061(b)(3) – the common sense exemption as it can be seen with certainty that there will not be an impact, because no substantial construction and no addition of building area is being proposed; the proposed change to the mix of uses will maintain the total daily and peak AM and PM traffic trips generated by the shopping center below the levels estimated previously; and no other impact areas should be affected; and CEQA Guidelines § 15305 – the Class 5 exemption for minor alterations in land use limitations as office and other non-retail uses are already allowed in the C-4 zone and the only

change involves the ratio of office and other non-retail uses to retail uses.

**SECTION 6:** Amendments to the Development Agreement and Conditions. Development Agreement No. 03-01, as previously amended, is hereby amended and attached as Exhibit "A". This revised Development Agreement and the conditions attached thereto supersede Development Agreement 03-01 and the seven amendments thereto as approved in Ordinance Nos. 1382 (Section 7B), 1406 (Section 3), 1417 (Section 5A), 1430 (Section 3), 1446 (Section 3), 1481 (Section 7), 1499 (Section 4) and 1556 (Section 13). The Conditions Attached to the Revised Development Agreement supersede those conditions that were previously approved by Ordinance Nos. 1382 (Section 7F), 1417 (Section 5E), 1481 (Section 8), and 1556 (Section 13) and Resolution Nos. 4415 (Section 5F), 4542 (Section 5C), 4838 (Section 8A), and 5053 (Section 8D).

**SECTION 7: CONSTRUCTION.** This Ordinance must be broadly construed in order to achieve the purposes stated in this Ordinance. It is the City Council's intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

**SECTION 8: ENFORCEABILITY.** Repeal of any provision of the ESMC 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 9: VALIDITY OF PREVIOUS CODE SECTIONS.** If this entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal or amendment of the ESMC or other city ordinance by this Ordinance will be rendered void and cause such previous ESMC provision or other the city ordinance to remain in full force and effect for all purposes.

**SECTION 10: 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 11:** 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 a summary thereof to be published or posted in accordance with California law.

SECTION 12: This Ordinance will go into effect and be in full force and effect on the thirty-first (31st) day after its passage and adoption.

PASSED AND ADOPTED this \_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Drew Boyles, Mayor

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Mark D. Hensley, City Attorney

ATTEST:

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

I, Tracy Weaver, City Clerk of the City of El Segundo, California, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Ordinance No. \_\_\_\_\_ was duly introduced by said City Council at a regular meeting held on the \_\_\_ day of \_\_\_\_\_ 2020, 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 \_\_\_\_\_, 2020, and the same was so passed and adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Tracy Weaver, City Clerk

**ORDINANCE NO. \_\_\_\_**

**EXHIBIT “A” – DEVELOPMENT AGREEMENT**

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:  
CITY CLERK  
CITY OF EL SEGUNDO  
350 Main Street  
El Segundo, California 90245

EXEMPT FROM RECORDER’S FEES  
Pursuant to Government Code § 6103

SECOND REVISED AND RESTATED  
DEVELOPMENT AGREEMENT  
BY AND BETWEEN  
THE CITY OF EL SEGUNDO,  
PES PARTNERS, LLC AND  
STREET RETAIL, INC.

(AREA A)

THIS AGREEMENT SHALL BE RECORDED WITHIN TEN DAYS OF EXECUTION BY  
ALL PARTIES HERETO PURSUANT TO THE REQUIREMENTS OF GOVERNMENT CODE  
§65868.5

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## REVISED AND RESTATED DEVELOPMENT AGREEMENT

This Second Revised and Restated Development Agreement (the “Agreement”) is made and entered into by and between the CITY OF EL SEGUNDO, a municipal corporation (referred to hereinafter as “City”), PES PARTNERS, LLC, a California limited liability company and STREET RETAIL, INC. (individually and collectively referred to hereinafter as “Developer”) as of this \_\_\_\_ day of \_\_\_\_\_, 2020. City and Developer are referred to hereinafter individually as “Party” and collectively as “Parties”. In consideration of the mutual covenants and agreements contained in this Agreement, City and Developer agree as follows:

1. Recitals. This Agreement is made with respect to the following facts and for the following purposes, each of which is acknowledged as true and correct by the Parties:

1.1 Pursuant to Government Code Section 65865 et seq., City is authorized to enter into a binding contractual agreement with any person having a legal or equitable interest in real property for the development of such property.

1.2 Developer is the owner of that Property which is more particularly described in **EXHIBIT A**, which is attached hereto and incorporated herein by this reference (the “Property” or “Area A”).

1.3 Developer and/or Developer’s Predecessors in Interest entered into a Development Agreement with the City in 2005 regarding the Property and six amendments thereto. On October 3, 2017, the City Council adopted Ordinance No. 1556, which in part approved a Revised and Restated Development Agreement. This Agreement was recorded with the Los Angeles County Recorder’s office on January 4, 2018 as Document No. 20180013448.

1.4 The City certified a Final Environmental Impact Report for Environmental Assessment No. 631 (SCH No. 2003121037) (the “EIR”), and approved the Mitigation Monitoring Plan for the EIR; General Plan Amendment No. 03-4, Zone Change No. 03-2, Zone Text Amendment No. 04-1, Subdivision No. 03-7 (Vesting Tentative Tract No. 061630), and the Original Development Agreement No. 03-1 (the foregoing are collectively referred to as the “Original Project”). Concurrently with the City’s approval of the Original Project, as part of General Plan Amendment No. 03-5, Zone Change 03-3, and Zone Text Amendment No. 04-1, the City redesignated and rezoned other property in the vicinity of the Property with a “Commercial Center (C-4)” land use and zoning designation (the “Other C-4 Property.”) This area is approximately 85.8 acres.

1.5 The City prepared Addendums for the Second and Fifth Amendments to the Development Agreement, and the Revised and Restated Development Agreement. It was determined that no other CEQA documentation was required for the First, Third, Fourth and Sixth Amendments to the Development Agreement.

1.6 The Development Agreement relates to the development of a total of 51.70 gross/46.60 net (after street dedication) acres. The Development is broken up into two Phases. Phase 1A is commonly known as Plaza El Segundo and is approximately 33.55 acres. Phase 1B is commonly known as The Point and is approximately 18.15 acres. The total square footage allowed prior to this Agreement was 498,442 gross square feet that includes large retail stores, specialty retail stores, sit-down restaurants and other uses (the “Project”). Phase 1A currently consists of approximately 379,495 square feet. Phase 1B currently consists of approximately 117,914 square feet.

1.7 In addition to allowing additional square footage to be developed, the Revised and Restated Development Agreement made other changes to help with the success of the shopping centers by allowing additional uses and eliminating specific square footage requirements of allowed uses to provide more flexibility in the mix of tenants allowed in the Property. The Revised and Restated Development Agreement also set percentage limits on the amount of Sales Tax Generating Uses and Non-Sales Tax Generating Uses in both Phases 1A and 1B.

1.8 Despite the added flexibility that was provided with the Revised and Restated Development Agreement, there still have been problems leasing out the spaces at The Collection in Phase 1A and high vacancy rates in both The Collection and The Works remain a problem. Further, the global pandemic has greatly changed the viability of brick and mortar retail businesses and the vacancy rates at The Point are also high. Vacancies in these areas will create a negative impact on the remaining businesses, which will lead to further vacancies and a further dwindling of sales tax.

1.9 The vehicle trip caps established by the original approvals will remain in place.

1.10 By this Agreement, each Party desires to obtain the binding agreement of the other Party to develop the Property in accordance with the Project Approvals, Applicable Rules and this Agreement. In consideration thereof, City agrees to limit the future exercise of certain of its governmental and proprietary powers to the extent specified in this Agreement. Developer agrees to waive its rights, if any, to challenge legally the limitations on density and use imposed upon development of the Property and other restrictions and obligations set forth in this Agreement and the Project Approvals.

1.11 City and Developer have acknowledged and agreed that the consideration that is to be exchanged pursuant to this Agreement is fair, just and reasonable and that this Agreement is consistent with the General Plan of City.

1.12 This Agreement is intended to provide flexible entitlements, within the parameters set forth herein and subject to the terms and conditions hereof, to meet the changing market demands that are likely to occur throughout the buildout of the Project.

1.13 The proposed Project uses are consistent with the City’s General Plan (the “General Plan”).

1.14 Development of the Project has, and will continue to, further the comprehensive planning objectives contained within the General Plan.

1.15 On October 22, 2020, the Planning Commission of the City commenced a duly noticed public hearing on this Agreement. At the conclusion of the hearing the Planning Commission recommended that the City Council approve this Second Revised and Restated Agreement pursuant to a Notice of Exemption.

1.16 On \_\_\_\_\_, 2020, the City Council of the City (“City Council”) commenced a duly noticed public hearing on this Agreement. In conjunction with approving this Agreement by Ordinance No. \_\_\_\_\_ (the “Enabling Ordinance”), the City Council determined that this Agreement was exempt from CEQA pursuant to the common sense exemption under CEQA Guidelines section 15061(b)(3) and the Class 5 Exemption under CEQA Guidelines section 15305 for minor alterations to land use limitations.

1.17 Section 15 of the Revised and Restated Development Agreement provides for amendment of the Development Agreement upon mutual consent of the parties and in accordance with the procedures established by the Development Agreement Act. The City Council found that this Revised and Restated Agreement has been adopted in conformance with the procedures of the Development Agreement Statute set forth in Government Code §§ 65865, et seq.

2. Property Subject to this Agreement. All of the Property shall be subject to this Agreement.

3. Binding Effect. The burdens of this Agreement are binding upon, and the benefits of the Agreement inure to the City and the Developer and each successive successor in interest thereto and constitute covenants that run with the Property. Any and all rights and obligations that are attributed to the Developer under this Agreement shall run with the land.

3.1 Constructive Notice and Acceptance. Every person who acquires any right, title or interest in or to any portion of the Property in which the Developer has a legal interest is, and shall be, conclusively deemed to have consented and agreed to be bound by this Agreement, whether or not any reference to this Agreement is contained in the instrument by which such person acquired such right, title or interest.

3.2 Rights to Assign. Developer may assign or transfer its rights and obligations under this Agreement with respect to the Property, or any portion thereof, to any person at any time during the term of this Agreement without approval of the City.

3.3 Liabilities Upon Transfer. Upon the delegation of the duties and obligations under this Agreement and the sale, transfer or assignment of all or any portion of the Property, Developer will be released from its obligations under this Agreement with respect to the Property, or portion thereof, so transferred arising subsequent to the effective date of such transfer, if (i) Developer has provided to the City prior or subsequent written notice of such transfer and (ii) the transferee has agreed in writing to be subject to all of the provisions hereof applicable to the portion of the Property so transferred by executing an Assignment and Assumption Agreement in the form of

**EXHIBIT B** attached hereto and incorporated herein by reference. Upon any transfer of any portion of the Property and the express assumption of Developer’s obligations under this Agreement by such transferee, the City agrees to look solely to the transferee for compliance by such transferee with the provisions of this Agreement as such provisions relate to the portion of the Property acquired by such transferee. Any such transferee shall be entitled to the benefits of this Agreement as “Developer” hereunder and shall be subject to the obligations of this Agreement applicable to the parcel(s) transferred. A default by any transferee shall only affect that portion of the Property owned by such transferee and shall not cancel or diminish in any way Developer’s rights hereunder with respect to any portion of the Property not owned by such transferee. The transferee shall be responsible for satisfying the good faith compliance requirements set forth in Section 9 below relating to the portion of the Property owned by such transferee, and any amendment to this Agreement between the City and a transferee shall only affect the portion of the Property owned by such transferee.

4. Development of the Property. The following provisions shall govern the subdivision, development and use of the Property. The limitations imposed within this Agreement are primarily intended to ensure that a majority of the Project remains retail in nature, while allowing additional uses that complement the retail tenant base in order to maintain a thriving Project with minimal vacancies.

4.1 Permitted Uses. The permitted and conditionally permitted uses of the Property are those set forth in the City’s Municipal Code for the Commercial Center (C-4) zone.

4.2 Limitations on Uses.

4.2.1 Sales Tax Generating. Each of the allowable uses in the C-4 Zone can be categorized as either “Sales Tax Generating” or “Non-Sales Tax Generating,” as defined herein. While the City recognizes that Non-Sales Tax Generating Uses are essential to maintaining a viable tenant mix, the City desires to maximize the overall percentage of Sales Tax Generating Uses on the Property. Accordingly, Developer, and its successors and assigns, agree that, at all times during the term of this Agreement, the uses on the Property will be maintained in accordance with the following proportions. For purposes of the calculation, the percentage is based on total gross leasable area.

<b>AREA</b>	<b>Sales Tax Generating Uses</b>	<b>Non-Sales Tax Generating Uses</b>
Phase 1A – Plaza El Segundo	60% minimum	40% maximum
Phase 1B – The Point	60% minimum	40% maximum

For purposes of this section, “Sales Tax Generating Uses” includes retail sales uses (including grocery stores), restaurants and cafes, bars, and micro-breweries. “Non-Sales Tax Generating Uses” includes financial institutions, day spas, fitness centers, farmers’ markets, offices of all types, personal services, recreational facilities, public assembly/assembly halls

(including theaters and museums), billiard establishments, and veterinary services. The City's Finance Director, in his/her discretion, will determine whether any use not specifically listed here should be classified as Sales Tax Generating or Non-Sales Tax Generating. The Finance Director's determination may be appealed to the City Council. Any such appeal must be made in writing and delivered to the City Clerk within ten calendar days of the Director's decision.

4.2.2 Food to Go Restaurant. "Food to go" restaurants (defined in Section 15-1-6 of the El Segundo Municipal Code) shall not be allowed anywhere on the Property as a permitted or conditionally permitted use.

4.2.3 Fast Food Restaurants. Unless such use is incidental to the primary business of an occupant of a building, "Fast food" restaurants are prohibited in Phase 1A within 150 feet of Sepulveda Boulevard and in Phase 1B within ninety (90) feet of Sepulveda Boulevard or Rosecrans Avenue. "Fast food" restaurant is defined as "A restaurant where customers purchase food and beverages and either consume the food and beverages on the premises within a short period of time or take the food and beverages off the premises. Typical characteristics of a fast food restaurant include, without limitation, the purchase of food and beverages at a walk-up window or counter, no table service by a server, payment for food and beverages prior to consumption, and the packaging of food and beverages in disposable containers. A restaurant is not considered a fast food or take-out restaurant solely on the basis of incidental or occasional take-out sales.

4.2.4 Automobile Sales. The indoor sale of automobiles and, as an accessory use to the sale of automobiles, the sale of automobile accessories and automobile parts shall be permitted in Phase 1B, provided such use does not exceed 5,000 square feet of leasable floor area and provided that automobile repair and maintenance uses shall not be permitted.

4.2.5 Farmer's Market. A certified Farmer's Market, at which farmers and other vendors sell produce, baked goods, dairy products and other food and retail goods directly to consumers, is permitted to operate in the parking lot of Phase 1. A musician may be present, with amplified sound. The market will typically operate one day per week and only between the hours of 8:00 a.m. and 3:00 p.m., with set-up between 7 a.m. and 8:00 a.m. and clean-up between 3 p.m. and 4 p.m. The Farmer's Market is not allowed to operate on the same day as the Farmer's Market that operates in Downtown El Segundo. A site plan that includes the location of the Farmer's market must be reviewed and approved to the satisfaction of the Director of Planning and Building Safety.

4.2.6 Parking. The total number of parking spaces provided on an individual parcel need not comply the El Segundo Municipal Code, provided that the total number of parking spaces within the entire Phase 1 Shopping Center conform to the El Segundo Municipal Code and provided that such parking spaces remain collectively available and accessible to all tenants of the Phase 1 Shopping Center and their customers, employees and invitees.

4.2.7 Monument Sign. For the 65 foot monument sign along the Allied Way street frontage for the area currently known as “The Edge,” copy relating to tenant identification shall be limited to that portion of the sign below 35 feet in height. All copy on the sign above 35 feet shall be restricted to identification of the shopping center itself.

4.3 Development Standards. All design and development standards that shall be applicable to the Property (“Development Standards”) are set forth in the El Segundo General Plan, the El Segundo Municipal Code, the Applicable Rules, the Project Approvals, and this Agreement. Additionally, the following restrictions apply:

4.3.1 Tenant/Owner Use Space. No single use within the Project shall exceed 125,000 square feet of gross floor area in size.

4.3.2 Limitations on Minimum Square Footage of Buildings and Space – Phase 1A Only. A maximum of 75,000 square feet of the allowable building area in the Phase 1A area can be developed and/or utilized for uses that occupy less than 4,000 square feet of building space each. With respect to such 75,000 square feet, a maximum of 8 building pads may be less than 4,000 square feet each. As used in this Agreement, the term “building pad” means the total ground floor area of any individual building constructed on the Property.

4.3.2.1 There is no limitation on the number of uses that may occupy less than 4,000 square feet in Phase 1B.

4.3.3 Transfer of Development Rights. The Developer shall have the right to transfer floor area between parcels that are created within Area A as a part of the Project Approvals so long as no parcel exceeds a floor area ratio of 0.6:1. Such transfers of floor area shall be recorded against the properties involved in the transfer of floor area in accordance with the requirements of the C-4 Zoning. The Planning and Building Safety Director or designee must review the application for transfer of floor area to ensure conformity with the requirements of this Section 4.3.3. This review shall not be subject to a public hearing process. Transfer of floor area from properties located outside of Area A to any parcel within Area A is strictly prohibited.

4.4 Building Standards. All construction on the Property shall adhere to the California Building Code, the California Electrical Code, the California Mechanical Code, the Uniform Sign Code, the Uniform Code for Abatement of Dangerous Buildings, and Uniform Administrative Code in effect at the time an application for a building permit is submitted and to any federal or state building requirements that are then in effect (collectively the “Building Codes”).

4.5 Fees, Exactions, Mitigation Measures, Conditions, Reservations and Dedications. All fees, exactions, mitigation measures, conditions, reservations and dedications of land for public purposes that are applicable to the Project or the Property are set forth in the Applicable Rules, the Project Approvals and this Agreement. Additionally, Developer shall pay all applicable fees that are in effect at the time that fees are required to be paid pursuant to Section 6.2 of this Agreement. This Section shall not be construed to limit the authority of City to charge normal and customary application, processing, and permit fees for land use approvals, building permits and other similar

permits, which fees are designed to reimburse City's actual expenses attributable to such application, processing and permitting and are in force and effect on a City-wide basis at such time as said approvals and permits are granted by City.

4.6 Use of Easements. Notwithstanding the provisions of the Applicable Rules, easements dedicated for vehicular and pedestrian use shall be permitted to include easements for underground drainage, water, sewer, gas, electricity, telephone, cable, environmental remediation and other utilities and facilities so long as they do not unreasonably interfere with pedestrian and/or vehicular use.

5. Vesting of Development Rights.

5.1 Applicable Rules. The Applicable Rules shall consist of the following:

5.1.1 The General Plan, as it exists on the Effective Date;

5.1.2 The City's Municipal Code, including the Zoning Code, as the Municipal Code exists on the Effective Date;

5.1.3 Such other laws, ordinances, rules, regulations, and official policies governing permitted uses of the Property, density, design, improvement, and construction standards and specifications applicable to the development of the Property in force at the time of the Effective Date, which are not in conflict with this Agreement.

5.2 Entitlement to Develop. The Developer is hereby granted the vested right to develop the Project on the Property subject to the Applicable Rules, the Project Approvals and any future approvals applied for by the Developer and granted by the City for the Project or the Property (the "Future Approvals").

5.3 Subsequent Enactments. Any change in the Applicable Rules, including, without limitation, any change in any applicable General Plan or specific plan, zoning, or subdivision regulation, adopted or becoming effective after the Effective Date, including, without limitation, any such change by means of an ordinance, initiative, resolution, policy, order or moratorium, initiated or instituted for any reason whatsoever and adopted by the /city Council, the Planning Commission or any other board, agency, commission or department of the City, or any officer or employee thereof, or by the electorate, as the case may be (collectively the "Subsequent Rules"), which would, absent this Agreement, otherwise be applicable to the Property, shall not be applied by the City to any part of the Property.

5.4 Future Approvals.

5.4.1 Minor Modifications to Project. Developer may make minor changes to the Project and Project Approvals ("Minor Modifications") without amending this Agreement upon the administrative approval of the City of El Segundo Director of Planning and Building Safety (the "City Planning and Building Safety Director") or designee, provided that such modifications



are consistent with the Development Standards, Applicable Rules and Project Approvals. The City shall not unreasonably withhold or delay approval of any Minor Modification. The City shall have the right to impose reasonable conditions in connection with Minor Modifications, provided, however, such conditions shall not (a) be inconsistent with the Applicable Rules, the Project Approvals or with the development of the Project as contemplated by this Agreement; (b) directly or indirectly, unreasonably hinder, delay, impede, obstruct, interfere with, or place unreasonably burdensome or restrictive measures or requirements upon development of the Project or the Property or any portion thereof; or (c) impose additional dedications, infrastructure or public improvement obligations, fees, or exactions in excess of those identified in the Applicable Rules, the Project Approvals, or this Agreement.

5.4.2 Modification of Project Approvals. It is contemplated by City and Developer that Developer may, from time to time, pursuant to Section 5.4.1 seek amendments to one or more of the Project Approvals. Any such amendments are contemplated by City and Developer as being within the scope of this Agreement as long as they are authorized pursuant to this Section 5.4.2 and shall, upon approval by City, continue to constitute the Project Approvals as referenced herein. The Parties agree that any such amendments shall not constitute an amendment to this Agreement nor require an amendment to this Agreement.

5.4.3 Modifications Requiring Amendment to this Agreement. Any proposed modification to the Project which results in any of the following shall not constitute a Minor Modification but rather shall constitute a Major Modification and shall instead require an amendment to this Agreement pursuant to Section 15 below:

- (a) Any decrease in the required building setbacks as set forth in the C-4 Zone;
- (b) Any increase in the total developable square footage of the entire Property in excess of the maximum FAR allowed under the C-4 Zone;
- (c) Any increase in height of buildings or structures on the Property above 65 feet;
- (d) Any decrease in the minimum required lot area as set forth in the C-4 Zone;
- (e) Any decrease in the minimum required lot frontage as set forth in the C-4 Zone;
- (f) Except as set forth in Section 4.3.3 above, any change to the requirements of the transfer of development rights as set forth in the C-4 Zone;
- (g) Any increase in the maximum number of A.M. and P.M. peak hour vehicle trips for the Project as specified in the conditions of approval and Mitigation Monitoring and Reporting Program (MMRP), unless a subsequent traffic report has been prepared to the

reasonable satisfaction of the City's Planning and Building Safety Director that identifies potential impacts and proposes feasible mitigation measures to mitigate such impacts and otherwise complies with CEQA;

(h) Any change in use to a use which is not permitted under this Agreement;

(i) Any deviation from the uses and development standards or limitations set forth in Sections 4.1, 4.2 and 4.3 of this Agreement, except to the extent such Sections specifically provide for the City Council to approve of alternative uses or square footage requirements; and

(j) Any material modification to Developer's obligation to dedicate the public roadways to the City as provided in the conditions of approval and the MMRP.

Other than the Major Modifications listed above, all other modifications to the Project shall be considered "Minor Modifications".

5.5 Plan Review. Plans for each building on the Property, including plans for signage, trash enclosures and screening and landscaping shall be reviewed and approved by the City Planning and Building Safety Director prior to issuance of a building permit; provided however, that, notwithstanding anything to the contrary contained in the Applicable Rules, the sole purpose of such review shall be to verify consistency with the Development Standards, Applicable Rules and Project Approvals. The City Planning and Building Safety Director shall approve all features which are consistent with the Development Standards, Applicable Rules or Project Approvals or are otherwise specifically approved by this Agreement and shall have no authority to disapprove or conditionally approve any features or matters which are consistent with or otherwise have been specifically approved by the Agreement.

5.6 Timing of Development. In Pardee Construction Co. v. City of Camarillo (Pardee), 37 Cal.3d 465 (1984), the California Supreme Court held that the failure of the parties therein to provide for the timing or rate of development resulted in a later-adopted initiative restricting the rate of development to prevail against the parties' agreement. City and Developer intend to avoid the result in Pardee by acknowledging and providing that Developer shall have the right, without obligation, to develop the Property in such order and at such rate and times as Developer deems appropriate within the exercise of its subjective business judgment subject to the terms of this Agreement.

In furtherance of the Parties' intent, as set forth in this Section, no future amendment of any existing City ordinance or resolution, or future adoption of any ordinance, resolution or other action, that purports to limit the rate or timing of development over time or alter the sequencing of development phases, whether adopted or imposed by the City Council or through the initiative or referendum process, shall apply to the Property. However, nothing in this Section shall be construed to limit City's right to enforce Developer's obligation pursuant to this Agreement to provide all infrastructure required by the project Approvals and this Agreement.

5.7 Term. This Agreement shall be in effect for a period of 20 years from the Effective Date of the Enabling Ordinance. However, Developer or City shall be entitled to, by written notice to the other Party prior to the Agreement's expiration, one (1) five (5)-year extension, provided that the requesting Party is not in material default of its obligations hereunder at such time.

5.8 Issuance of Building Permits. No building permit, final inspection or Certificate of Occupancy will be unreasonably withheld, conditioned, or delayed from the Developer if all infrastructure required to serve the portion of the Property covered by the building permit, final inspection or Certificate of Occupancy is in place or is suitably guaranteed to be completed (by covenant, bond, letter of credit or otherwise) to the reasonable satisfaction of the City prior to completion of construction and all of the other relevant provisions of the Project Approvals, Future approvals and this Agreement have been satisfied.

5.9 Satisfaction of Mitigation Measures and Conditions. In the event that any of the mitigation measures or conditions required of Developer hereunder have been implemented by others, Developer shall be conclusively deemed to have satisfied such mitigation measures or conditions, consistent with CEQA. If any such mitigation measures or conditions are rejected by a governmental agency with jurisdiction, the Developer may implement reasonably equivalent substitute mitigation, consistent with CEQA, to the City's satisfaction, in lieu of the rejected mitigation measures or conditions. Such substitution shall be deemed to be a Minor Modification pursuant to Section 5.4.1 above.

5.10 Moratorium. The City shall not impose a moratorium on the Property unless such is necessary to protect a significant threat to the health, safety and welfare of the City.

5.11 Performance of City Planning and Building Safety Director Duties. If the City determines at any time during the term of this Agreement that the duties to be performed by the City Planning and Building Safety Director under this Agreement will be performed by one or more staff members other than the Planning and Building Safety Director, the City shall endeavor to notify the Developer of such change. The City shall ensure that a person or persons are designated at all times to carry out the duties of the Planning and Building Safety Director set forth in this Agreement.

## 6. Developer Agreements.

6.1 General. The Developer shall comply with (i) this Agreement, (ii) the Project Approvals, including without limitation all mitigation measures required by the determination made pursuant to the California Environmental Quality Act, and (iii) all Future Approvals for which it is the applicant or a successor in interest to the applicant.

6.2 Development Fees. Subject to the provisions of Section 4.4 above, Developer shall pay the development fees in effect at such time that building permits are issued for the Project. The Developer shall be entitled to credits against the City's traffic mitigation fees to the extent off-site traffic improvements that are required by the Project Approvals are included in any subsequent

traffic fee mitigation program adopted by the City pursuant to Government Code Section 66000 et seq. Such credits shall be based upon the actual audited costs and shall only be granted to the extent such improvements are constructed in accordance with all applicable state and local laws. The Developer waives any and all rights it may have to challenge development fees that are currently applicable to development within the City and the City's right to amend its current development fees and/or impose additional development fees. However, the Developer retains the legal right to challenge the amount of any such amended or increased development fees to the extent such are not in compliance with the requirements of Government Code Section 66000 et seq. as well as its right to receive credits against such amended or increased fees.

6.3 Maintenance Obligations. The Developer shall maintain all portions of the Property in its possession or control, and any improvements thereon, in a first class clean, neat and orderly manner. The Parties' respective maintenance obligations shall survive any termination or expiration of this Agreement.

6.4 Term of Map(s) and Other Project Approvals. Pursuant to California Government Code Sections 66452.6(a) and 65863.9, the term of any subdivision or parcel map that has been or in the future may be processed on all or any portion of the Property and the term of each of the Project Approvals shall be extended for a period of time through the scheduled termination date of this Agreement as set forth in Section 5.7 above.

6.5 Sales and Use Tax.

(a) In the event the contract price for any work on the Project is valued at five million dollars (\$5,000,000,000) or more, Developer agrees to report, on a State Board of Equalization Tax Return, any purchases of tangible personal property made in connection with the finishing of and/or installation of materials, or fixtures for the Project, when such purchases were made without sales or use tax due. Developer shall indicate the City as a registered job site location on the State Board of Equalization Tax Return. In such event, Developer shall also obtain a permit or a sub-permit from the State board of Equalization indicating the City as the registered job site location, in accordance with State Board of Equalization Operations Memorandum No. 1023.

(b) Developer further agrees that if Developer retains contractors or subcontractors to perform a portion of work in the Project, and said contracts or subcontracts are valued at five million dollars (\$5,000,000) or more, said contracts or subcontracts shall contain the provisions set forth in Subsection (a) above.

(c) The Director of Finance of the City is authorized to relieve Developer, and Developer's contractors and subcontractors, from the requirements set forth in this Section 6.5 upon proof to the reasonable satisfaction of the Director of Finance that Developer and/or its contractors or subcontractors have made good faith efforts to obtain said permit or sub-permits, but were denied the same by the State Board of Equalization.

6.6 Future Construction Activities. Future development in the C-4 Zone will likely involve the construction of significant public infrastructure improvements (including, without limitation, public roadways and utilities). The Developer, owners and occupants of the Property

are hereby on notice that such construction activities may result in reduced access to the Property and other temporary physical and financial negative impacts to the Property and the uses thereon due to traffic re-routing, noise, dust, vibration and other normal and temporary construction related impacts. Developer and owners of the Property agree not to file any claims or legal or equitable actions against the City, or against other developers in the C-4 Zone, relating to, or arising from, temporary negative impacts associated with the construction of public improvements; nor shall Developer or the owners of the Property seek to enjoin the construction activities or seek damages based upon or arising out of alleged or actual temporary business interruption to or temporary business financial losses incurred by the Developer, owners or occupants of the Property. The Developer and owners of the Property agree to include a similar provision in all future leases, or future amendments to current leases and the City shall be listed as a third-party beneficiary to such provision. This provision shall survive the termination of this Agreement and shall remain in effect for a period of 30 years from the effective date of this Agreement.

6.7 Park Place Extension. The Second Amendment to the Original Development Agreement contained provisions which provided as follows:

6.7.1 Park Place Extension Requirement. Concurrently with the City's approval of the original Project Approvals, the City also redesignated and rezoned the Other C-4 Property with a "Commercial Center (C-4)" land use and zoning designation. In connection with the development of the Other C-4 Property, Developer has acknowledged that, as an integral part of being permitted to fully develop the Other C-4 Property, Park Place (a four-lane east-west street) will be required to be extended from its existing terminus at Nash Street to connect with Park Place in Area A (the "Park Place Extension"). To affirm Developer's commitment to develop Park Place as an integral part of the development of the Other C-4 Property if Developer or an affiliate acquires and develops substantially all of the Other C-4 Property, City has requested and Developer has agreed that as Developer, or any affiliate of Developer, acquires portions of the Other C-4 Property, to the extent such acquired portions of the Other C-4 Property include segments of the right-of-way for the Park Place Extension (the "Park Place Segments"), Developer or its affiliate shall cause the Park Place Segments to become the subject of an irrevocable offer of dedication to the City.

6.7.2 Park Place Extension Funding. In addition to agreeing to cause the Park Place Segments to become the subject of an irrevocable offer of dedication in accordance with the provisions of Recital 6.7.1 above, Developer has agreed, subject to the satisfaction of the "Park Place Extension Conditions Precedent" (as hereinafter defined) and certain other conditions (set forth in the remainder of this section 6.7 below), to fund up to Two Million Four Hundred Eighteen Thousand Dollars (\$2,418,000) (the "Park Place Extension Fund") to City in order to permit City to undertake the activities to extend Park Place which includes (a) that portion of the Park Place Extension (the "Honeywell Park Place Segment") that is currently owned by Honeywell International ("Honeywell"), (b) that portion of the Park Place Extension (the "Chevron Park Place Segment") that is currently owned by Chevron Corporation ("Chevron") and (c) that portion of the Park Place Extension (the "Union Pacific RR Park Place Segment") that is currently owned by the Union Pacific Railroad. The approximate locations of the Honeywell Park Place Segment, the Chevron Park Place Segment and the Union Pacific RR Park Place Segment are depicted on

**EXHIBIT C** attached hereto and incorporated herein by reference. In order to secure Developer's obligation to make the Park Place Extension Fund payment, Developer has agreed to cause Developer's affiliate, Rosecrans-Sepulveda Partners, 4, LLC's ("RSP 4") to execute the "RSP 4 Deed of Trust" (as hereafter defined) in favor of City covering approximately 8.76 acres of the Other C-4 Property currently owned by RSP 4 (the "RSP 4 Property"). In addition, in order to ensure that Developer complies with its Park Place Extension Fund obligation, Developer has agreed that a condition precedent to Developer's right to receive a Certificate of Occupancy for any building in the Other C-4 Property shall be RSP 4's execution of the RSP 4 Deed of Trust.

6.7.3 Irrevocable Offers to Dedicate. To the extent Developer, or any affiliate of Developer, acquires any portion of the Other C-4 Property and such acquired portion contains any portion of the designated right-of-way for Park Place, Developer shall execute, or cause its affiliate to execute, an irrevocable offer to dedicate such designated right-of-way portion of Park Place to the City. As used in this Section 6.7, the term "affiliate" shall mean an entity controlling, controlled by or under common control with the entity to which the term applies, whether by ownership, contract or voting control. In addition, the term "affiliate" shall mean any entity that was a member of RSP 2, which was a predecessor in interest to Developer ("Member"), which Members included Mar El Segundo, LLC, a Delaware limited liability company, CCA Sepulveda, LLC, a California limited liability corporation, Continental Rosecrans-Sepulveda, Inc., a California corporation, Daniel Romano, an individual, and any affiliate of any Member. The term "affiliate" shall also include, individually, Richard Lundquist, Allan Mackenzie, Robert Comstock and Daniel Crosser.

Notwithstanding the foregoing, no irrevocable offer to dedicate shall be accepted by City until (a) the alignment of the right-of-way for the Park Place Extension has been approved by the City Engineer and any other governmental agencies having jurisdiction over such right-of-way and (b) City has initiated such steps as may be required to acquire the right-of-way for those portions of the Park Place Extension, including, without limitation, those portions owned by existing railroads, pipeline easement holders, utilities and/or other third parties whose rights could impact or interfere with the construction and use of the Park Place Extension, that have not otherwise been offered for dedication to City (cumulatively, the "Park Place Extension Conditions Precedent").

6.7.4 Developer Funding. Developer's Funding of City's Acquisition of the Honeywell, Chevron and Union Pacific RR Park Place Segments; Security for Developer's Performance. Subject to the satisfaction of the Park Place Extension Conditions Precedent and to all applicable governmental permits and requirements (federal, state and/or local) including, without limitation, compliance with CEQA and laws relating to hazardous materials, having been obtained and/or satisfied with respect to the approval, design, remediation and construction of the Park Place Extension and a funding plan for the design and construction of the Park Place Extension having been approved by City (which funding plan may include Developer's payment of the Park Place Extension Fund in accordance with the provisions of this Section 6.7 and any other dedications and payments as Developer, or any Developer affiliate, may agree to in connection with the development of Area B), Developer agrees, upon the (a) commencement by City of acquisition of the right-of-way for the Honeywell Park Place Segment, the Chevron Park

Place Segment and/or the Union Pacific RR Park Place Segment, and (b) award of a construction contract to extend Park Place to pay, within thirty (30) days of Developer's receipt of a written request from City, to City that portion of the Park Place Extension Fund to the extent City requires all or any portion of such Fund in order to complete its acquisition of the Honeywell, Chevron and/or Union Pacific RR Park Place Segment(s). In order to secure the obligation of Developer to make the Park Place Extension Fund payment, Developer shall cause RSP 4 to execute and record a Deed of Trust secured by the RSP 4 Property, such Deed of Trust to be in a form mutually and reasonably agreed upon by City and RSP 4 (the "RSP 4 Deed of Trust") and shall only be subject to the encumbrances identified on **EXHIBIT D** attached hereto and incorporated herein by reference. Developer shall cause an ALTA title policy in the amount of \$2,418,000 to be issued to the City for the RSP 4 Deed of Trust. In order to ensure RSP 2's performance in accordance with the provisions of this Section 6.7.4, no Certificate of Occupancy shall be issued by City for any building in Phase 1B until RSP 4 has executed and recorded the RSP 4 Deed of Trust and the title policy has been issued to the City. In addition, Developer agrees to use reasonable business efforts to cause Honeywell, subject to the Park Place Conditions Precedent, to irrevocably offer to dedicate the Honeywell Park Place Segment to the City. RSP hereby acknowledges that the dedications and payments referenced in Section 6.7.3 and 6.7.4 of this Agreement may not represent the entire share of the costs that Developer or its affiliates may be ultimately required to pay towards the extension of Park Place.

6.7.5 Funding/Financing for the Design, Acquisition and Construction of the Park Place Extension. The Parties agree to continue to work together to identify and seek to secure funding and/or financing sources for the design, acquisition and construction of the Park Place Extension.

6.7.6 Use of Park Place Extension Funds for Construction of Park Place. To the extent the entire Park Place Extension Fund is not required to be used by City for the acquisition of the Honeywell, Chevron and/or Union Pacific RR Segments, any funds remaining shall be paid to City by Developer within thirty (30) days of Developer's receipt of a written request from City confirming the award of a construction contract to extend Park Place; provided, however, to the extent Developer, or any affiliate of Developer, from time to time, acquires all or any portion of the Honeywell, Chevron and/or Union Pacific RR Segments, the Park Place Extension Fund shall be reduced by an amount equal to \$30 multiplied by the total number of square feet in the Honeywell, Chevron and/or Union Pacific RR Segments acquired by Developer, or any affiliate of Developer, and irrevocably offered for dedication to the City in accordance with the provisions of Section 6.7.3 above.

6.7.7 City Acknowledgement of Transfer of Responsibilities and Recordation of RSP 4 Deed of Trust. City acknowledges that the requirements of this Section 6.7 relating to the RSP 4 Deed of Trust has been satisfied. The RSP 4 Deed of Trust was recorded as Instrument Number 20120003205 on January 3, 2012 in the County Recorder's Office of Los Angeles County. City further acknowledges that Developer and RSP4 recorded an Amended and Restated Restrictive Covenants and Grant of Easements Agreement whereby RSP 4 agreed to comply with all obligations regarding the Park Place Extension ("Revised Restrictive Covenant"). This document was recorded as February 2, 2012 as Instrument Number 20120190609 in the County

Recorder's Office of Los Angeles County. The City acknowledges that the obligations set forth in this Section 6.7 are of no further force and effect as it pertains to Developer. The sections are set forth above for purposes of providing a reference for the Revised Restrictive Covenant.

6.8 Third-Party Agreements Restricting Uses on Property. Developer warrants and represents that it has not and will not enter into any agreements with third-parties, or record any restrictions against the Property, which directly or indirectly limit the potential uses for the Property that are currently permitted pursuant to this Agreement or in the C-4 Zone in any respect, including but not limited to types and/or sizes of structures or businesses, types of uses, or the owners of any businesses allowed on the Property. The Developer may request that the City Council consent to any such restriction which consent may be withheld in the City Council's sole discretion. Without acknowledging that any of the uses identified in (5) and (7) below are permitted pursuant to this Agreement or the C-4 Zone, the provisions of this Section 6.11 shall not apply to, or affect or restrict the terms of: (1) any lease between the Developer and a bona fide tenant of the Property for purposes of restricting competition relating to the tenant's business; (2) any purchase and sale agreement between the Developer and a bona fide retail business/purchaser of one or more parcels of the property for purposes of restricting competition relating to the retailer's business; (3) any agreement or permit between the Developer and any federal, state or regional regulatory agency (not including the County of Los Angeles (except to the extent County permits may be required to drill any wells on the Property and/or to discharge into the sanitary sewer system) or cities), such as, but not limited to the Army Corps of Engineers, the Environmental Protection Agency, the Department of Fish and Wildlife, the Department of Toxic Substances Control, the Public Utilities Commission, the Regional Water Quality Control Board and the California Department of Fish and Game; (4) normal and customary covenants, conditions and restrictions for retail centers (commonly referred to as "CC&R's") so long as such do not restrict the uses that are currently permitted on the Property pursuant to this Agreement or the C-4 zone; (5) any restrictions on residential, health care, child care, schools, or other similar uses imposed by the current owner of the Property, Honeywell International Inc.; (6) any restrictions on using groundwater underneath the Property for human consumption, irrigation, or other purposes that might bring groundwater into contact with humans; or (7) restrictions prohibiting bowling alleys, arcades, skating rinks, billiard rooms, carnivals or circuses, the sale of used goods or materials, dance halls, bars (not including bars that are an ancillary use to another permitted use); funeral parlors, the sale of paraphernalia for use with illegal drugs, automobile services (including but not limited to service stations), automobile sales, liquidation sales (not including court ordered sales), veterinary services (except as ancillary use to a pet store), tattoo parlors and pawn shops.

## 7. City/Developer Agreements.

7.1 Expedited Processing. The City shall process, at Developer's expense, in an expedited manner all plan checking, excavation, grading, building, encroachment and street improvement permits, Certificates of Occupancy, utility connection authorizations, and other ministerial permits or approvals necessary, convenient or appropriate for the grading, excavation, construction, development, improvement, use and occupancy of the Project in accordance with the City's accelerated plan check process under the Applicable Rules. Without limiting the foregoing,



if requested by Developer, the City agrees to utilize private planners and plan checkers (upon Developer's request and at Developer's cost) and any other available means to expedite the processing of Project applications, including concurrent processing of such applications by various City departments.

7.2 Processing Cooperation and Assistance. To the extent permitted by law, the City shall reasonably cooperate with the Developer in securing any and all entitlements, authorizations, permits or approvals which may be required by any other governmental or quasi-governmental entity in connection with the development of the Project or the Property. Without limiting the foregoing, the City shall reasonably cooperate with the Developer in any dealings with federal, state and other local governmental and quasi-governmental entities concerning issues affecting the Property. The City shall endeavor to keep the Developer fully informed with respect to its communications with such agencies which could impact the development of the Property.

7.3 Processing During Third Party Litigation. The filing of any third party lawsuit(s) against the City or the Developer relating to this Agreement, the Project Approvals, any Future Approvals or to other development issues affecting any portion of the Property or the Project shall not hinder, delay or stop the development, processing or construction of the Project, approval of the Future approvals, or issuance of ministerial permits or approvals, unless the third party obtains a court order restraining the activity.

8. Modification/Suspension. Pursuant to Government Code Section 65869.5, in the event that any state or federal law or regulation, enacted after the Effective Date (as defined in Section 18), precludes compliance with any provision of this Agreement, such provision shall be deemed modified or suspended to the extent practicable to comply with such state or federal law or regulation, as reasonably determined necessary by City. Upon repeal of said law or regulation or the occurrence of any other event removing the effect thereof upon the Agreement, the provisions hereof shall be restored to their full original effect.

9. Demonstration of Good Faith Compliance.

9.1 Review of Compliance. In accordance with Government Code Section 65865.1, this Section 9 and the Applicable Rules, once each year, on or before each anniversary of the Effective Date ("Periodic Review"), the City Planning and Building Safety Director shall review the extent of the Developer's good faith substantial compliance with the terms and provisions of this Agreement as well as the performance by the City of its obligations under this Agreement.

9.2 Good Faith Compliance. During each Periodic Review, the Developer shall demonstrate by written status report that, during the preceding twelve (12) month period, that it has been in good faith compliance with this Agreement. For purposes of this Agreement, the phrase "good faith compliance" shall mean that the Developer has demonstrated that it has acted in a commercially reasonable manner (taking into account the circumstances which then exist) and in good faith in and has substantially complied with the Developer's material obligations under this Agreement.

9.3 Information to be Provided to Developer. The City shall deliver to the Developer a copy of all staff reports prepared in connection with a Periodic Review, any prior staff reports generated during the review period, written comments from the public and, to the extent practical, all related exhibits concerning such Periodic Review, but in no event later than six (6) business days prior to the City Planning and Building Safety Director's submittal of a report setting forth his or her determination as to the results of the Periodic Review. Subject to the provisions of Section 14.1 below, upon the Developer's request, the Developer shall be given a full and adequate opportunity to be heard orally and in writing regarding its performance and, at its option, the city's performance under the Agreement prior to the completion of the City Planning and Building Safety Director's Periodic Review.

9.4 Notice Of Non-Compliance; Cure Rights. Subject to the provisions of Section 14.1 below, if at the completion of any Periodic Review, the City Planning and Building Safety Director reasonably concludes on the basis of substantial evidence that as to any parcel or parcels comprising the Property (i) the Developer has not demonstrated that it is in good faith compliance with this Agreement, and (ii) that the Developer is out of compliance with a specific substantive term or provision of this Agreement, then the City Planning and Building Safety Director may issue and deliver to the Developer a written Notice of Violations set forth in Section 11.1 below.

9.5 Determination of Developer's Compliance. If the City Planning and Building Safety Director determines that the Developer has demonstrated that it is in good faith compliance with this Agreement, the City Planning and Building Safety Director's determination shall be deemed final and non-appealable. If the Developer appeals to the Planning Commission a determination by the City Planning and Building Safety Director that the Developer is not in compliance with this Agreement and the Planning Commission determines that the Developer has demonstrated that it is in good faith compliance with this Agreement, the Planning Commission's determination shall be deemed final and non-appealable. If the Developer appeals to the City Council a determination by the Planning Commission that the Developer is not in compliance with this Agreement and the City Council determines that the Developer has demonstrated that it is in good faith compliance with this Agreement, the City Council's determination shall be deemed final and non-appealable.

9.6 Failure of Periodic Review. The City's failure to review, at least annually, compliance by the Developer with the terms and conditions of this Agreement shall not constitute or be asserted by any Party as a breach by any other Party of this Agreement.

10. Excusable Delays. Performance by any Party of its obligations hereunder shall be excused during any period of "Excusable Delay," as hereinafter defined, provided that the Party claiming the delay gives notice of the delay to the other Party as soon as reasonably possible after the same has been ascertained. For purposes hereof, Excusable Delay shall mean delay that directly affects, and is beyond the reasonable control of, the party claiming the delay, including without limitation: (1) act of God; (b) civil commotion; (c) riot; (d) strike, picketing or other labor dispute; (e) shortage of materials or supplies; (f) damage to work in progress by reason of fire, flood, earthquake or other casualty; (g) reasonably unforeseeable delay caused by a reasonably unforeseeable restriction imposed or managed by a governmental entity other than City; (h)

litigation brought by a third party attacking the validity of this Agreement, a Project Approval, a Future Approval or any other action necessary for development of the Property, (i) delays caused by any default by City or the Developer hereunder, or (j) delays due to the presence or remediation of hazardous materials. The term of this Agreement shall be extended by any period of Excusable Delay.

11. Default Provisions.

11.1 Default. Either Party to this Agreement shall be deemed to have breached this Agreement if it materially breaches any of the provisions of this Agreement and the same is not cured within the time set forth in a written notice of violation (the "Notice of Violation") from the non-breaching Party to the breaching Party, which period of time shall not be less than ten (10) days for monetary defaults, and not less than sixty (60) days for non-monetary defaults from the date that the notice is deemed received, provided if the breaching Party cannot reasonably cure a non-monetary default within the time set forth in the notice, then the breaching Party shall not be in default if it commences to cure the default within such time limit and diligently effects such cure thereafter. If the City determines that a default may have occurred, the City shall give written notice to the Developer of its intention to terminate this Agreement and comply with the notice and public hearing requirements of Government Code Sections 65867 and 65868. At the time and place set for the hearing on termination, the Developer shall be given an opportunity to be heard. If the City Council finds based upon the evidence that the Developer is in breach of this Agreement, the City Council may modify or terminate this Agreement.

11.2 Content of Notice of Violation. Every Notice of Violation shall state with specificity that it is given pursuant to this Section of the Agreement, the nature of the alleged breach, (including references to the pertinent provisions of this Agreement), the portion of the Property involved, and the manner in which the breach may be satisfactorily cured. The notice shall be deemed given in accordance with Section 19 hereof.

11.3 Remedies for Breach. The Parties agree that the remedies for breach of this Agreement shall be limited to the remedies expressly set forth in this section. Developer's remedies for any breach of this Agreement by City shall be limited to injunctive relief and/or specific performance.

12. Mortgagee Protection. This Agreement shall not prevent or limit the Developer, in any manner, at Developer's sole discretion, from encumbering the Property or any portion thereof or any improvements thereon by any mortgage, deed of trust or other security device. The City acknowledges that the lender(s) providing such financing ("Mortgagee") may require certain Agreement interpretations and agrees, upon request, from time to time, to meet with the Developer and representatives of such lender(s) to provide within a reasonable time period the City's response to such requested interpretations. The City will not unreasonably withhold its consent to any such requested interpretation, provided that such interpretation is consistent with the intent and purposes of this Agreement. Any Mortgagee of a mortgage or a beneficiary of a deed of trust or any successor or assign thereof, including without limitation the purchaser at a judicial or non-judicial foreclosure sale or a person or entity who obtains title by deed-in-lieu of foreclosure on the

Property shall be entitled to the following rights and privileges:

12.1 Mortgage Not Rendered Invalid. Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish, or impair the priority of the lien of any mortgage or deed of trust on the Property made in good faith and for value. No Mortgagee shall have an obligation or duty under this Agreement to perform the Developer's obligations, or to guarantee such performance, prior to taking title to all or a portion of the Property.

12.2 Request for Notice to Mortgagee. The Mortgagee of any mortgage or deed of trust encumbering the Property, or any part thereof, who has submitted a request in writing to the City in the manner specified herein for giving notices, shall be entitled to receive a copy of any Notice of Violation delivered to the Developer.

12.3 Mortgagee's Time to Cure. The city shall provide a copy of any Notice of Violation to the Mortgagee within ten (10) days of sending the Notice of Violation to the Developer. The Mortgagee shall have the right, but not the obligation, to cure the default for period of thirty (30) days after receipt of such Notice of Violation. Notwithstanding the foregoing, if such default shall be a default which can only be remedied by such Mortgagee obtaining possession of a Property, or any portion thereof, and such Mortgagee seeks to obtain possession, such Mortgagee shall have until thirty (30) days after the date of obtaining such possession to cure or, if such default cannot reasonably be cured within such period, to commence to cure such default, provided that such default is cured no later than one (1) year after Mortgagee obtains such possession.

12.4 Cure Rights. Any Mortgagee who takes title to all of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or a deed in lieu of foreclosure, shall succeed to the rights and obligations of the Developer under this Agreement as to the Property or portion thereof so acquired; provided, however, in no event shall such Mortgagee be liable for any defaults or monetary obligations of the Developer arising prior to acquisition of title to the Property by such Mortgagee, except that any such Mortgagee shall not be entitled to a building permit or occupancy certificate until all delinquent and current fees and other monetary or non-monetary obligations due under this Agreement for the Property, or portion thereof acquired by such Mortgagee, have been satisfied.

12.5 Bankruptcy. If any Mortgagee is prohibited from commencing or prosecuting foreclosure or other appropriate proceedings in the nature of foreclosure by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceedings involving the Developer, the times specified in Section 12.3 above shall be extended for the period of the prohibition, except that any such extension shall not extend the term of this Agreement.

12.6 Disaffirmation. If this Agreement is terminated as to any portion of the Property by reason of (i) any default or (ii) as a result of a bankruptcy proceeding, this Agreement is disaffirmed by a receiver, liquidator, or trustee for the Developer or its property, the City, if requested by any Mortgagee, shall negotiate in good faith with such Mortgagee for a new

development agreement for the Project as to such portion of the Property with the most senior Mortgagee requesting such new agreement. This Agreement does not require any Mortgagee or the City to enter into a new development agreement pursuant to this Section.

13. Estoppel Certificate. At any time and from time to time, the Developer may deliver written notice to City and City may deliver written notice to the Developer requesting that such Party certify in writing that, to the knowledge of the certifying Party (i) this Agreement is in full force and effect and a binding obligation of the Parties, (ii) this Agreement has not been amended, or if amended, the identity of each amendment, and (iii) the requesting Party is not in breach of this Agreement, or if in breach, a description of each such breach. The Party receiving such a request shall execute and return the certificate within thirty (30) days following receipt of the notice. The failure of the City to deliver such a written notice within such time shall constitute a conclusive presumption against the City that, except as may be represented by the Developer, this Agreement is in full force and effect without modification, and that there are no uncured defaults in the performance of the Developer. The City Planning and Building Safety Director shall be authorized to execute, on behalf of the City, any Estoppel Certificate requested by the Developer. City acknowledges that a certificate may be relied upon by successors in interest to the Developer who requested the certificate and by holders of record of deeds of trust on the portion of the Property in which that Developer has a legal interest.

14. Administration of Agreement.

14.1 Appeal of Staff Determinations. Any decision by City staff concerning the interpretation or administration of this Agreement of development of the Property in accordance herewith may be appealed by the Developer to the Planning Commission, and thereafter, if necessary, to the City Council pursuant to the El Segundo Municipal Code. The Developer shall not seek judicial review of any staff decision without first having exhausted its remedies pursuant to this Section. Final determinations by the City Council are subject to judicial review subject to the restrictions and limitations of California law.

14.2 Operating Memoranda. The provisions of this Agreement require a close degree of cooperation between City and Developer. During the Term of this Agreement, clarifications to this Agreement and the Applicable Rules may be appropriate with respect to the details of performance of City and Developer. If and when, from time to time, during the term of this Agreement, City and Developer agree that such clarifications are necessary or appropriate, they shall effectuate such clarification through operating memoranda approved in writing by City and Developer, which, after execution, shall be attached hereto and become part of this Agreement and the same may be further clarified from time to time as necessary with future written approval by City and the Developer. Operating Memoranda are not intended to and shall not constitute an amendment to this Agreement but are mere ministerial clarifications, therefore public notices and hearings shall not be required. The City Attorney shall be authorized, upon consultation with, and approval of, the Developer, to determine whether a requested clarification may be effectuated pursuant to this Section or whether the requested clarification is of such character to constitute an amendment hereof which requires compliance with the provisions of Section 15 below. The authority to enter into such operating memoranda is hereby delegated to the City Planning and

Building Safety Director, and the City Planning and Building Safety Director is hereby authorized to execute any operating memoranda hereunder without further City Council action.

14.3 Certificate of Performance. Upon the completion of the Project, or the completion of development of any parcel within the Project, or upon completion of performance of this Agreement or its earlier revocation and termination, the City shall provide the Developer, upon the Developer's request, with a statement ("Certificate of Performance") evidencing said completion or revocation and the release of the Developer from further obligations hereunder, except for any ongoing obligations hereunder. The Certificate of Performance shall be signed by the appropriate agents of the Developer and the City and shall be recorded in the official records of Los Angeles County, California. Such Certificate of Performance is not a notice of completion as referred to in California Civil Code Section 3093.

15. Amendment or Termination by Mutual Consent. Except as otherwise set forth herein, this Agreement may only be amended or terminated, in whole or in part, by mutual consent of City and the Developer, and upon compliance with the provisions of Government Code Section 65867.

16. Indemnification/Defense.

16.1 Indemnification. The Developer shall indemnify, defend with counsel reasonably acceptable to the City, and hold harmless the City and its officers, employees and agents from and against any and all losses, liabilities, fines, penalties, costs, claims, demands, damages, injuries or judgments arising out of, or resulting in any way from, the Developer's performance pursuant to this Agreement except to the extent such is a result of the City's negligence or intentional misconduct.

Developer shall indemnify, defend with counsel reasonably acceptable to the City, and hold harmless the City and its officers, employees and agents from and against any action or proceeding to attack, review, set aside, void or annul this Agreement or the Project Approvals or any provisions thereof, including without limitation the CEQA determination and rezoning relating to the Other C-4 Property which is not otherwise the subject of this Agreement.

16.2 Defense of Agreement. If the City accepts Developer's indemnification and defense as provided in Section 16.1 above, the City agrees to and shall timely take all actions which are necessary or required to uphold the validity and enforceability of this Agreement and the Applicable Rules. This Section 16 shall survive the termination of this Agreement.

17. Time of Essence. Time is of the essence for each provision of this Agreement of which time is an element.

18. Effective Date. This Agreement shall become operative on the date the Enabling Ordinance approving this Revised and Restated Development Agreement becomes effective (the "Effective Date") pursuant to Government Code Section 36937.

19. Notices. Any notice shall be in writing and given by delivering the same in person or by

sending the same by registered or certified mail, return receipt requested, with postage prepaid, by overnight delivery, or by facsimile to the respective mailing addresses, as follows:

- If to City: City of El Segundo  
350 Main Street  
El Segundo, CA 90245  
Attention: City Clerk
- With a Copy to: Hensley Law Group  
3655 Torrance Boulevard, Suite 300  
Torrance, California 90503  
Attention: Mark D. Hensley, Esq.
- If to Developer: Street Retail Inc.  
Debbie Colson  
Senior Vice President, Legal Operations  
1626 E. Jefferson Street  
Rockville, MD 20852-404
- With a Copy to: Jeffrey S. Berkes  
Vice President  
Federal Realty Investment Trust  
356 Santana Row, Suite 1005  
San Jose, CA 95128
- With a Copy to: Law Offices of Lisa E. Kranitz  
1031 Avenue C  
Redondo Beach, CA 90277

Either City or Developer may change its mailing address at any time by giving written notice of such change to the other in the manner provided herein at least ten days prior to the date such change is affected. All notices under this Agreement shall be deemed given, received, made or communicated on the earlier of the date personal delivery is effected or on the delivery date or attempted delivery date shown on the return receipt, air bill or facsimile.

20. Entire Agreement. This Agreement contains the entire agreement between the Parties regarding the subject matter hereof, and all prior agreements or understandings, oral or written, are hereby merged herein. This Agreement shall not be amended, except as expressly provided herein. This Agreement specifically supersedes the Revised and Restated Development Agreement..

21. Conditions of Approval. The Conditions of Approval are amended as set forth in **EXHIBIT E**, which is attached hereto and incorporated herein by reference.

22. Waiver. No waiver of any provision of this Agreement shall constitute a waiver of any

other provision, whether or not similar; nor shall any such waiver constitute a continuing or subsequent waiver of the same provision. No waiver shall be binding, unless it is executed in writing by a duly authorized representative of the Party against whom enforcement of the waiver is sought.

23. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall be effective to the extent the remaining provisions are not rendered impractical to perform, taking into consideration the purposes of this Agreement.

24. Relationship of the Parties. Each Party acknowledges that, in entering into and performing under this Agreement, it is acting as an independent entity and not as an agent of any other Party in any respect. Nothing contained herein or in any document executed in connection herewith shall be construed as creating the relationship of partners, joint ventures or any other association of any kind or nature between City and Developer, jointly or severally.

25. No Third Part Beneficiaries. This Agreement is made and entered into for the sole benefit of the Parties and their successors in interest. No other person or party shall have any right of action based upon any provision of this Agreement.

26. Recordation of Agreement and Amendments. This Agreement and any amendment thereof shall be recorded with the County Recorder of the County of Los Angeles by the City Clerk of City.

27. Cooperation Between City and Developer. City and Developer shall execute and deliver to the other all such other and further instruments and documents as may be reasonably necessary to carry out the purposes of this Agreement. Upon satisfactory performance by Developer, and subject to the continuing cooperation of the Developer, City will commence and in a timely manner proceed to complete all steps necessary for the implementation of this Agreement and development of the Project or Property in accordance with the terms of this Agreement.

28. Rules of Construction. The captions and headings of the various sections and subsections of this Agreement are for convenience of reference only, and they shall not constitute a part of this Agreement for any other purpose or affect interpretation of the Agreement. Should any provision of this Agreement be found to be in conflict with any provision of the Applicable Rules or the Project Approvals or the Future Approvals, the provisions of this Agreement shall control.

29. Joint Preparation. This Agreement shall be deemed to have been prepared jointly and equally by the Parties, and it shall not be construed against any Party on the ground that the Party prepared the Agreement or caused it to be prepared.

30. Governing Law and Venue. This Agreement is made, entered into, and executed in the County of Los Angeles, California, and the laws of the State of California shall govern its interpretation and enforcement. Any action, suit or proceeding related to, or arising from, this Agreement shall be filed in the appropriate court having jurisdiction in the County of Los Angeles.



31. Attorneys' Fees. In the event any action, suit or proceeding is brought for the enforcement or declaration of any right or obligation pursuant to, or as a result of any alleged breach of, this Agreement, the prevailing Party shall be entitled to its reasonable attorneys' fees and litigation expenses and costs, and any judgment, order or decree rendered in such action, suit or proceeding shall include an award thereof.

Attorneys' fees under this section shall include attorneys' fees on any appeal and any post-judgment proceedings to collect or enforce the judgment. This provision is separate and several and shall survive the merger of this Agreement into any judgment on this Agreement.

32. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which constitute one and the same instrument.

33. Weekend/Holiday Dates. Whenever any determination is to be made or action to be taken on a date specified in this Agreement, if such date shall fall upon a Saturday, Sunday or holiday observed by federal savings banks in the State of California, the date for such determination or action shall be extended to the first business day immediately thereafter.

34. Not a Public Dedication. Except as otherwise expressly provided herein, nothing herein contained shall be deemed to be a gift or dedication of the Property, or of the Project, or any portion thereof, to the general public, for the general public, or for any public use or purpose whatsoever, it being the intention and understanding of the Parties that this Agreement be strictly limited to and for the purposes herein expressed for the development of the Project as private property. The Developer shall have the right to prevent or prohibit the use of the Property, or the Project, or any portion thereof, including common areas and buildings and improvements located thereon, by any person for any purpose which is not consistent with the development of the Project. Any portion of the Property conveyed to the City by the Developer as provided herein shall be held and used by the City only for the purposes contemplated herein or otherwise provided in such conveyance, and the City shall not take or permit to be taken (if within the power or authority of the City) any action or activity with respect to such portion of the Property that would deprive the Developer of the material benefits of this Agreement, or would in any manner interfere with the development of the Project as contemplated by this Agreement.

**IN WITNESS WHEREOF**, Developer and City of El Segundo have executed this Development Agreement on the date first above written.

CITY:

City of El Segundo, a municipal corporation

By: \_\_\_\_\_  
Drew Boyles, Mayor

ATTEST

\_\_\_\_\_  
Tracy Weaver  
City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Mark D. Hensley, City Attorney

DEVELOPER:

PESP

PES PARTNERS, LLC, a Delaware limited liability  
company

By: Street Retail, Inc., a Maryland corporation  
Its: Manager

By: \_\_\_\_\_  
Jeffrey S. Berkes, Vice-President  
Western Region

STREET

STREET RETAIL, INC., a Maryland corporation

By: \_\_\_\_\_  
Jeffrey S. Berkes, Vice-President

Western Region



**EXHIBIT A**

**LEGAL DESCRIPTIONS**

**The Plaza El Segundo Property – Phase 1A**

Lots 1 through 17 of Vesting Tract No. 61630, in the City of El Segundo, County of Los Angeles, State of California, as per map filed in Book 1370, Pages 41 through 51, of Maps, in the Office of the County Recorder of said County.

**The Point Property – Phase 1B**

Parcel 1 of the Certificate of Compliance, in the City of El Segundo, County of Los Angeles, State of California, Recorded July 29, 2013, as Instrument No. 20131105767 of the Official Records, in the Office of the County Recorder of said County.

**EXHIBIT B**  
**ASSIGNMENT AND ASSUMPTION AGREEMENT**

Recording Requested By and  
When Recorded Mail To:  
Street Retail, Inc.  
Boris Ipekar, Legal Counsel  
1626 East Jefferson Street  
Rockville, MD 20852

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### **ASSIGNMENT AND ASSUMPTION AGREEMENT**

This ASSIGNMENT AND ASSUMPTION AGREEMENT (“Agreement”) is made and entered into by and among PES Partners, LLC, a Delaware limited liability company (“PESP”) and Street Retail, Inc., a Maryland Corporation (“Street”) (“Assignors”), and, \_\_\_\_\_, a \_\_\_\_\_ (“Assignee”).

### **RECITALS**

A. The City of El Segundo (“City”) and Assignor entered into that certain Revised and Restated Development Agreement dated \_\_\_\_\_, 20\_\_ (the “Development Agreement”), with respect to the real property located in the City of El Segundo, State of California more particularly described in Exhibit “A” attached hereto (the “Project Site”), and

B. Assignor has obtained from the City certain development approvals and permits with respect to the development of the Project Site, including without limitation, approval of \_\_\_\_\_ for the Project Site (collectively, the “Project Approvals”).

C. Assignor intends to sell, and Assignee intends to purchase that portion, of the Project Site more particularly described in Exhibit “B” attached hereto (the “Transferred Property”).

D. In connection with such purchase and sale, Assignor desires to transfer all of the Assignor’s right, title, and interest in and to the Development Agreement and the Project Approvals with respect to the Transferred Property. Assignee desires to accept such assignment from Assignor and assume the obligations of Assignor under the Development Agreement and the Project Approvals with respect to the Transferred Property.

THEREFORE, the parties agree as follows:

1. Assignment. Assignor hereby assigns and transfers to Assignee all of Assignor's right, title, and interest in and to the Development Agreement and the Project Approvals with respect to the Transferred Property. Assignee hereby accepts such assignment from Assignor.

2. Assumption. Assignee expressly assumes and agrees to keep, perform, and fulfill all the terms, conditions, covenants, and obligations required to be kept, performed, and fulfilled by Assignor under the Development Agreement and the Project Approvals with respect to the Transferred Property, including but not limited to those obligations specifically allocated to the Transferred Parcel as set forth on Exhibit “C” attached hereto.

3. Effective Date. The execution by City of the attached receipt for this Agreement shall be considered as conclusive proof of delivery of this Agreement and of the assignment and assumption contained herein. This Agreement shall be effective upon its recordation in the Official Records of Los Angeles County, California, provided that Assignee has closed the purchase and sale transaction and acquired legal title to the Transferred Property.

4. Remainder of Project. Any and all rights or obligations pertaining to such portion of the Project Site other than the Transferred Property are expressly excluded from the assignment and assumption provided in sections 1 and 2 above.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates set forth next to their signatures below.

“ASSIGNOR”

PESP

PES PARTNERS, LLC, a Delaware limited liability company

By: Rosecrans-Sepulveda Partners 3, LLC, a Delaware limited liability company

Its: Sole Member

By: Street Retail, Inc., a Maryland corporation

Its: Manager

By: \_\_\_\_\_  
Jeffrey S. Berkes, Vice President – Western Region

STREET

STREET RETAIL, INC., a Maryland corporation

By: \_\_\_\_\_  
Jeffrey S. Berkes, Vice President – Western Region

“ASSIGNEE”

\_\_\_\_\_,  
a \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_



RECEIPT BY CITY

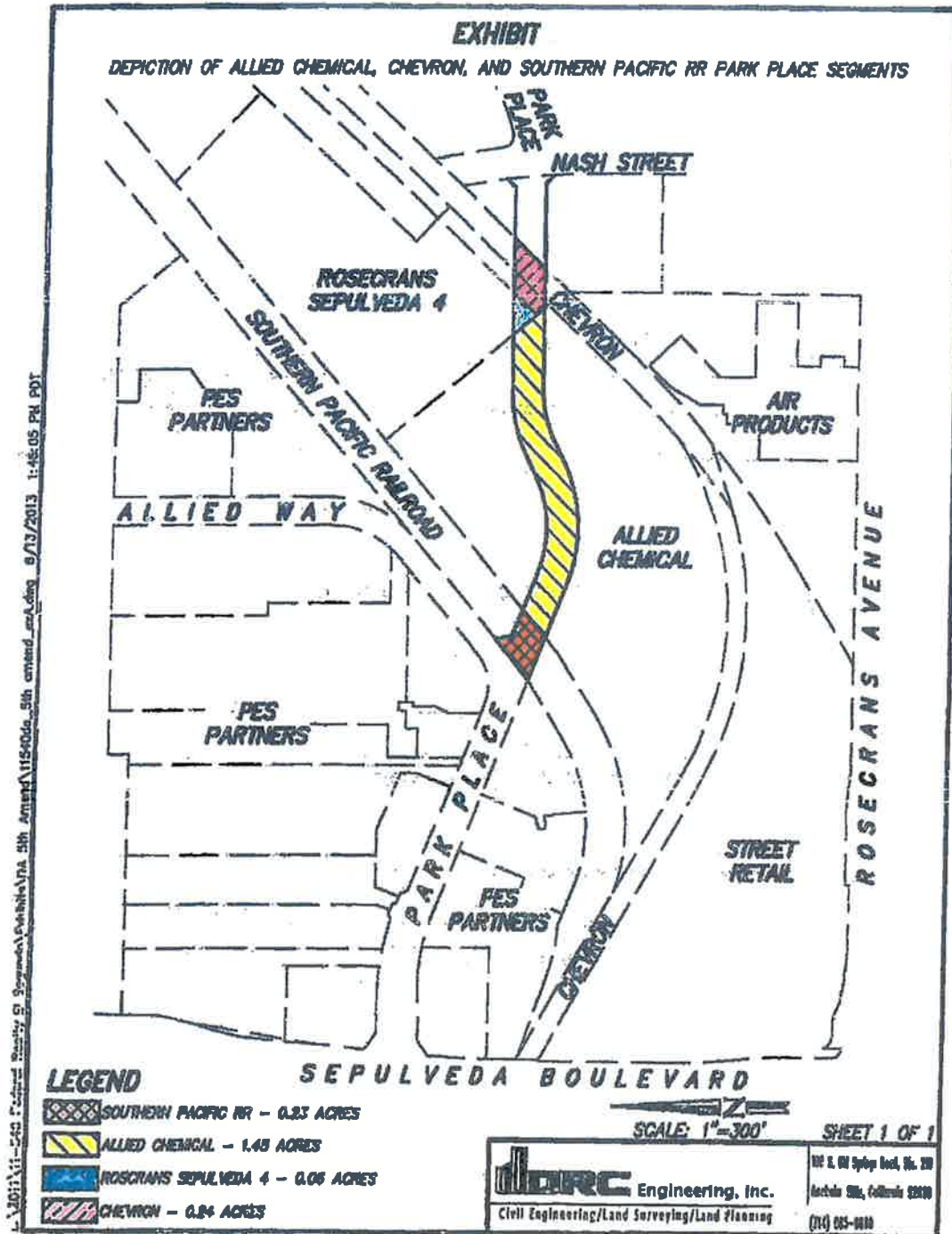
The attached ASSIGNMENT AND ASSUMPTION AGREEMENT is received by the City of El Segundo on this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

CITY OF EL SEGUNDO

By: \_\_\_\_\_  
Planning and Building Safety Director or  
Designee

# EXHIBIT C

## PARK PLACE SEGMENTS



## **EXHIBIT D**

### **ENCUMBRANCES TO WHICH THE RSP 4 DEED OF TRUST MAY BE SUBJECT**

The RSP 4 Deed of Trust may only be encumbered by the exceptions identified in Section A of Schedule B (Items 1 through 5), and Section B of Schedule B (Items A, B, C.1 through C.5), of that certain preliminary title report issued by Commonwealth Land Title Company on November 7, 2007 (File No. 06158316-27).

**EXHIBIT “E” TO REVISED AND RESTATED  
DEVELOPMENT AGREEMENT**

**CONDITIONS OF APPROVAL**

The following conditions are binding upon the property owner(s) and their successors in interest, including without limitation occupants of the property.

1. All mitigation measures in the Environmental Impact Report (SCH No. 2003121037) for Environmental Assessment No. 631, Development Agreement No. 03-1, General Plan Amendment No. 03-4 & 03-5, Zone Change No. 03-2 & 03-3, Zone Text Amendment No. 04-1, and Subdivision No 03-7, which are reflected in the Mitigation Monitoring and Reporting Program for the Sepulveda/Rosecrans Site Rezoning Reduced Traffic Generation Alternative and Plaza El Segundo Development Reduced Traffic Generation Alternative are incorporated by this reference into these conditions of approval.

## **DEFINITIONS**

2. Unless the contrary is stated or clearly appears from the context, the following definitions will govern the construction of the words and phrases used in these conditions.
  - A. "P.B.S. Director" means the City of El Segundo Director of Planning and Building Safety, or designee.
  - B. "EIR" means the Final Environmental Impact Report for the proposed Sepulveda/Rosecrans Site Rezoning and Plaza El Segundo development project (SCH No. 2003121037), El Segundo, California.
  - C. "ESMC" means the El Segundo Municipal Code.
  - D. "Development Agreement" or "Agreement" refers to the Revised and Restated Development Agreement.
  - E. "Project Area" refers to each of the developable lots on the Plaza El Segundo development Project Site as shown on Vesting Tentative Tract Map No. 061630 in the City of El Segundo, County of Los Angeles, State of California, filed on June 6, 2012, Book 1370, pages 41-51, and refers to Lot 1 of Lot Line Adjustment No. 13-04 as reflected in that Certificate of Compliance, in the City of El Segundo, County of Los Angeles, State of California, recorded on July 29, 2013, as Instrument No. 2013-1105767, of official records in the office of the County Recorder of said County.
  - F. "Project Site" refers to the 51.7 gross/46.60 net (after street dedications) acre site generally located south of Hughes Way, east of Sepulveda Boulevard, west of Douglas Street, and north of Rosecrans Avenue.
  - G. "Project Site Phase 1B" refers to the 13.050 gross/12.63 net acre site as shown as Lot 1 of the Lot Line Adjustment No. 13-04 as reflected in that Certificate of Compliance, in the City of El Segundo, County of Los Angeles, State of California, recorded on July 29, 2013, as Instrument No. 2013-1105767, of official records in the office of the County Recorder

of said County, generally located south of the Union Pacific Railroad, east of Sepulveda Boulevard, west of Douglas Street and north of Rosecrans Avenue.

- H. "Phase 1A" refers to the portion of the Project Area located north of the Union Pacific Railroad right-of-way.
  - I. "Phase 1B" refers to the portion of the Project Area located south of the Union Pacific Railroad right-of-way.
  - J. "Sepulveda/Rosecrans Rezoning Site" refers to the approximately 110 acres generally located south of Hughes Way, east of Sepulveda Boulevard, west of Douglas Street, and north of Rosecrans Avenue which is the subject of a General Plan and Zoning Code Amendment that is being considered concurrently with the land use entitlements for the Project Area and the Project Site.
2. Except as otherwise specified in these Conditions of Approval, conditions must be satisfied before the issuance of a Building Permit for each building within the Project Area.

## **AESTHETICS**

### **Lighting**

- 3. Before the issuance of the first Building Permit in the Project Area, the applicant must submit a Lighting Master Plan for the Project Area for the review and approval of the P.B.S. Director and the Police Chief. A Lighting Plan (construction drawings) and Photometric Study, consistent with the Lighting Master Plan must be reviewed and approved by the P.B.S. Director and the Police Department before the issuance of each Building Permit and must be installed before the issuance of each Certificate of Occupancy in the Project Area. The Lighting Plan and Photometric Study must demonstrate that the proposed project allows minimum off-site illumination but still complies with Police Department safety requirements.
- 4. The Lighting Master Plan must include, without limitation:
  - a. Specific details for Foot-candle intensity;
  - b. Specific lighting detail for parking areas and structures; pedestrian walkways; and access ways in and around buildings;
  - c. On-site light fixtures that have been designed to direct the light downward and internal to the proposed project site to minimize off-site illumination;
  - d. Specific detail regarding the location, type and height of lighting devices;

- e. Specific detail to illustrate compliance with the ESMC; and,
  - f. Weather and vandal resistant covers on lighting fixtures.
5. Before the issuance of each Certificate of Occupancy, the applicant must provide evidence to the P.B.S. Director and the Police Chief that outdoor lighting design has been installed in compliance with the approved Lighting Master Plan for the building that is the subject of the Certificate of Occupancy.

### **Materials and Design**

6. Before the issuance of the first Building Permit in the Project Area, the applicant must submit Final Working Drawings to the P.B.S. Director for design review. The applicant must provide a Building Materials Sample Board of the materials, colors, and elevation drawings to be utilized to the P.B.S. Director for review and approval. The design review must include, without limitation, the following design guidelines:
- a. All colors, textures, and materials on exterior elevation(s) must be coordinated to achieve a continuity of design;
  - b. Exterior building materials must be compatible with developments in the vicinity;
  - c. At least two primary exterior building materials (including, without limitation, stucco, stone, rock, and brick) must be used throughout the Plaza El Segundo project;
  - d. The buildings must have contrasting accent features. Building materials must be of non-reflective coatings and glazings;
  - e. The plans must demonstrate substantial compliance with plans and conditions approved and on file with the Planning and Building Safety Department. Any subsequent modification to the project as approved must be referred to the P.B.S. Director for a determination regarding the need for Planning Commission review of the proposed modification in accordance with the provisions of the Development Agreement;
  - f. All buildings must be in accordance with the Project Area's Conditions, Covenants and Restrictions (CC&R's);
  - g. All buildings must utilize energy efficient floor plans and controlled HVAC and heat generating equipment to reduce energy use for cooling and ventilation;

- h. All roof-mounted mechanical equipment and communications devices must be hidden behind building parapets or screens to screen these devices from off-site ground level view;
- i. Ground level mechanical equipment, refuse collectors, storage tanks, monitoring wells, generators, and other similar facilities must be screened from view with dense landscaping and walls of materials and finishes compatible with adjacent buildings;
- j. Service, storage, maintenance, utilities, loading, and refuse collection and other similar areas must be located out of the view of public roadways and buildings and screened by dense landscaping and solid walls, unless the PBS Director determines such is not practicable. No chain link fences may be used for such screening;
- k. Walls along the north property boundary of the Project Site and walls used to screen service and storage areas must be of the same materials, colors, and finishes as adjacent buildings or compatible finishes and colors;
- l. A six-foot high solid wall must be constructed along the southern property line of Lot 15 of Vesting Tentative Tract Map No. 061630 for at least a length of 200 feet from the eastern edge of the Sepulveda Boulevard right-of-way. A six-foot high wall or a fence constructed of vinyl chain link or other material must be constructed along the remaining property lines of the Project Area abutting the Union Pacific Railroad right-of-way with screening of the right-of-way with the use of landscaping, including, without limitation, vines, hedges and/or trees to the satisfaction of the P.B.S. Director. A six-foot high chain link fence or other material aesthetically compatible with existing fencing or walls in the Project Area must be constructed along the northern property line of Project Site Phase 1B abutting the Burlington Northern Santa Fe Railroad right-of-way to the satisfaction of the P.B.S. Director. Additionally, screening of the right of way with the use of landscaping, including, without limitation, vines, hedges and/or trees is required to the satisfaction of the P.B.S. Director. An eighteen-inch high, three-strand barbed wire fence may be placed upon the top of the chain link fence for the entire length of this fence (approximately 1,690 feet).
- m. Chain-link fences are not permitted, except as described above, and as temporary construction fencing;
- n. Building design will meet the City's standards for the attenuation of interior noise;
- o. All service areas must be located so that service vehicles have clear and convenient access and do not disrupt vehicular and pedestrian circulation;
- p. No loading will be permitted directly from public streets, except in designated areas as approved by City P.B.S. Director;



- q. All on-site utility systems including without limitation, water, electricity, gas, sewer and storm drains, must be installed underground;
- r. No Certificate of Occupancy may be issued unless there is substantial compliance with the aforementioned development standards and,
- s. The Project Area site plan must be revised to provide sidewalks or other designated pathways following direct and safe routes from the Park Place right-of-way to buildings H through A-7, from the Park Place right-of-way to Pad D, and from the Sepulveda Boulevard right-of-way to Building No. 2, and any other building that may developed that is set back more than 200 feet from a public right-of-way, subject to the review and approval of the P.B. S. Director. The Project Area site plan must provide sidewalks or other designated pathways following direct and safe routes from the Sepulveda Boulevard public right-of-way and the Rosecrans Avenue public right-of-way to the entrances of the buildings and the plaza in front of the buildings, subject to the review and approval of the P.B.S. Director.

**Landscaping and Irrigation**

- 7. Before the issuance of the first Building Permit in the Project Area, the applicant must submit a Master Landscape and Irrigation Plan for the Project Area. The Master Landscape and Irrigation Plan must be reviewed and approved by the City P.B.S. Director, the Director of Recreation and Parks, and the Police Chief. Landscaping for each building in the Project Area must be installed in accordance with the approved Master Landscape and Irrigation Plan before the issuance of each Certificate of Occupancy. The Master Landscape and Irrigation Plan must include, without limitation, the following:
  - a. All landscaped areas must be provided with a permanent automatic watering or irrigation system;
  - b. All on-site landscaped areas must be maintained by the owner in a neat and clean manner at all times;
  - c. All landscaped areas must be designed to ensure efficient access to fire hydrants;
  - d. Dual plumbing must be installed for reclaimed water irrigation;
  - e. All landscaped areas must be irrigated with reclaimed water to the extent reclaimed water is available for use in the Project Area. Until such time as reclaimed water is made available, potable water may be utilized for irrigation;
  - f. All landscaping and irrigation must comply with the City’s Water Conservation regulations and Zoning Code requirements;

- g. All landscaping must be designed to enhance site security in accordance with Police Department policies;
  - h. All public rights-of-way abutting the site must be landscaped;
  - i. Landscaping that includes trees, vines, and or hedges must be incorporated along property line walls and fences for screening purposes.
  - j. All landscaped areas must include a majority of mature landscaping, including trees that are a minimum 24-inch box size; and,
  - k. Landscaping must be installed along property perimeters and evenly distributed throughout the employee/customer parking areas.
8. Before the issuance of the first Building Permit in the Project Area, the applicant must provide a Landscape Plan and Architectural Plan (i.e. construction drawings), consistent with the Master Landscaping Plan, to the P.B.S. Director, Director of Recreation and Parks, and the Police Chief for review and approval. The Landscape Plan and Architectural Plan must demonstrate that errant nighttime illumination is generally screened from other potentially sensitive uses, through building design and landscape treatments. Before the issuance of the first Building Permit in the Project Site Phase 1B, the applicant must provide a Landscape and Irrigation Plan and an Architectural Site Plan (i.e., construction drawings) consistent with the Master Landscaping Plan, to the P.B.S. Director, Director of Recreation and Parks, and the Police Chief for review and approval that includes the use of trees, hedges, and or vines along the eastern boundary from Rosecrans Avenue to the Union Pacific Railroad. The plant material must be placed west and in front of the property line wall or fence. The Landscape Plan must utilize decorative pavement material in the plaza and for the pedestrian entrances to the plaza. The Landscape Plan and Architectural Plan must demonstrate that errant nighttime illumination is generally screened from other potentially sensitive uses, through building design and landscape treatments.
9. Where feasible (as determined by the P.B.S. Director), the applicant must comply with the City's Water Conservation Program as set forth in the ESMC and the City's Guidelines for Water Conservation in Landscaping. Before the issuance of each Building Permit in the Project Area, the applicant's Landscape Plans must be submitted to the P.B.S. Director for review and approval.

### **Signs**

10. Before the issuance of the first Building Permit in the Project Area, the applicant must submit to the P.B.S. Director for review and approval an overall Master Sign Program for the Project Area. Before the issuance of a Certificate of Occupancy for each building within the Project Area, the applicant must submit construction sign plans substantially consistent with the approved Master Sign Program for the review and approval of the P.B.S. Director. Before the issuance of a Certificate of Occupancy, signs must be installed in accordance with the

approved Master Sign Program. The overall Master Sign Program must include, without limitation:

- a. Compliance with the ESMC;
  - b. Notwithstanding any other provisions in the ESMC, no freestanding or pole signs, except as described in this Condition No. 10 and Condition No. 11 below, are permitted along the Rosecrans Avenue frontage of the Project Area;
  - c. All signs must be architecturally compatible with the proposed buildings;
  - d. All signs must be compatible with the aesthetic objectives of the General Plan;
  - e. No sign must impede traffic or pedestrian safety; and
  - f. Height limitation of signs referred to in this Condition No. 10 shall be measured from the average adjacent street elevation.
11. Before the issuance of a Final Certificate of Occupancy for the first building in the Project Area, the applicant must construct and maintain a monument sign at the northeast corner of Sepulveda Boulevard and Rosecrans Avenue announcing the entrance to the City. The sign is subject to review and approval by the City Council. The sign should be compatible with the design of the Master Sign Program for the Plaza El Segundo development project.

#### **AIR QUALITY**

12. During grading and construction, dust control measures must be required in accordance with the City's Dust Control Ordinance (Chapter 7-3 of the ESMC). Grading must be discontinued during first-stage smog alerts and suspended when wind velocity exceeds 15 miles per hour. All hauling trucks must have loads covered or wetted and loaded below the sideboards to minimize dust.
13. The South Coast Air Quality Management District (SCAQMD) has promulgated rules and applicable standards including, without limitation, the following: Rule 402 - Nuisances; Rule 403 - Fugitive Dust; and Rule 2202 - On-Road Motor Vehicle Mitigation Options. The applicant must use best management practices in compliance with Rule 402 during the operation of construction equipment. Construction activities must be limited between the hours of 7 A.M. to 6 P.M., Monday through Saturday, unless such hours are extended pursuant to a Noise Permit issued by the P.B.S. Director. During the construction phase, all unpaved construction areas must be wetted at least twice daily during excavation, grading, and construction and temporary covers for stockpiles must be used to reduce dust emissions by as much as 50 percent. The applicant must ensure that all materials transported off-site will be either sufficiently watered or securely covered in compliance with Rule 403. Resultant peak daily exhaust emissions from diesel- and gasoline-powered construction equipment must be monitored to control emission levels that exceed SCAQMD screening thresholds.

During construction, trucks and vehicles in loading or unloading queues must keep their engines off, when not in use, to reduce vehicle emissions. Construction activities must be phased and scheduled to avoid emission peaks, and construction must be discontinued during first- and second-stage smog alerts. On-site vehicle speed during construction must be limited to 15 mph. Before issuance of a Grading Permit for each Project Area, the applicant must provide a Construction Management Plan to the P.B.S. Director for review and approval relative to compliance with the appropriate SCAQMD standards during the construction phase. Daily records of construction hours and activities must be maintained by the applicant throughout the construction phase.

### **BUILDING CODES**

14. The applicant must comply with the applicable requirements of the California Building and Fire Codes as adopted by the ESMC that are in effect at the time an application for a building permit is submitted.

### **ENERGY**

15. Before the issuance of a Building Permit in the Project Area, the applicant must provide an Energy Conservation Plan to the P.B.S. Director for review and approval. The Energy Conservation Plan must incorporate energy conservation features in accordance with the requirements of the City and State. Before the issuance of each Certification of Occupancy, the applicant must provide evidence to the P.B.S. Director that the approved energy conservation features have been installed and will be maintained.
16. If a substation will be constructed, the Applicant must develop plans, projected loads, and a master plan for scheduling to the satisfaction of Southern California Edison.

### **FIRE**

17. Before the City issues a building permit, the applicant must provide Fire Life Safety Plans to the P.B.S. Director and the Fire Chief for review and approval, which include, without limitation, the following:
  - a. Fire lanes;
  - b. Fire lane signing;
  - c. Fire lane access easements or other recorded documents to the reasonable satisfaction of the City Attorney;
  - d. Fire lane accessibility;
  - e. Gas detection systems;

- f. Minimum acceptable flow from any fire hydrant must be 2,500 gallon per minute, calculated at 20 psi;
  - g. Sprinklers within structures;
  - h. Underground looped fire mains, sprinklers, fire pumps, and fire alarms;
  - i. Emergency generators;
  - j. Any above ground or underground storage tanks including elevator sumps and condensation tanks;
  - k. Documentation that the on-site fire mains will be maintained;
  - l. Fire safety precautions during demolition and construction;
  - m. Emergency site access during construction;
  - n. Permanent fire department access;
  - o. Fire hydrant locations;
  - p. Any proposed fire sprinkler and fire alarm systems; and
  - q. Before the issuance of each Certificate of Occupancy, the applicant must demonstrate to the Fire Department that the development complies with the Fire Life Safety Plan, and that any required easements were properly dedicated and recorded.
18. Before the issuance of a Building Permit in the Project Area, the applicant must develop and submit an Evacuation Plan and Procedures for review and approval by the Fire Department. Before the issuance of each Certificate of Occupancy, the applicant must provide evidence to the P.B.S. Director, and the Fire Department that the approved Evacuation Plan and procedures were implemented or are operational as appropriate.
19. The applicant must provide an automatic fire sprinkler system throughout each building, installed in accordance with California Fire Code Chapter 9 and the currently adopted edition of NFPA 13.
20. The applicant must provide an automatic fire alarm system throughout each building, installed in accordance with California Fire Code Chapter 9 and the currently adopted edition of NFPA 72.
21. The applicant must provide a certification from the underground petroleum pipeline owner/operator that the proposed project will not encroach into any foundations or structures

within the pipeline right-of-way without the underground petroleum pipeline owner/operator's approval. The certification must be provided with the initial plan review documents.

22. There is a railroad right-of-way on the north side of the Phase 1B property. Access doors and ladders with a maximum 300-foot spacing must be provided to provide access to the railroad right of way in case of a train derailment or incident to the satisfaction of the Fire Department. The access doors and ladders must have approved Knox Company Knox Padlocks installed.
23. If any fire features are proposed for the project, the applicant must provide the following conditions for any fire feature:
  - a. A barrier must be provided around the fire feature to prevent accidental access to the fire feature.
  - b. The distance between the fire feature and combustible material and furnishings must meet the fire feature's listing and manufacturer's requirements.
  - c. If the fire feature's protective barrier exceeds ambient temperatures, all exit paths and occupant seating must be a minimum 36 inches from the fire feature.
24. Before the issuance of a Grading or Building Permits in the Project Area, the applicant must provide a Construction Safety Plan to the P.B.S. Director and Fire Department for review and approval. The Construction Safety Plan must document construction and staff training procedures to ensure that best management practices during project grading and construction will be utilized. The Construction Safety Plan must identify an awareness program for the subgrade installation of utilities and the potential for worker exposure to related emissions, especially during excavation. Compliance with this measure must be verified by the P.B.S. Director before permit issuance.
25. Before the issuance of each Building Permit in the Project Area, all hydrants determined necessary by the Fire Department and the P.B.S. Director must be installed in accordance with approved plans and specifications. Fire hydrants must be spaced no greater than 300 feet apart. One private hydrant must be provided for each structure and each structure must be sprinklered in accordance with the California Building Code (CBC) and the National Fire Code (NFC).
26. Pursuant to ESMC §§ 15-27A-1, *et seq.*, and before building permits are issued, the applicant must pay a one-time fire services mitigation fee as provided in City Council Resolution No. 4687.

#### **GEOTECHNICAL (GRADING, TOPOGRAPHY, SOILS AND DRAINAGE)**

27. Before the issuance of a Grading Permit for the Project Area or a portion thereof, the applicant must prepare and submit a Grading Plan for review and approval by the P.B.S.

Director and the Director of Public Works. The Grading Plan must include, without limitation:

- a. The Grading Plan must demonstrate compliance with applicable provisions of the ESMC and City policies and requirements;
- b. The Grading Plan must show cross sections for any grading purpose and the location of and extent of existing and planned sewer easements and facilities;
- c. Grading depths must not encroach upon or damage the existing sewer lines on the property;
- d. Haul routes for import/export trucks and other heavy construction related vehicles must be approved by the Director of Public Works;
- e. No haul routes may travel through the City of Manhattan Beach during A.M. or P.M. peak hours;
- f. All grading must be accomplished in accordance with the recommendations of an independent Geotechnical and Geological Report to be submitted by the applicant and reviewed and approved by the City;
- g. The Grading Plan must detail where special restrictions apply due to soil contamination, if applicable;
- h. Additional information, as required through the plan check process, must be included as appropriate;
- i. Final grading activities must be coordinated with the City Engineer at the time the Grading Permit is issued; and,
- j. Compliance with the above measures must be verified by the P.B.S. Director before issuance of each Certificate of Occupancy.

#### **HAZARDS**

28. Before the issuance of a Grading Permit for the Project Area or a portion thereof, the applicant must submit documentation from the Los Angeles Regional Water Quality Control Board (“LARWQCB”) evidencing approval of completion of the Interim Remediation Measures and approval of the Final Remedial Action Plan for the Project Area for the area covered by the Grading Permit.
29. The applicant must comply with any permit requirements imposed by the LARWQCB and/or the Department of Toxic Substances Control (“DTSC”), or any other applicable regulatory agency related to development and/or grading on the site.

30. Before the issuance of a Grading Permit, the applicant must provide any appropriate hazardous materials safety training for all City employees needed to implement the project. If required, the training must be related specifically to safety issues that may arise during site grading and construction due to the soil contamination that may exist in the site. All training must be completed to the reasonable satisfaction of the P.B.S. Director, and the Fire Chief.

### **NOISE**

31. During the construction phase of the project, activities will be allowed between the hours of 7 A.M. to 6 P.M., Monday through Saturday, and prohibited at any time on Sundays and federal holidays, unless such hours are extended pursuant to a Noise Permit issued by the P.B.S. Director. Compliance for the operations phase will meet with the placement, screening, and maintenance standards for all external mechanical equipment. The proposed project must be designed to ensure that noise generated by the proposed project operations does not exceed the City's noise standards, as established by the ESMC, for on-site or off-site receptors. A noise monitor must be designated according to the relevant codes. Before issuance of a Grading Permit for each Project Area, the City must designate a Noise Ordinance Compliance/Verification Monitor. Before the issuance of a Building Permit for each Project Area, the applicant's Final Working Drawings must be submitted to the P.B.S. Director for review and approval relative to compliance with the City's Noise Ordinance.

### **POLICE / SAFETY**

32. Before the issuance of the first Building Permit, the applicant must submit an overall Security and Crime Prevention Plan, to the P.B.S. Director and the Police Department for review and approval, which must address, without limitation, the following:
- a. Lighting;
  - b. Addressing (minimum height of 4" to 24");
  - c. Trash dumpsters (including space for recyclable materials);
  - d. Indoor and outdoor security cameras installed at strategic locations, including employee and other vehicle parking areas;
  - e. Parking lots and structures;
  - f. Fences, walls;
  - g. Security hardware;
  - h. Office;
  - i. On-site security personnel;



- j. Locker rooms;
  - k. An Evacuation Plan and Procedures;
  - l. The employment of security personnel who will monitor and patrol the proposed Project Site, including employee and other vehicle parking areas, and coordinate with public safety officials;
  - m. The installation of lighting in entryways, elevators, lobbies, and parking areas designed to eliminate potential areas of concealment;
  - n. A diagram of the proposed project, which will include access routes, and any information that might facilitate emergency response;
  - o. Compliance with all applicable items on Police Department checklist memo dated April 12, 2004, attached as Exhibit F-1/C-1, with the exception that parking is permitted on the north side of the Project Area between the main row of buildings and the northern property line; and,
  - p. All Security and Crime Prevention Plan measures must be installed in conformance with the approved plans and must be operational before the issuance of a Certificate of Occupancy.
33. Before issuance of the first building permits, the applicant must submit a photometric light study to the Police Department for review and approval.
34. Pursuant to ESMC §§ 15-27A-1, *et seq.*, and before building permits are issued, the applicant must pay a one-time police services mitigation fee as provided in City Council Resolution No. 4687.
35. The applicant must provide, at no cost to the City of El Segundo, a minimum of 240 square feet of office space to be used by the El Segundo Police Department as satellite office space to provide Police services on the east side of Sepulveda Boulevard.

## **PROJECT DESCRIPTION**

### **Plans**

36. The City of El Segundo requires development project applicants to prepare and submit Final Working Drawings for review and approval. The applicant must provide Final Working Drawings that comply with Policies and Requirements and these conditions of approval. The Final Working Drawings must indicate proposed uses, building sizes and heights, and the specific location of structures, loading docks, staging areas, parking layout, landscaped areas and recreational amenities. The Final Working Drawings must include vehicular, pedestrian

and bicycle access, on- and off-site circulation, and linkage to other key elements in the site vicinity, including the MTA Green Line. The Final Working Drawings must indicate building materials and architectural design elements that will be utilized in the construction of the proposed structures. The Final Working Drawings must include information on security lighting and hardware and other detail required for compliance with the City's security, safety and crime prevention standards. The Final Working Drawings must demonstrate compliance with the California Building Code, California Mechanical Code, California Plumbing Code, California Fire Code, California Sign Code, and California Electrical Code, and approved Fire Life Safety Systems. In addition, the Final Working Drawings must clearly indicate the location of all entrances and exits, including emergency vehicle access. All parcel buildings and structures must be located in proximity to the proposed parcel lines such that they meet all requirements for exterior wall and opening protection. Additional information, as required through the plan check process, must be included as appropriate. Before the issuance of a Building Permit for the Project Area, the applicant must coordinate with all applicable City and applicable County agencies to prepare and submit Final Working Drawings to be approved by the P.B.S. Director, the Department of Public Works, the Fire Department and the Police Department. Before the issuance of a Certificate of Occupancy for each building, the applicant must provide evidence to the P.B.S. Director, the Department of Public Works, the Police Department, and the Fire Department that Code and policy requirement conditions have been met.

37. The Plaza El Segundo development project is allowed to develop up to a maximum of 517,292 gross square feet, consisting of a combination of uses as permitted by C-4 Zone and limited by the Development Agreement as long as the total AM, PM peak, daily, and Saturday midday peak trip generation established in the EIR for the project as a whole is not exceeded.
38. The maximum project size may be reduced as determined by the vehicle trip generation for each use. The Sepulveda/Rosecrans Site Rezoning and Plaza El Segundo development project permit the following vehicle trips:

<b>MAXIMUM PERMITTED TRIPS</b>	<b>AM</b>	<b>PM</b>	<b>Daily</b>	<b>Saturday Midday</b>
Sepulveda/Rosecrans Site Rezoning	1,033	2,346	25,859	3,379
Plaza El Segundo Development Project	779	1,477	16,645	2,205

For Phase 1A - The trip generation shall be determined using the rate set forth in the current edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual for Land Use Code 820 (shopping center) provided that the following conditions are met as further set forth in the Alternative Trip Generation Methodology prepared by Fehr & Peers dated July 11, 2017:

- The amount of restaurant and entertainment uses does not exceed twenty percent

(20%) of the total square footage;

- No individual fitness use exceeds 10,000 square feet. If an individual fitness use exceeds 10,000 square feet, the trip generation for such use must be determined using the rate for that use as set forth in the current edition of the ITE Trip Generation Manual;
- No individual office use exceeds 5,000 square feet. If an individual office use exceeds 5,000 square feet, the trip generation for such use must be determined using the rate for that use as set forth in the current edition of the ITE Trip Generation Manual.

For Phase 1B - The trip generation for each use and building must be determined using the rates as set forth in the current edition of the ITE Trip Generation Manual, as further set forth in the Alternative Trip Generation Methodology prepared by Fehr & Peers dated July 11, 2017.

For both Phase 1A and Phase 1B - Trip adjustments for internal capture and pass-by reductions will be in accordance with the adjustments in the Traffic Impact Study in the FEIR (EA No. 631) approved on March 1, 2005. Trip adjustments for transit reductions will be in accordance with the adjustments in the Traffic Impact Study in the Addendum to the FEIR (EA No. 768) approved on February 19, 2008.

39. In order to keep track of the vehicle trip generation, the applicant shall submit a trip generation chart based on existing uses. The chart shall be updated and submitted to the City for approval each time a vacancy is filled or a tenant space changes ITE Land Use Codes.
40. Uses on the Property shall be limited to the following percentages of Sales Tax Generating versus Non-Sales Tax Generating Uses in each Phase. For purposes of the calculation, the percentage is based on total gross leasable area.

<b>AREA</b>	<b>Sales Tax Generating Uses</b>	<b>Non-Sales Tax Generating Uses</b>
Phase 1A – Plaza El Segundo	60 % minimum	40% maximum
Phase 1B – The Point	60% minimum	40% maximum

41. In order to keep track of the sales tax versus non sales tax generating uses, the applicant must keep a chart of uses for each of the three areas which must be updated and submitted to the City for approval each time a vacancy is filled or a tenant space changes uses. For purposes of condition 40 and this condition, “Sales Tax Generating Uses” includes retail sales uses (including grocery stores), restaurants and cafes, bars, and micro-breweries. “Non-Sales Tax Generating Uses” includes financial institutions, day spas, fitness centers, farmers’ markets, offices of all types, personal services, recreational facilities, public assembly/assembly halls (including theaters and museums), video arcades, billiard establishments, and veterinary services. The City’s Finance Director, in his/her discretion, will determine whether any use

not specifically listed here should be classified as Sales Tax Generating or Non-Sales Tax Generating. The Finance Director's determination may be appealed to the City Council. Any such appeal must be made in writing and delivered to the City Clerk within ten calendar days of the Director's decision.

42. The City of El Segundo requires development project applicants to prepare and submit a Construction Management Plan for each Project Area for review and approval by the P.B.S. Director and Director of Public Works. The Construction Management Plan must consider all stages of construction, including grading, dirt hauling, employee travel, materials delivery, etc. The Construction Management Plan is also required for review and approval by the P.B.S. Director and Department of Public Works for the installation of any utilities, including telecommunication utilities, in the public right-of-way. Such a plan must include, without limitation, traffic control measures for any lane closures. The Construction Management Plan must identify the types and approximate number of construction vehicles to be utilized and must provide haul routes, staging area information and needed road or lane closures. The plan must include, but not be limited to construction hours, construction trailer locations, construction and staging areas, construction crew parking, parking/access plan (including truck haul routes), construction methods and schedules. No haul routes are permitted through the City of Manhattan Beach during A.M. and P.M. peak hours. All staging areas must be on-site. During construction, the areas of construction must be enclosed by a six-foot high chain link fence, except those areas that have additional fencing requirements. Gates of site fencing must be located at driveways and must not open over sidewalk/public right-of-way. During construction, trash must be removed from the Project Site regularly and promptly. At the end of each construction day, all open trenches must be completely closed or covered, or secured in accordance with Cal OSHA standards. All gates and access points to the construction area must be locked and/or fully secured at the end of construction each day. The applicant must provide a twenty-four hour, every day contact person/liaison to receive and respond to complaints during construction.
43. Before the issuance of a Grading or Building Permit for the Project Area, the applicant must provide evidence to the P.B.S. Director that grading or any construction on property or within easements not owned or controlled by the applicant has been approved by the property owner or easement holder. Separate Grading and/or Building Permit(s) must be obtained by the applicant with the easement holder as co-applicant, if needed.
44. Before the issuance of a Building Permit for the Project Area, the applicant must submit plans and specifications for any new curbs, sidewalks, driveway approaches, wheelchair ramps, and asphalt concrete (A.C.) pavement, that must be constructed/reconstructed in the public right-of-way for any missing public segments/areas on the perimeter of the Project Site, as reasonably required by the Director of Public Works. Any existing driveways and other paved areas on the perimeter of the Project Site that will not be incorporated into the development must be removed and replaced with standard curb and sidewalk. Before issuance of a Certificate of Occupancy for the building that is the subject of the Building Permit, the applicant must install the required public improvements per the approved plans to the reasonable satisfaction of the Director of Public Works.

45. The applicant must submit either a Lot Line Adjustment or Lot Merger application after the recording of Final Map 061530, to realign the two parcels south of Union Pacific Railroad to match the proposed locations of the buildings to maintain conformity with the development standards in the ESMC.

### **DEDICATIONS AND FEES**

46. The applicant must dedicate approximately 3.47-acres of the “Project Site” to the City for the construction of the extensions of Park Place and Allied Way, as required in Development Agreement No. 04-1 and as depicted on Vesting Tentative Map 061630. Such dedication shall occur through and upon recordation of the Final Map.
47. The applicant must dedicate an eight-foot wide easement for use of a bicycle path to be located in the landscaped front setback of the subject property in compliance with the Circulation Element of the General Plan and South Bay Bicycle Plan to the satisfaction of the Public Works Department and the Planning and Building Safety Department. The exact alignment will be determined by the Public Works Department and the Planning and Building Safety Department. The City acknowledges that this dedication has been made.
48. The applicant must dedicate approximately 0.50-acres of the “Project Area” to the city for roadway widening along the east side of Sepulveda Boulevard, as required in Development Agreement No. 03-1 and as depicted on Vesting Tentative Map 061630. An easement may be provided in lieu of a dedication, only if Caltrans will not accept the dedication and will only accept an easement. A dedication may be provided for the Phase 1A portion of Sepulveda Boulevard and an easement may be provided for the Phase 1B portion of Sepulveda Boulevard or conversely an easement may be provided for the Phase 1A portion of Sepulveda Boulevard and a dedication may be provided for the Phase 1B portion of Sepulveda Boulevard. Such dedication and/or such easement shall occur through and upon recordation of the Final Map.
49. Pursuant to ESMC §§ 15-27A-1 *et seq.*, and before building permits are issued, the applicant must pay a one-time parks facilities mitigation fee as provided in City Council Resolution No. 4687.
50. The applicant may modify the location of the parcel boundaries as approved on Vesting Tentative Tract Map No. 061630, consistent with the development standards in the C-4 Zone to accommodate the size and location of the individual buildings, before recordation of Final Tract Map No. 061630, provided a maximum of 20 parcels are created.
51. Before the recording of the Final Map, the applicant must record a lot tie covenant if any buildings are to be constructed across existing lot lines or if any building location does not meet the development standards of the Commercial Center (C-4) Zone due to the location of the existing lot lines. No Certificates of Occupancy shall be granted for any use or structure

until the recording of the Final Map. Accordingly, construction that proceeds before the recording of the Final Map is done at the Developer's risk that a Certificate of Occupancy will not be issued.

52. After the recording of the Final Map, the applicant must submit a Lot Line Adjustment application, if necessary, to realign any parcels to match the proposed locations of the buildings to maintain conformity with the development standards in the ESMC.
53. The applicant must maintain all existing easements on the site if the easement is still required by its grantee.
54. The applicant must provide reciprocal access agreements, subject to review and approval by the City Attorney, between any parcels that do not have independent direct vehicle access to a public right-of-way. Such agreements must be recorded before issuance of any Certificate of Occupancy for a building on an affected parcel.
55. Before the issuance of a Rough Grading Permit for the Project Area, the applicant must provide funds in trust to the P.B.S. Director to cover the reasonable costs, including City consultants' and legal costs and fees, of the monitoring of the conditions of approval and adopted mitigation measures associated with rough grading. Before the issuance of a Final Grading Permit, the applicant must provide funds in trust to the P.B.S. Director to cover the first year costs, including City consultants' and legal costs and fees, of the monitoring of the conditions of approval and adopted mitigation measures, not associated with rough grading. Costs may include, without limitation, costs for traffic reviews, stormwater review, biological resource monitoring, soil remediation review, and review of easements, dedications and other agreements. Costs that would be associated with rough grading do not include costs for traffic reviews and review of easements and dedications. Annually thereafter, the applicant must replenish funds as deemed necessary by the P.B.S. Director to cover the reasonable costs, including City consultants' costs for each year. The P.B.S. Director, at his discretion, may hire a consultant to coordinate and monitor compliance.
56. Before the issuance of a Grading Permit, Building Permit, or Certificate of Occupancy, as the case may be, the applicant must provide evidence to the P.B.S. Director that all adopted mitigation measures have been or will be implemented pursuant to the project's mitigation monitoring plan. Compliance with this measure must be verified by the P.B.S. Director.

### **CONSTRUCTION REQUIREMENTS**

57. All work within the City public right-of-way must be in accordance with the latest edition of the Standards Specifications for Public Works Construction and City of El Segundo Standard Specifications. No work must be performed in the public right-of-way without first obtaining a Public Works Encroachment Permit.
58. Before the issuance of a Grading or Building Permit for the Project Area, the applicant must provide evidence to the reasonable satisfaction of the P.B.S. Director that all applicable

permits from other agencies have been obtained including, without limitation, LARWQCB, Caltrans, State Water Quality Control Board's National Pollution Discharge Elimination Systems (N.P.D.E.S) Permit, South Coast Air Quality Management District, and Los Angeles County Department of Public Works.

59. Following the receipt of all requisite permits, the applicant must notify the P.B.S. Director of the date that construction will commence.
60. At such time deemed necessary by the P.B.S. Director, the applicant must provide an on-site inspection office trailer for the use of City inspection personnel.

### **STORMWATER (GROUND HYDROLOGY AND GROUND WATER QUALITY)**

61. The Los Angeles Regional Water Quality Control Board has promulgated rules and standards including, without limitation, obtaining an NPDES Permit and regulations related to underground and above ground storage tanks. The applicant's compliance with LARWQCB will ensure compliance with the applicable sections of the California Water Code (Section 13260), the Clean Water Act, and the Porter-Cologne Water Quality Control Act. The applicant must ensure that any on-site tanks for use in the storage of fuels, wasted oil, solvents or other chemicals, which are located either above ground or underground, must be placed, constructed and maintained in accordance with the requirements of the LARWQCB.
62. The applicant must adhere to any relevant requirements of the LARWQCB regarding development of the site. The applicant must prepare a Storm Water Pollution Prevention Plan (SWPPP) which will demonstrate best management practices relevant to compliance with LARWQCB requirements and the California General Construction Permit. Before the issuance of a Grading Permit for the proposed project, the applicant must provide a SWPPP to the LARWQCB, the P.B.S. Director and Fire Department for review and approval relative to compliance with the provisions and requirements of the LARWQCB. Before issuance of a Building Permit for each Project Area, the applicant must apply for the appropriate notifications and/or registrations for any on-site storage tanks. The applicant must provide a copy to the City of the Notice of Intent required by the LARWCQB.
63. Before the issuance of a final Grading Permit and/or Building Permit for each building in the Project Area, the applicant must provide a drainage plan for that portion of the Project Area affected that eliminates pollutants to surface runoff as required by NPDES requirements. The drainage plan must be reviewed and approved by the P.B.S. Director and Director of Public Works. Before the issuance of a Certificate of Occupancy for each building, the applicant must demonstrate that the drainage plan has been implemented and is effective to the reasonable satisfaction of the P.B.S. Director and Director of Public Works.
64. Before the issuance of a Building Permit for the Project Area, the applicant must provide evidence to the P.B.S. Director and Director of Public Works that pavement on-site must be adequately applied to prevent soil erosion. Further, paved areas on-site must be regularly maintained (i.e., all cracks repaired and debris removed on a regular basis) to prevent soil

erosion. The applicant must install improvements pursuant to the approved plans before final sign-off of the Permit. Before the issuance of a Grading or Building Permit for each building in the Project Area, the applicant must provide evidence to the P.B.S. Director and Director of Public Works that on-site drainage must be directed to existing storm drains. The applicant must install said improvements per the approved plans before final sign-off of the Permit.

65. Before the issuance of any Grading or Building Permit for the Project Area, the applicant must prepare a Standard Urban Stormwater Mitigation Plan (SUSMP) and provide evidence to the P.B.S. Director and Director of Public Works that the project area that is the subject of the Grading or Building Permit complies with City of El Segundo Urban Runoff Pollution Prevention Controls (Title 5 - Health and Sanitation, Chapter 7 - Standards Urban Stormwater Mitigation Plan Implementation of the El Segundo Municipal Code). The applicant must install said improvements per the approved plans before final sign-off of the Permit.
66. Before the issuance of a Grading or Building Permit for each building in the Project Area, the applicant must provide evidence to the P.B.S. Director and Director of Public Works that:
  - a. Collection basins to reduce silts in storm water before runoff drainage to the Los Angeles Flood Control System have been adequately incorporated into the project design;
  - b. On-site catch basins have been designed and constructed to screen out larger matter to prevent flooding of the project site resulting from debris caught in the drainage canal;
  - c. Drainage channels within parking lot and paved areas have been be designed and constructed to direct storm water and/or irrigation run-off to collection basins provided on-site;
  - d. On-site drainage and hydrology improvements have been designed in conformance with applicable standards of the City of El Segundo and the Los Angeles County Department of Public Works, including policies in the Public Safety Element of the City's General Plan;
  - e. The project is in compliance with applicable permit requirements of the Los Angeles County Department of Public Works or Los Angeles County Flood Control District;
  - f. On-site drainage and hydrology improvements have been designed using the necessary hydraulic/hydrology and structural calculations required for permitting by the Los Angeles County of Department of Public Works: and,
  - g. All on-site development is consistent with a Hydrology and Drainage Study and the Final Working Drawings, as approved by the City; and,



- h. Before the issuance of any subsequent Permit 'Final Inspection Approval' for the proposed project, the applicant must provide evidence to the P.B.S. Director and Public Works that all the improvements herein have been constructed in compliance with the appropriate regulations and specifications.

### **TRANSPORTATION/CIRCULATION/PARKING**

- 67. If the Los Angeles Congestion Management Plan (CMP) requires the City to track the debits/credits associated with development in the City, before the issuance of the first Building Permit for the Project Site, the applicant must provide Los Angeles County Congestion Management Plan (CMP) Debit/Credit Calculations, and a Phasing Plan for CMP related improvements, to the P.B.S. Director and Public Works for review and approval. The calculations must include only programs which meet all the minimum criteria (e.g., density) contained in the CMP. Before the issuance of a Certificate of Occupancy for the building, the applicant must provide evidence to the P.B.S. Director that the proposed project CMP debits/credits related improvements were implemented and balanced on the Project Site in accordance with the approved phasing plan. Compliance with this measure must be verified by the P.B.S. Director before permit issuance. As may be applicable, the City will give credit for CMP related improvements towards the applicant's traffic mitigation impact fee, as appropriate.
- 68. Before the issuance of a Building Permit for the Project Area, the applicant must provide a Pedestrian Access/Circulation Plan to the P.B.S. Director, Recreation and Parks Director, and Police Chief for review and approval. The Plan must identify the location of pedestrian, bicycle accesses and indicate linkage to other key elements in the site vicinity, and within the project itself, including parking areas, building entrances, bicycle racks, recreational elements, etc. The Plan must reflect a safe movement pattern, which does not significantly conflict with vehicular movement and parking access areas. Before the issuance of a Certificate of Occupancy for each Project Area, the applicant must provide evidence to the P.B.S. Director, Recreation and Parks Director, and Police Chief that the approved pedestrian and bicycle access features have been installed and will be adequately maintained per the approved plan.
- 69. Before the issuance of each Building Permit in the Project Area, the applicant must submit a detailed Traffic, Circulation and Parking Plan, prepared by a licensed traffic engineer, for review and approval by the Director of Public Works, the P.B.S. Director, the Police Chief, the Fire Chief, and the City's Traffic Engineer. Alternatively, such a plan may be submitted for a number of buildings at one time if that group of buildings will be completed within a reasonable time period of each other. The Traffic, Circulation and Parking Plan must include, without limitation, the following:
  - a. An analysis of the estimated traffic generation for the building(s);
  - b. Sight distances for each structure and parking area associated with the building(s);

- c. An analysis of the traffic volumes at each driveway or intersection associated with the building(s) in order to determine if any offsite improvements are warranted (i.e., deceleration lanes, left-turn pockets, new or modified traffic signals, etc.) that were not analyzed in the EIR due to the approximation of building locations in the EIR;
- d. Any new traffic signals or modifications to existing traffic signals must be subject to the review and approval of the Los Angeles County Department of Public Works. The applicant must pay the applicable county costs to provide plan check and inspection services;
- e. The applicant must dedicate any on-site land required to accommodate any required intersection and roadway improvements (e.g., deceleration lanes) and the new Park Place and Allied Way roadway extensions through the recording of the Final Map, which may be after building permit issuance, but must occur before issuance of a Certificate of Occupancy for any building in the Project Area;
- f. All truck circulation;
- g. Customer/employee parking;
- h. All access points to the project site, which should be aligned with existing driveways and intersections where possible;
- i. Off-site circulation improvements;
- j. All median modifications, if necessary;
- k. All dead end aisles eliminated to satisfy City Codes;
- l. All truck turning radii;
- m. The location of required loading spaces;
- n. An analysis that shows the location and the timing of construction of the required parking for the building or Project Area;
- o. Pedestrian crossing areas of the public roadways must be called out on the plans and appropriately designated;
- p. All parcels and structures must be connected by an accessible route of travel that meets the requirements of Title 24 of the California Building Code and,
- q. Final site plan approval for each building(s) must be contingent upon fulfillment of the above traffic design review requirements. All Circulation and Parking Plan

improvements which require installation must be installed before the issuance of each Certificate of Occupancy for the building(s) which are the subject of the Traffic, Circulation and Parking Plan. Compliance with these requirements must be verified by the Director of Public Works, the P.B.S. Director, the Police Chief, the Fire Chief, and the City's Traffic Engineer before the issuance of a Certificate of Occupancy.

70. The applicant must install "No Parking" and other traffic signs on the Park Place and Allied Way roadway extensions, as required by the Public Works Department. The applicant must install "No Parking" and other traffic signs on Sepulveda Boulevard and Rosecrans Avenue, as required by the Public Works Department.
71. The applicant must provide handicap accessible pedestrian walkways, with a minimum five-foot width. Any roadways dedicated to the City as public roadways may have handicap accessible pedestrian walkways within the public right-of-way instead of locating them on private property.
72. Before the issuance of the first Building Permit for the Project Area, the applicant must submit Final Working Drawings to the P.B.S. Director for review and approval that shows that all handicapped, carpool, vanpool, motorcycle, and bicycle parking and other TDM and TSM physical requirements have been provided as required by the City. All TDM/TSM physical improvements required by City regulations must be installed before the issuance of each Certificate of Occupancy.
73. Before the construction of the portion of the Park Place roadway for the proposed project that would intersect Sepulveda Boulevard and any other improvements on Sepulveda Boulevard, the applicant must secure a Caltrans Encroachment Permit to alter Sepulveda Boulevard as set forth in the EIR. The alterations to Sepulveda Boulevard must be in accordance with relevant Caltrans Encroachment Permit requirements and conditions and must be shown on the Final Working Drawings. The applicant is responsible for the costs of modifications and construction of all the roadway extensions and widenings that will be dedicated to the City. Before the issuance of a "Final Inspection Approval" of the roadway improvements, the applicant must install the intersection improvements. The improvements must be reviewed and approved by the City Traffic Engineer, and P.B.S. Director.
74. Prior to the issuance of a Certificate of Occupancy for any building in the Project Area, the new roadways, including any medians, sidewalks, curbs, and gutters must be constructed in accordance with applicable Department of Public Works construction standards for a public roadway with the minimum dimensions required by the Circulation Element of the El Segundo General Plan, and must comply with applicable requirements of the Americans with Disabilities Act (ADA), as well as City requirements for traffic signage, street lighting, drainage plans, and underground utility service, subject to the review and approval of the Director of Public Works. The applicant must be responsible for the design and construction of the new roadways.

75. Before the City issues a certificate of occupancy for any buildings constructed south of the Union Pacific/Burlington Northern Santa Fe Railroads, the new on-site and off-site roadway improvements, including any medians, sidewalks, curbs, and gutters must be constructed in accordance with applicable Department of Public Works construction standards for a public roadway with the minimum dimensions required by the Circulation Element of the El Segundo General Plan to the satisfaction of the Director of Public Works and the Director of Planning and Building Safety, and must comply with applicable requirements of the Americans with Disabilities Act (ADA), as well as City requirements for traffic signage, street, lighting, drainage plans, and underground utility service, subject to the review and approval of the Director of Public Works. Additionally, the roadway improvements along Rosecrans Avenue must be consistent with the design analyzed in the Addendum to the FEIR, including, but not limited to the lane configurations, deceleration lane design at Village Drive, and lengths of left turn pockets at Rosecrans Avenue and Sepulveda Boulevard and at Rosecrans Avenue and Village Drive. The applicant must be responsible for the design and construction of the new roadways.
76. The applicant must install off-site traffic related mitigation measures as set forth in the EIR and MMRP at the time when amount of building (floor area or vehicle trips) triggers the impact for which the mitigation measure is based, as documented in the required Traffic, Circulation, and Parking Plan.
77. Before the issuance of each Building Permit for the Project Area, the applicant must submit a temporary lane closure plan for review and approval by the Director of Public Work, Fire Chief and Police Chief if lane closures will be required during construction for a particular building to insure construction vehicles, equipment and supplies do not interfere with local emergency response routes and incidences.
78. Driveway entrances must be clearly marked, as well as different areas of the parking lot, to ensure visiting vehicles do not accidentally enter the truck staging area.
79. The applicant must coordinate construction lane closures with the Director of Public Works, Police Chief and Fire Chief.
80. Before the issuance of each Certificate of Occupancy for a building in the Project Area, the applicant must pay a Traffic Impact Mitigation Fee. The amount will be based upon the adopted Traffic Impact Mitigation Fee in effect at the time of issuance of a Certificate of Occupancy.
81. Shower and lockers for employees must be provided in sufficient number, as determined by the P.B.S. Director for each tenant in the Project Area exceeding 50,000 square feet.
82. The applicant must submit a Transportation System Management (TSM) Plan, pursuant to the requirements of Chapter 15-17 of the ESMC within 90 days of issuance of the first Certificate of Occupancy in the Project Area.

## UTILITIES

83. Before the issuance of the first Building Permit for the Project Area, the applicant must provide a Utility Plan to the P.B.S. Director and Public Works for review and approval. The Utility Plan must demonstrate that all on-site utilities, including fiber optic utility lines from each building to the public right-of-way, are placed underground. The applicant must assume the costs for the relocation of all utilities, without limitation, light poles, electrical vaults, and fire hydrants within the Project Area or Project Site. Before the issuance of a Certificate of Occupancy for each building that is the subject of the Building Permit, the applicant must provide evidence to the P.B.S. Director and the Director of Public Works that the approved Utility Plan improvements has been installed and appropriate access provided per the approved plan.
84. Before the issuance of the first Building Permit for the Project Area, the applicant must provide evidence to the P.B.S. Director and the Director of Public Works that proposed utility service improvements will be of a quality reasonably acceptable to the P.B.S. Director. The developer must encourage and promote a high quality, efficient, and sustainable development through the incorporation and utilization of the best and most cost-effective electrical, natural gas, communications, sewage handling, water conservation, and solid waste disposal equipment and systems. Compliance with this measure must be verified by the P.B.S. Director before Building Permit issuance.
85. On-site utilities on private property within the project site, including without limitation, storm drains, stormwater detention basins, water and sewer mains, must be owned and maintained by the developer and a connection point to a public main established.
86. Before the issuance of a building permit, the applicant must obtain utility easements for the utilities located on private property within the Project Area that cross through adjacent private property and/or utilities that are used or shared by two or more parcels.
87. Encroachment Permits for work in the public right-of-way must be obtained from the Engineering Division of the Public Works Department. A Grading Permit is also required when import or export of dirt exceeds fifty cubic yards.
88. Overload permits are required for dirt and material hauling on City streets.
89. No material storage is allowed in the public right-of-way except by Encroachment Permit issued by the Engineering Division of the Public Works Department. If material storage is allowed in the public right-of-way, it must be confined to parkway areas and street parking areas, as long as safe and adequate pedestrian and vehicular passage is maintained at all times as determined by the Engineering Division. Storage beyond these areas in the public right-of-way requires prior approval of the Public Works Director and must be limited to a maximum period of 24 hours.

90. Before the issuance of the first Building Permit for the Project Area, the applicant must submit Street and Public Right-of-Way Improvement Plans for review and approval to the Director of Public Works and P.B.S. Director. Said plans must include any required dedications and sidewalks in accordance with City standards necessary for the building that is the subject of the Permit. Sidewalks are required on both sides of all public streets within the Project Area. Before the issuance of a Certificate of Occupancy for each building that is the subject of the Permit, the applicant must dedicate any required right-of-way and install all sidewalks in accordance with plans and specifications approved by the City. Alternatively, the applicant may submit Street and Public Right-of-Way Improvement Plans, if required, for a Project Area or a number of buildings at one time if that group of buildings will be completed within a reasonable time period of each other.
91. The Los Angeles County Sanitation District requires a Buildover Permit for construction over its sewer easements. The applicant must demonstrate through its Grading Plans in the Project Area that all alterations to final sewer easements, relocation of sewer manholes, and rights of way must be in accordance with relevant Buildover Permit(s) to allow the construction of the proposed project and other project components over any sewer easements. Before the issuance of the affected Grading Permits for the proposed project, the applicant must provide evidence to the P.B.S. Director that any necessary Buildover Permit(s) has been obtained or the easement(s) has been relocated.
92. Before issuance of the first building permit in the Project Area, the applicant must inspect the existing sewer laterals that connect to the City sewer mains in the area with closed circuit television (CCTV) to determine the condition of the existing infrastructure that will serve the project. All reports and copies of CCTV videos must be submitted to the Department of Public Works.
93. If new sewer laterals are required and constructed in the public right-of-way, they must be a minimum of six inches inside diameter. Material must be "vitreous clay pipe." Each lateral must have a six-inch clean-out brought to grade at the property line and securely capped. A B9 size box must be placed around the clean-out for protection. The box must have a cover properly marked with the word "sewer." If in a traffic area, the cover must be traffic approved. All elevations of planned sewer connections must be reviewed and approved by the Director of Public Works before starting construction. Existing sewer laterals must be plugged at the sewer mainline and capped at the property line. Existing six-inch wyes may be reused if approved by the Director of Public Works. Any required sewer laterals must be installed before the issuance of a Certificate of Occupancy for the building to be served.
94. If any off-site upgrades are required due to changes in the proposed peak demands in sewer services, a program for the implementation of the upgrades must be provided to demonstrate capacity availability before occupancy. Before the issuance of a Certificate of Occupancy for each building within a Project Area, the applicant must provide evidence to the P.B.S. Director that adequate sewer capacity is available to accommodate the building that is the subject of such Certificate of Occupancy. Alternatively, the applicant may submit any sewer

upgrade plans, if required, for a Project Area or a number of buildings at one time if that group of buildings will be completed within a reasonable time period of each other.

95. If any off-site upgrades are required due to changes in the proposed peak demands in water and wastewater service, a program for the implementation of the upgrades must be provided to demonstrate capacity availability before occupancy. Before the issuance of a Certificate of Occupancy for each building within a Project Area, the applicant must provide evidence to the P.B.S. Director that adequate water and wastewater capacity is available to accommodate the building that is the subject of such Certificate of Occupancy. Alternatively, the applicant may submit any water and wastewater upgrade plans, if required, for a Project Area or a number of buildings at one time if that group of buildings will be completed within a reasonable time period of each other.
96. Before issuance of a first Certificate of Occupancy for any building in the Project Area north of the Union Pacific Railroad right-of-way, the applicant must replace the 15-inch sewer line located to the north of the project site with an 18-inch sewer line as depicted on the Phase 1 Utility Layout plan. Before issuance of a first Certificate of Occupancy for any building in the Project Area south of the Union Pacific Railroad right-of-way, the applicant must prepare an analysis of the existing sanitary system on Rosecrans Avenue and calculate additional flow resulting from the proposed development in to the existing system. If necessary, upgrade the 12" and 15" diameter downstream sanitary sewer pipes on Rosecrans Avenue from point of connection to Aviation Boulevard.
97. Businesses that generate fats, oils, or greases are required to install grease interceptors with a minimum 30-minute retention period on appropriate sewer connections.
98. Before the issuance of a Certificate of Occupancy for each building within the Project Area, the applicant must provide evidence to the P.B.S. Director and the Director of Public Works that the appropriate additional on-site water and wastewater improvements as identified by the El Segundo Water and Wastewater Division, or an equivalent service provider, have been installed. Such additional measures must include separate services for potable and fire water systems, a separate water meter for each building, and potable system to be a combined irrigation and domestic, or separated into domestic and irrigation meters. Separate fire services with double detector check valves and backflow preventers are required. Upon completion of the site plan, the exact size and number of fire lines will be determined. Alternatively, the applicant may submit any improvement plans, if required, for a number of buildings at one time if that group of buildings will be completed within a reasonable time period of each other.
99. If any off-site upgrades are required due to changes in the proposed peak demands for telecommunication services, a program for the implementation of the upgrades must be provided to demonstrate capacity availability before occupancy. Before issuance of a Certificate of Occupancy for each building within the Project Area, the applicant must provide evidence to the P.B.S. Director and the Director of Public Works that adequate facilities are available to accommodate the building that is the subject of such Certificate of

Occupancy. Alternatively, the applicant may submit any improvement plans, if required, for a number of buildings at one time if that group of buildings will be completed within a reasonable time period of each other.

100. Before the issuance of a Certificate of Occupancy for each building within the Project Area, the applicant must provide evidence to the P.B.S. Director and the Director of Public Works that any appropriate additional improvements for on-site telecommunication services as identified by Pacific Bell, or an equivalent service provider, have been installed to accommodate the building that is the subject of such Certificate of Occupancy. If the existing facilities serve adjacent properties, the services may require relocation. Alternatively, the applicant may submit any improvement plans, if required, for a number of buildings at one time if that group of buildings will be completed within a reasonable time period of each other.
101. If any off-site upgrades are required due to changes in the proposed peak demands in natural gas service, a program for the implementation of the upgrades must be provided to demonstrate capacity availability before occupancy. Before the issuance of a Certificate of Occupancy for each building within the Project Area, the applicant must provide evidence to the P.B.S. Director and the Director of Public Works that adequate facilities are available to accommodate the building that is the subject of such Certificate of Occupancy. Compliance with this measure must be verified by the P.B.S. Director before permit issuance. Alternatively, the applicant may submit any improvement plans, if required, for a number of buildings at one time if that group of buildings will be completed within a reasonable time period of each other.
102. Before the issuance of a Certificate of Occupancy for each building within the Project Area, the applicant must provide evidence to the P.B.S. Director and the Director of Public Works that any appropriate additional on-site natural gas service improvements as identified by The Gas Company, or an equivalent service provider, have been installed to accommodate the building that is the subject of such Certificate of Occupancy. Compliance with this measure must be verified by the P.B.S. Director and before the issuance of the Certificate of Occupancy. Alternatively, the applicant may submit any improvement plans, if required, for a number of buildings at one time if that group of buildings will be completed within a reasonable time period of each other.
103. If any off-site upgrades are required due to changes in the proposed peak demands for electrical service, a program for the implementation of the upgrades must be provided to demonstrate capacity availability before occupancy. Before the issuance of a Certificate of Occupancy for each building within the Project Area, the applicant must provide evidence to the P.B.S. Director and the Director of Public Works that adequate facilities are available to accommodate the building that is the subject of such Certificate of Occupancy. Alternatively, the applicant may submit any improvement plans, if required, for a number of buildings at one time if that group of buildings will be completed within a reasonable time period of each other.



104. Before the issuance of a Certificate of Occupancy for each building within the Project Area, the applicant must provide evidence to the P.B.S. Director and the Director of Public Works that any appropriate additional on-site electrical service improvements as identified by The Edison Company, or an equivalent service provider, have been installed to accommodate the building that is the subject of such Certificate of Occupancy. Alternatively, the applicant may submit any improvement plans, if required, for a number of buildings at one time if that group of buildings will be completed within a reasonable time period of each other.

## **WATER**

105. Before the issuance of the first Building Permit for each building within the Project Area, the applicant must submit Off-site Reclaimed Water Facility Plans to the P.B.S. Director and the Director of Public Works for review and approval. Said plans for the off-site improvements must include an approval from West Basin Municipal Water District, the supplier of reclaimed water.

106. Before the issuance of a Building Permit for each building within the Project Area, the applicant must submit Final Working Drawings that incorporate On-site Irrigation Plans to the P.B.S. Director and the Director of Public Works for review and approval. Such plans must indicate that reclaimed water must be utilized in the irrigation systems for all landscape areas and other uses, as approved by the Department of Public Works, when available from the West Basin Municipal Water District or other supplier of reclaimed water. Such plans must include the installation of a dual water line system on-site to accommodate distribution of potable water for landscaping until reclaimed water for landscaping becomes available for the Project Area. In addition to the utilization of reclaimed water for irrigation, other water conservation features such as low-flow devices and automated shut-offs must be included throughout the Project Site. Water management systems must include both water conservation and wastewater reduction features.

107. Before the issuance of a Certificate of Occupancy for each building within the Project Area, the applicant must provide evidence to the P.B.S. Director and the Director of Public Works that the connection with the City's reclaimed water system has been provided, the approved water management systems and water-saving devices have been incorporated into project development, and that the water facilities have been installed per the approved plans. If the water provider is unable to make reclaimed water available before the issuance of the Certificate of Occupancy, then potable water may be utilized and the Certificate of Occupancy must be issued.

108. The applicant must install a loop water distribution system for the Project Site with service connections to each of the water mains in the streets surrounding the project, subject to the review and approval of the Director of Public Works. Before the issuance of each Building Permit in the Project Area, the applicant must submit a construction phasing plan for the water service, which must include, without limitation, how the building which is the subject of the permit will be connected to the looped water distribution system. The looped water system must provide water mains connection to Rosecrans Avenue on the south and Sepulveda Boulevard to the west.

- 109. Before the issuance of a Certificate of Occupancy for each building within the Project Area, the applicant must pay the applicable water meter installation fees. Compliance with this measure must be verified by the P.B.S. Director before issuance of the Certificate of Occupancy.
- 110. Before the issuance of a Building Permit for each building within the Project Area, the applicant must pay the applicable sewer connection fees and charges. Compliance with this measure must be verified by the P.B.S. Director before Permit issuance.
- 111. Before the issuance of the first Certificate of Occupancy for a building in the Project Area, those areas not already part of County Sanitation District must be annexed to County Sanitation District No. 5.
- 112. Water meters must be provided for each lot by the applicant in accordance with City policies and approved by the Water Division before installation. This condition does not prohibit the use of private water meters for individual buildings or individual tenancies.

**PROJECT CONDITIONS THAT APPLY TO PHASE 1B ONLY**

- 113. Up to a maximum of 12,000 gross square feet of restaurant space may open as early as 6:00 a.m. daily for breakfast service.

**ADMINISTRATIVE USE PERMIT/ALCOHOL SERVICE (FOR PHASE 1B)**

- 114. The proposed hours of operation and hours of alcohol service for the restaurants and kiosks, including the outdoor dining patios, are limited to: Sunday through Thursday from 10:00 a.m. to 12:00 a.m. and Friday through Saturday from 10:00 a.m. to 2:00 a.m. Food service must be available in the indoor dining areas and the outdoor patios during the hours of operation and alcohol service. 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.
- 115. Any subsequent modification to the project as approved in the Administrative Use Permit, 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 and Building Safety for approval and a determination regarding the need for Planning Commission review of the proposed modification.
- 116. The applicant for the Alcohol Beverage Control License 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 or a Type 47 license, whichever is applicable.
- 117. The restaurant operations must comply with ESMC §§ 7-2-1, *et seq.* regulating noise and vibration.

118. 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.
119. The applicant for the Alcohol Beverage Control License 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.*
120. The applicant for the Alcohol Beverage Control License 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.
121. The applicant for the Alcohol Beverage Control License must, at all times, display a *Designated Driver* sign of at least ten inches by ten inches (10" X 10") in the bar and restaurant dining areas at eye level. The sign must be worded in a way that reminds patrons who are consuming alcohol to designate a *non*-drinking driver.
122. There cannot be 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 constitute a violation of this condition.
123. 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.
124. 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), Long Beach/Lakewood District Office administered *Licensee Education on Alcohol and Drugs* (LEAD) Program; or,
  - b. Completed an approved equivalent (LEAD) training program administered by the ABC, Long Beach/Lakewood District Office to ensure proper distribution of alcoholic beverages safely, responsibly and to adults of legal age. Any future employee designated to sell alcoholic beverages on behalf of the licensee or applicant must obtain a certificate proving completion of the (LEAD) training; and

- c. The licensee or applicant must confirm with the Planning and Building Safety Director, or designee, within fifteen (15) days of the Director's decision as to the approval of the application, or by final project approval, that a date certain has been scheduled with the local ABC Office to complete the LEAD training program.
  - 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.
125. The applicant for the Alcohol Beverage Control License 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.
126. If complaints are received regarding excessive noise, parking availability, lighting, building access, and the like associated with the restaurants and the outdoor patio areas, the City may, in its discretion, take action to review the Administrative Use Permit, including without limitation, adding conditions or revoking the permit.
127. The outdoor dining/seating areas must comply with ESMC § 15-2-16.
128. The applicant for the Alcohol Beverage Control License must install security cameras for monitoring and recording activity, which include, without limitation: cash handling/counting areas, the manager's office, the safe, all access doors, and any other areas deemed necessary by the Police Department. Monitoring and recording equipment must be stored in a secure area (e.g., manager's office).
129. Before a building permit is issued, a schematic plan of the camera system must be submitted and approved by the Police Chief, or designee. The camera specification notes must be included on the schematic plan.
130. Before a building permit is issued, the minimum camera requirements must be listed on the building plans with the camera specifications and include the following:
- a. All security surveillance cameras must be installed to record video in color.
  - b. Security cameras, especially those viewing customers as they enter the business or stand at cash registers, must capture the individual from the waist to the top of the head, straight on.

- c. Security surveillance cameras must be positioned low enough so that caps/hats or other disguises (typically used when committing a crime) will not obstruct the view of the individual's face. This will provide the best possible picture for the identification of the individual during the investigation process.
  - d. The maximum mounting height is 8 feet.
  - e. The recording equipment must capture video digitally and must record a minimum of (21) days for each security surveillance camera. Security surveillance camera recordings must be made available to law enforcement agencies for investigation purposes upon request.
  - f. A schematic plan of the proposed camera locations must be submitted and approved by the Police Chief, or designee.
  - g. The “Camera Specification Notes” must be included on the schematic plan page.
  - h. A security surveillance camera plan must provide the following minimum items: (1) One camera facing each point of sale station (2); one camera facing the safe (it may be possible to cover the safe and the point of sale station closest to it); and (3) one camera at the main entry door capturing customers as they exit.
131. The buildings cannot be occupied by more persons than allowed by the California Building Code, as adopted by the ESMC.
132. The buildings and any outdoor seating must comply with California Building and Fire Code requirements, as adopted by the ESMC

#### **ADJUSTMENT (FOR PHASE 1B)**

133. The applicant must post clear signs at each of the required loading spaces designating them as loading spaces during the hours of 6:00 a.m. to 10:00 a.m. The signs must clearly prohibit employee and/or customer parking during those hours. The applicant may extend the loading hours beyond 10:00 a.m. at his discretion. The parking spaces must be marked clearly to delineate the parking and loading spaces to the satisfaction of the Director of Planning and Building Safety.
134. Any subsequent modification to the project as approved in this Adjustment, including the plans and/or the conditions of approval, must be referred to the Director of Planning and Building Safety for approval and a determination regarding the need for Planning Commission review of the proposed modification.

## **VARIANCE (FOR PHASE 1B)**

135. Before the City issues building permits, the applicant must submit detailed plans of the two retaining walls along the north property line adjacent to the UPRR right-of-way. The retaining walls and their non-retaining portions cannot exceed 12 feet in height, with the exception that a metal open work fence up to a maximum of 42 inches in height may be installed on top of the walls
136. Any subsequent modification to the project as approved in this Variance, including the plans and/or the conditions of approval, must be referred to the Director of Planning and Building Safety for approval and a determination regarding the need for Planning Commission review of the proposed modification.”

## **INDEMNIFICATION**

137. The Developer must defend, indemnify and hold the City and its elected and appointed officials, officers, employees and agents harmless from and against any claims, legal or equitable actions, damages, costs (including, without limitation, attorney’s fees), injuries, or liability of whatsoever kind or nature, arising from the City’s approval of the project, including but not limited to the CEQA determination and/or the Development Agreement approval and all approvals from the time of the approval of the Original Development Agreement through and including the Revised and Restated Development Agreement. 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 any City approval relating to the Revised and Restated Development Agreement or any approvals issued in conjunction therewith, 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.
138. PES Partners, LLC and Street Retail, Inc. must acknowledge receipt and acceptance of the Project Conditions by executing the acknowledgement below.

By signing this document, PES Partners, LLC and Street Retail, Inc. certify that they have read, understood, and agree to the Project Conditions listed in this document and represents and warrants that it has the authority to execute this document on behalf of the property owner and acknowledges that the conditions set forth above shall run with the land and be binding upon all owners and occupants of the land.

PESP  
PES PARTNERS, LLC, a Delaware limited liability company

By: Street Retail, Inc., a Maryland corporation  
Its: Manager

By: \_\_\_\_\_  
Jeffrey S. Berkes, Vice-President  
Western Region

STREET  
STREET RETAIL, INC., a Maryland corporation

By: \_\_\_\_\_  
Jeffrey S. Berkes, Vice-President  
Western Region

{If Corporation or similar entity, needs two officer signatures or evidence that one signature binds the company}

**TITLE:**

Amend Development Agreement No. DA 03-01 (8<sup>th</sup> Amendment) and conditions of approval for the Plaza El Segundo and The Point development project to increase the allowed percentage of non-sales tax generating uses to 40 percent.

[Case numbers: Environmental Assessment No. EA-1279 and Development Agreement No. DA 20-0]

**RECOMMENDATION:**

1. Conduct a public hearing.
2. Take testimony and other evidence as presented.
3. Adopt a resolution amending the conditions of approval for the Plaza El Segundo and The Point development project to increase the allowed percentage of non-sales tax generating uses to 40 percent.
4. Introduce, waive the first reading, and place on the December 1, 2020 agenda for adoption an ordinance to amend Development Agreement DA 03-01 to increase the allowed percentage of non-sales tax generating uses to 40 percent.

**FISCAL IMPACT:**

Potential for a reduction in sales tax generated from the subject property that may be somewhat offset by an increase in the Business license Tax generated. If building improvements are made to attract and accommodate nonretail tenants, this could have a positive impact on the assessed value of the property and result in an increase in the property tax received for the subject property.

**BACKGROUND:**

The project site is the Plaza El Segundo and The Point shopping centers originally approved in 2005 (See Exhibit No. 1 – Vicinity Map). The two centers include a total of 501,000 square feet of building area, which is primarily occupied by retail and restaurant uses, as well as some service, office and fitness uses. The current approved entitlements for the site limit Non-Sales Tax Generating Uses to a maximum of 20% of the building area at Plaza El Segundo and 35% at The Point. The applicant, Street Retail, Inc., has requested an amendment the project Development Agreement and conditions of approval to increase the maximum percentage of Non-Sales Tax Generating Uses to 40% for both Plaza El Segundo and The Point.



**Figure 1**  
**Location map**



Previous Approvals and Entitlements

Plaza El Segundo and The Point were originally approved as retail centers that would generate sales tax revenue for the City and diversify its revenue sources. The permitted uses at the centers reflected this intent, in that they included primarily retail uses. Other uses, such as banks, offices, and fitness centers that do not generate sales tax revenue were strictly limited or prohibited.

Since the original approval in 2005, the retail sector of the economy has evolved, with internet sales taking a larger proportion of overall sales. As a result, the property owner approached the City in 2017 and requested changes to the project entitlements to permit more non-retail uses at the shopping centers and, thus, give the property owner more flexibility in filling vacant tenant spaces. The City Council approved code changes, which revised the permitted uses in the C-4 zone where the shopping centers are located to include office and other non-retail uses. In return for granting this flexibility, and in order to maintain sales tax revenue, the City imposed a maximum limits on non-sales tax generating uses, which are 20% at Plaza El Segundo and 35% at The Point.

Since 2017, the retail sector has continued to weaken, as internet sales continue to grow as a proportion of overall sales. Furthermore, this year the COVID-19 pandemic and the related economic crisis have exacerbated the retail sector's problems. So, the applicant approached the City again with the current request to modify the limits on non-sales tax generating uses at the Plaza El Segundo and The Point shopping centers.

**DISCUSSION:**

Conditions at the Shopping Centers

As of February 2020, the vacancy rate at Plaza El Segundo is 6.9% and at The Point it is 4.3%. At Plaza El Segundo, vacancies have primarily affected the two smaller areas of the center, The Works and The Collection (see Figure No. 1). At The Point, some tenant spaces have remained vacant since its original construction in 2014. In addition, the applicant has indicated to the City that some current tenants have had difficulties in making their lease payments. And, this situation has been exacerbated by the COVID-19 related economic downturn.

In spite of these trends, the applicant has invested energy and money into repositioning the center. Last year, the applicant completed construction on some major physical improvements in the area called The Works. The improvements included new landscaping, hardscape, pedestrian and building façade improvements. In the Collection, the applicant is currently completing tenant improvements to convert one of the multi-tenant retail buildings into a single-tenant office building. The improvements also include the addition of substantial outdoor gathering space and landscaping for the future office tenants.

In addition to the above physical improvements and conversion of retail space into office, the shopping centers remain primarily retail in nature and the applicant has attracted significant retail tenants in the last few years, such as Nordstrom Rack and Ulta.

Applicant's Fiscal and Economic Analysis

In support of the request to change the use mix at the shopping centers, the applicant submitted a fiscal impact & economic benefit analysis report prepared by Kosmont Companies in 2019 (Exhibit No. 7). The report discusses the recent local and national market trends in the retail sector. In El Segundo, since the "Great Recession" a decade ago the retail sector has seen slow growth and the City's sales tax revenues have decreased from \$12.8 million in 2008 to \$10.6 million in 2018. Nationally, the retail market has been affected significantly by the growth of the digital economy and e-Commerce, with digital retail sales displacing brick and mortar retail sales. Specifically, in 2000 online sales comprised 0.8% of the total retail sales market. By 2018, 9.7% of all retail sales were conducted online. This steady growth pattern is projected by economists to continue in the years ahead. As a result, the rate of retail store closures will continue to increase and, thus, property owners (including shopping centers) will find it increasingly difficult to fill vacant tenant spaces.

In response to this decline in demand for traditional retail, shopping centers have shifted their approach and have increasingly sought to diversify their tenants and improve the customers' experience. Research has shown that customers no longer view stores as a place to only buy merchandise. Rather, they view stores and shopping centers as a "place" where they can have an experience. Therefore, modern retailers seek to:

- Present an integrated shopping environment in a diverse setting (such as office, work, transit, or residential nearby);
- Embrace omni-channeling by developing both a digital and a physical presence;
- Redefine platforms from simply selling goods to solving customers' problems.

Many malls are redeveloping to achieve the above objectives and the Kosmont report discusses several redevelopment examples, such as the Westside Pavillion, the Baldwin Hills Crenshaw Plaza, and others.

#### City's Peer Review

City staff engaged Keyser Marston and Associates (KMA) to peer review the Kosmont analysis, and KMA largely confirmed and agreed with the analysis summarized above. In fact, the City has been aware of the local and national retail trends, as well as the move toward mixed-use retail centers, or "lifestyle centers" as they are also called. The previous development agreement amendment in 2017, was approved primarily due to the above market trends. However, the percentage restriction on non-sales tax generating uses is still hampering the applicant's ability to find viable tenants and provide an appropriate mix of uses at the subject shopping centers.

#### Planning Commission Discussion

On October 22, 2020, the Planning Commission held a public hearing on the proposed amendments. During the discussion the Commissioners asked how the City's revenues might be impacted by the proposed amendments. Staff responded that some loss of sales tax revenue may occur, but it would be partly offset by an increase in business tax revenue from the anticipated office tenants that would replace existing underperforming retail tenants. In addition, employees of the new office tenants would support the remaining retail and restaurant businesses and, thus, help generate additional retail sales and the associated tax revenue for the City. The applicant added that demand for retail space has been weakening, particularly due to the ongoing growth of internet sales and the COVID-19 outbreak earlier this year, but demand for certain types of office space has remained relatively strong. At the conclusion of the public hearing, the Planning Commission voted 4-0 to adopt Resolution No. 2888 (Exhibit No. 6) recommending City Council approval of the proposed amendments.

#### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE:**

The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Title 14 California Code of Regulations § 15061(b)(3) – the common sense exemption as it can be seen with certainty that there will not be an impact, because no substantial construction and no addition of building area is being proposed. The proposed change to the mix of uses will maintain the total daily and peak AM and PM traffic trips generated by the shopping center below the levels estimated

previously; and no other impact areas should be affected; and CEQA Guidelines § 15305 – the Class 5 exemption for minor alterations in land use limitations as office and other non-retail uses are already allowed in the C-4 zone and the only change involves the ratio of office and other non-retail uses to retail uses.

**CITY STRATEGIC PLAN COMPLIANCE:**

Goal 1: Champion Economic Development and Fiscal Sustainability

Objective A: El Segundo promotes economic growth and vitality for businesses and the community

**PREPARED BY:** Paul Samaras, Principal Planner 

**REVIEWED BY:** Sam Lee, Director of Development Services 

**APPROVED BY:** Barbara Voss, Deputy City Manager 

**ATTACHED SUPPORTING DOCUMENTS:**

1. Vicinity Map
2. Draft Resolution
3. Draft Ordinance
4. Development Agreement
5. Planning Commission staff report dated October 22, 2020 w/o attachments
6. Planning Commission Resolution No. 2888
7. Kosmont Report



**City Council Agenda Statement**  
**Meeting Date:** December 1, 2020  
**Agenda Heading:** City Clerk

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**TITLE:**

2021 City Council Meeting Calendar

**RECOMMENDATION:**

1. Approve proposed 2021 City Council meeting calendar.

**FISCAL IMPACT:** None

**DISCUSSION:**

In December of each year, the City Clerk's office presents a proposed City Council meeting calendar for the following calendar year. An approved calendar for the entire year, in advance, allows for better agenda planning and advanced notification of meeting dates to the community. Attached is the recommended City Council meeting calendar for 2021.

The City Clerk's office recommends the cancellation of the following meeting dates for calendar year 2021:

- January 5<sup>th</sup> (holiday recess)
- April 6<sup>th</sup> (due to the ESUSD Spring Recess)
- July 6<sup>th</sup> (holiday recess)
- July 20<sup>th</sup> (summer recess)
- August 3<sup>rd</sup> (National Night Out – a nationally sponsored Police Department event)
- December 21<sup>st</sup> (due to the ESUSD Winter Recess).

Traditionally, a meeting occurring around a holiday is cancelled due to the fact that certain City facilities are closed.

**CITY STRATEGIC PLAN COMPLIANCE:**

Goal 1: Enhance Customer Service and Engagement

Objective A: El Segundo provides unparalleled service to internal and external customers

**PREPARED BY:** Tracy Weaver, City Clerk 

**REVIEWED BY:** Tracy Weaver, City Clerk

**APPROVED BY:** Barbara Voss, Deputy City Manager 

**ATTACHED SUPPORTING DOCUMENTS:**

Proposed 2021 City Council Meeting Calendar

**DRAFT**  
**CITY OF EL SEGUNDO**  
**2021 COUNCIL CALENDAR**

City Council Meeting 4PM/6PM	Pre-Agenda Staff Reports & Attachments Due 2PM (Wed)	Executive Team Meeting West Conference Room Every Tuesday at 9:00 AM	Final Agenda Reports & Attachments Due 10AM (Wed)	Staff Deputy City Manager - Final Review at 1:30 PM
<b>1/5/2021</b>	<b>12/23/2020</b>	Holiday Recess	<b>12/30/2020</b>	<b>12/30/2020</b>
<b>1/19/2021 - Day after MLK Jr. Day</b>	1/6/2021		1/13/2021	1/13/2021
2/2/2021	1/20/2021		1/27/2021	1/27/2021
<b>2/16/2021 - Day after Presidents' Day</b>	2/3/2021		2/10/2021	2/10/2021
3/2/2021	2/17/2021		2/24/2021	2/24/2021
3/16/2021	3/3/2021		3/10/2021	3/10/2021
<b>4/6/2021 - ESUSD Spring Break</b>	3/24/2021	ESUSD Spring Break Recess	3/31/2021	3/31/2021
4/20/2021	4/7/2021		4/14/2021	4/14/2021
5/4/2021	4/21/2021		4/28/2021	4/28/2021
5/18/2021	5/5/2021		5/12/2021	5/21/2021
<b>6/1/2021 - Day after Memorial Day</b>	5/19/2021		5/26/2021	5/26/2021
6/15/2021	6/2/2021		6/9/2021	6/9/2021
<b>7/6/2021</b>	6/23/2021	Holiday Recess	6/30/2021	6/30/2021
<b>7/20/2021</b>	7/7/2021	Police National Night	7/14/2021	7/14/2021
<b>8/3/2021</b>	7/21/2021	Summer Recess	7/28/2021	7/28/2021
8/17/2021	8/4/2021		8/11/2021	8/11/2021
<b>9/7/2021 - Day after Labor Day</b>	8/25/2021		9/1/2021	9/1/2021
9/21/2021	9/8/2021		9/15/2021	9/15/2021
10/5/2021	9/22/2021		9/29/2021	9/29/2021
10/19/2021	10/6/2021		10/13/2021	10/13/2021
11/2/2021	10/20/2021		10/27/2021	10/27/2021
11/16/2021	11/3/2021		<b>*11/10/2021</b>	<b>*11/10/2021</b>
12/7/2021	<b>**11/24/2021</b>		12/1/2021	12/1/2021
<b>12/21/2021 - ESUSD Winter Break</b>	12/8/2021	ESUSD Winter Recess	12/15/2021	12/15/2021
1/4/2022	12/22/2021		12/29/2021	12/29/2021
<b>* Day before Veterans' Day</b>	<b>**Day before Thanksgiving</b>			

**TITLE:**

Ad Hoc Pension Committee Update Report & Authorization to Begin Process to Issue Pension Obligation Bonds for Long-Term CalPERS Pension Liabilities.

**RECOMMENDATION:**

1. Receive Ad Hoc Pension Committee Update Report on the following:
  - Use of Pension Obligation Bonds as a method to reduce future recurring costs
  - Ability to exit CalPERS pension system and pursue alternative retirement options
  - Current funding status of City's Other Post-Employment Benefits (OPEB)
2. Direct staff to begin process to issue Pension Obligation Bonds (POBs) at 95% of the CalPERS Unfunded Actuarial Liability (UAL) at time of issuance in order to maximize the present value savings to take advantage of historically low interest rates.

**FISCAL IMPACT:**

Issuance of POBs to pay down the current UAL of \$151,300,000 is estimated to save the City approximately \$55,000,000 (present value) in pension amortization cash payments over the next 20 years, with an average recurring annual savings of \$2,750,000. Approximately 95% of recurring savings will take place within the General Fund.

**BACKGROUND:**

Reconstituted Ad Hoc Pension Committee

At its July 22, 2020 Strategic Planning Study Session, City Council appointed Mayor Pro Team Chris Pimentel and Councilmember Scot Nicol to serve on the Ad Hoc Pension Committee to review the City's pension obligations, including conducting a review of the City's ability to exit CalPERS pension system and use of alternative retirement options. Since that time, the Committee has met four times on September 21, October 14, November 16, and November 23. Other attendees in these meetings included City Treasurer Matthew Robinson, City Manager Scott Mitnick, Chief Financial Officer Joe Lillio, and KNN Public Finance Municipal Advisor Mark Young.

## **Ad-hoc Pension Committee Update Report**

**December 1, 2020**

**Page 2 of 11**

### Pension Obligation Bonds (POBs)

Most of the Committee's work to date has focused on issuing POBs as a mechanism to significantly reduce the City's recurring pension costs, saving approximately \$55,000,000 over the next 20 years. The bulk of rest of this report is dedicated to this effort.

### Alternative Retirement Options

In early November, the City hired the actuarial services consulting firm of Bartel Associates, LLC to conduct an analysis of the City's ability to review the financial considerations associated with the potential option of withdrawing from the f CalPERS pension system and to pursue alternative retirement options. This firm has begun its analysis and will issue a report within the next month. Once completed, this report will be reviewed by the Committee and then shared with the full City Council. This report will be for information purposes as any change in the City's retirement/pension plan would be subject to negotiation with the City's represented employees.

### Other Post-Employment Benefits (OPEB)

The Committee has also done a cursory review of the funding status of the City's OPEB (primarily retiree medical insurance benefits). The findings of this review are provided in the discussion section below.

## **DISCUSSION:**

### Use of Pension Obligation Bonds (POBs) to Reduce City's Recurring Retirement Costs

#### **Defined Benefit Retirement Pension Plan:**

The City provides retirement benefits by contracting with the California Public Employees' Retirement System (CalPERS). CalPERS offers a defined benefit plan where retirement benefits are based on a formula which takes into consideration employee years of service, age at retirement, and final compensation (which is determined by an employee's average salary, excluding overtime, for a defined period of employment). Retirement formulas for employee groups vary based on classification (Miscellaneous [non-sworn] or Safety [sworn police and fire]), and within these groups, by date of entering CalPERS membership category ("Classic" for those who entered on or before December 31, 2012 or "PEPRA" for those who entered on or after January 1, 2013).

CalPERS Retirement benefits are funded by contributions from both employees and the City, as well as investment earnings. CalPERS invests contribution payments with the goal of earning sufficient returns over the long-term to pay defined benefits as promised and cover CalPERS expenses. When investment earnings do not meet expectations over extended periods, the funded status of the entire retirement system is at risk with all member agencies sharing the burden.



**City's Pension Plan "Unfunded Actuarial Liability" (UAL):**

CalPERS actuaries perform annual evaluations of each plan to determine the accrued actuarial liability (i.e., defined benefits that will be owed in the future to all active employees, as well as existing retirees) for each member agency. The accrued actuarial liability is determined by discounting future benefits payable using a rate equal to the expected long-term earnings rate of CalPERS investments (also referred to as the discount rate), currently at 7.0%. The discount rate signifies CalPERS' assumed return on investments and is used by CalPERS actuaries to calculate the UAL (described below). In the event that CalPERS reduces the current discount rate, all agencies in CalPERS will be impacted by a one-time adjustment which will result in higher liabilities and, consequently, additional required payment contributions on those liabilities. However, going forward, a lower discount rate will bring greater long-term stability and certainty to the CalPERS investment portfolio.

The funded status of the plan is determined by the difference between the accumulated financial assets of the plan (fiduciary position) and the accrued actuarial liability. If the fiduciary position is less than the accrued actuarial liability, the plan is underfunded, and an Unfunded Actuarial Liability (UAL) exists. The UAL is pension debt the City owes to CalPERS on behalf of existing retirees and active employees. CalPERS is assessing the City an interest rate of 7.0% (current discount rate) on the UAL. Employers have the responsibility to pay down their UAL by increasing contributions to CalPERS since the accrued benefits earned by an active employee/current retiree may not be reduced per California law.

Similar to bonded debt or a home loan mortgage, the UAL is "amortized" (i.e., gradually reduced or paid off with regular payments covering both principal and interest) over a period of time. To calculate the interest cost of the City gradually paying down its outstanding UAL of \$151,300,000, the UAL is multiplied by the discount rate. At the current discount rate of 7.0%, the implicit interest cost in Fiscal Year (FY) 2020-2021 is roughly \$10,600,000. By accelerating payments to CalPERS, the City will be paying down the principal balance of the UAL, thereby saving on future interest costs.

When CalPERS began the process in December 2012 to reduce the discount rate from 7.5% to 7.0% over the course of a four year period, this caused employer liabilities to significantly increase. In response, CalPERS implemented a "ramp up" strategy to smooth out the increases in UAL contributions. As opposed to a fixed-level payment schedule, CalPERS started using a 30-year amortization schedule where payments are ramped up in years 1-5 and ramped down in the ending years. The ramping up in years 1-5 resulted in negative amortization for those member agencies that only pay the annual minimum payment to CalPERS. For agencies wanting to eliminate negative amortization, or wanting to accelerate the payoff of their UAL, CalPERS allows additional discretionary payments towards the UAL at any time.

**Tools to Reduce the City's Unfunded Actuarial Liability (UAL):**

Discretionary tools available to the City to reduce its \$151,300,000 UAL include:

**1. Reduce the length of the amortization period with CalPERS ("fresh start")**

Reducing the amortization period is permitted; however, increasing it is not. Unlike a traditional home loan mortgage refinance, lowering the amortized years from 25 years to 15 years will not result in a reduced interest rate. CalPERS will still assess the discount rate of 7.0%. However, this will save the City significant interest costs by reducing the number of actual years being amortized.

The City previously used this tool to conduct a "fresh start" for each of the Safety Plans (Fire & Police) as well as the Miscellaneous Plan (for the non-safety employees). These fresh starts were implemented over FY 2018-19 and FY 2019-20 and were refinanced with a 20-year amortization versus the previous 28-30 year amortizations. This tool has eliminated the effects of negative amortization and will save the City approximately \$7,100,000 over a 30-year period.

**2. Make additional discretionary payments toward the UAL**

The City can make additional miscellaneous payments toward the UAL at any time. This is equivalent to a homeowner making an additional payment toward his/her mortgage loan. While the additional payment reduces the UAL, it does not reduce the amortized years remaining. Nor does this impact the discount rate assessed on the UAL (currently set at 7.0%).

The City has used this tool to make several additional discretionary payments (ADP) for each of the Safety Plans (Fire & Police) as well as the Miscellaneous Plan. The ADPs were implemented in FY 2017-18 and FY 2018-19. This tool will save the City approximately \$3,750,000 over a 30-year period.

**3. Prepay the annual UAL amount up front rather than making monthly payments**

CalPERS provides member agencies with a discount for prepayment of their UAL. The UAL is the employer annual payment toward the unfunded pension liability as measured on the actuarial valuation report issued by CalPERS each July. CalPERS provides a discount rate in the amount of 3.5% toward the prepayment amount resulting in immediate savings.

The City has used this tool to make annual prepayments of the UAL for each of the Safety Plans (Fire & Police) as well as the Miscellaneous Plan. The prepayments were implemented for FY 2017-18, FY 2018-19, FY 2019-20, and FY 2020-21. This tool

has saved the City approximately \$1,250,000 over the past four years. Using this tool going forward will continue to save the City several hundred thousand dollars per year.

#### **4. Set up a Pension Trust Fund to pre-fund CalPERS UAL obligations.**

IRS Section 115 allows CalPERS agencies to set up their own Pension Trust Funds to pre-fund future UAL obligations. Some of the benefits of using this approach include:

- Contributions placed in a benefit trust may lower the City's Net Pension Liability
- Greater investment flexibility and returns compared to General Fund investments
- Increased risk diversification of plan assets through different asset management
- Investments may be tailored to the City's unique demographics
- Enhanced oversight and control of fund management, monitoring of performance, and ability to replace fund management based on performance criteria
- Increased flexibility on use of trust assets (trust assets may be accessed at any time as long as the assets are used to fund the City's pension obligations and defray reasonable pension plan related expenses)
- Lower investment management and administrative expenses
- Positive rating agency and investor consideration

The City opened a section 115 Pension Trust Fund with Public Agency Retirement Services (PARS) in late 2017. The first contribution was made in May of 2018. The City has been diligently funding this Trust Fund each year since and currently has a balance of approximately \$4,500,000. These funds will be used to pay for future City CalPERS payments.

#### **5. Issue Pension Obligation Bonds (POBs) to reduce future recurring costs**

*How do POBs work?*

POBs are used to reduce budgetary impacts from rising UAL contributions. A POB is a taxable debt issuance used to pay some or all of a public agency's UAL. The bond proceeds are deposited with CalPERS to reduce an agency's UAL. Debt service payments for the bond issuance will then replace the agency's UAL payments that would have been owed to CalPERS for the UAL amount that was paid off.

Issuing POBs removes an unknown, fluctuating variable cost and replaces it with a stable, fixed payment amount. POBs should only be issued when the all-in interest

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rate of the bond issue is significantly below the actuarial rate of interest factored into the calculation of the UAL.

*What is City's Funded and Unfunded Pension Status?*

As of August 2020, the funded status of all City retirement plans is estimated to be 65%. As noted above, City's Unfunded Actuarial Liability (UAL) will be approximately \$151,300,000, as of June 30, 2021. Note that CalPERS' most recent return on investments for FY 2019-2020 which ended on June 30, 2020 was 4.7%. This will be factored into next year's valuation report and may have a negative impact on the City's UAL.

While the City's past use of the four above-referenced tools have been beneficial, there is still a large pension debt of at least \$151,300,000 owed to CalPERS being assessed an annual interest rate of 7.0%. The previous City actions over the past four years have saved over \$12,000,000, as highlighted in detail above, and established a Trust Fund that will provide future General Fund budget relief. However, without a change in the borrowing rate (currently 7.0%), the UAL will become increasingly financially challenging for the City to address over the next two decades.

*What would be the goals of issuing City POB?*

This demand on City resources over the next 20 to 25 years will need to be balanced with liquidity needs for ongoing City operations, community priorities, and long-term infrastructure needs. Staff analyzed various options to reduce the City's UAL, while preserving the City's fiscal integrity, with the following goals in mind:

- Preserve financial flexibility to meet or maintain City service obligations while funding pension benefit obligations.
- Consistent with the Government Finance Officers Association (GFOA) recommendation, strive to repay or amortize unfunded pension liabilities over a period not-to-exceed 20 years (ideally fall in the 15 to 20 year range; but, never exceed 25 years).
- Use shorter amortization periods to reduce interest costs and better match cost with the work-life of plan participants (i.e., equitable allocation of cost among generations).
- Pay at least the interest owed on the UAL to avoid negative amortization which ultimately increases UAL and interest costs.
- Use a level dollar repayment schedule to improve the likelihood that funds will be available to meet future payment demands. A level dollar payment plan becomes a decreasing percentage of the annual budget over time, whereas an increasing dollar payment plan moves in a commensurate manner with rising budgets. Level

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dollar repayment plan also helps facilitate the budget process and long-term financial planning

*What type of POBs should the City issue?*

At the September 21, 2020 Committee meeting, staff was directed to research the process and pros and cons of issuing Pension Obligation Bonds (POBs). At the October 14, 2020 Committee meeting, staff and the City's Municipal Advisor presented POB options involving the issuance of POB funding in the range of 90%-95% of the City's UAL. At the November 16, 2020 Committee meeting, there was further discussion on POBs. At this meeting, staff was directed to bring forward to City Council the consideration of POBs with the best financing option available.

Upon further review, staff is recommending that the City Council authorize the concept of issuing POBs at 95% of the current UAL in order to take advantage of historically low interest rates and maximize cost savings.

Staff also contracted with Bartel Associates, LLC for actuarial services to independently evaluate the City's UAL position under a variety of discount rates and financial return scenarios. These different scenarios enable the City to develop a long-term financial plan and budget depending on future anticipated outcomes. Bartel Associates provides more updated actuarial information which is not available from CalPERS. As mentioned earlier in this report, Bartel is also conducting an analysis for the City associated with pulling out of CalPERS, the costs associated with this action, and alternative retirement plan options for active employees. Pulling out of CalPERS would not negate the City's current pension debt with CalPERS in the amount of approximately \$151,300,000. This amount will be due with or without the City pulling out of CalPERS. The POBs are recommended to move forward in order to effectively address the \$151,300,000 in pension debt owed to CalPERS.

Staff has also been in contact with the City's CalPERS actuary regarding the impact of issuing POBs. Assuming POBs are issued by May 2021, CalPERS will recalculate the required UAL payment for FY 2021-22 that was originally calculated in the actuarial report issued in June 2020. In addition, the City's next actuarial valuation report will reflect the payment of bond proceeds in May 2021 and factor this into the FY 2022-23 required UAL payment. The amount of the required UAL payment will depend on the amount contributed from bond proceeds.

*How much would POBs cost the City in today's market place?*

The City's Municipal Advisor has estimated the City's cost of borrowing to be in the approximate range of 2.85% to 3.05%, which is well below CalPERS' discount rate of 7.0%. With this criterion met, the amount of the POBs is the next consideration.

*How much total POBs debt should the City take out?*

A prudent objective is to fund pension plans near 100% of the total accrued liability and no less than 80%, whenever possible. For this reason, staff reviewed options for issuing POBs at the following payoff percentages of the UAL:

- 100% = \$151,300,000 for Present Value Savings of \$58,000,000
- 95% = \$144,100,000 for Present Value Savings of \$55,000,000
- 90% = \$136,500,000 for Present Value Savings of \$52,000,000

To achieve the most savings for the City, staff recommends issuing POBs at 95% of the current UAL. If CalPERS does not achieve its annual discount rate return of 7.0% in any given year, an amortized investment loss will be created and the City's UAL will increase due to the establishment of a new UAL. In the event that CalPERS exceeds the 7.0% annual return in any given year, which may happen, an amortized investment gain will be created and the City's UAL will be reduced.

The possibility of CalPERS exceeding its 7% return is unclear at this time, especially with the impact of COVID-19 on the markets. In the event that this occurs and the City becomes over 100% funded, CalPERS will not return the excess funding to the City. This would result in stranded assets with CalPERS. While issuing POBs at 100% of our UAL yields the largest theoretical savings, there is also potential risk in creating stranding City assets by paying off more than 100% of the UAL and becoming overfunded with CalPERS. Again, CalPERS will not return excess assets (earnings) to a public agency if it becomes overfunded. This is a valid risk and legitimate reason not to issue the POBs at 100% of the UAL.

*How much money would the City save if it issues POBs?*

If the City issues POBs near 95% of the UAL, the projected recurring budgetary savings over the next 20 years will range from \$889,000 to \$4,100,000 each year (displayed as present value). The projected average recurring annual savings is \$2,750,000. Approximately 95% of this recurring savings will benefit the General Fund.

*Need for Adoption of a Formal City Pension Policy*

With the issuance of POBs, the adoption of a Pension Policy is strongly recommended to memorialize how the City intends to use the budgetary savings that will result from the issuance of such debt. On November 23, 2020, the Committee reviewed several policy options with the goal of making a recommendation of a Proposed Pension Policy to City Council at its December 15, 2020 meeting.

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*What other California cities have issued POBs?*

Several dozen cities throughout California have recently issued, or are in the process of issuing, POBs. A sample of Southern California cities that have recently issued POBs include: Carson, Covina, Gardena, Glendora, Montebello, Ontario, Pasadena, and Riverside. A sample of Southern California cities that are in the process exploring/issuing POBs include: Hawthorne, Huntington Beach, Manhattan Beach, and Orange.

Use of Alternative Retirement Options

As noted above, an actuarial services consulting firm is conducting this analysis and a report will be submitted to City Council in the near future.

Update on Other Post-Employment Benefits (OPEB) Savings

The City provides retiree medical for vested employees who retire from the City of El Segundo. This benefit is also referred to as Other Post-Employment Benefits (OPEB). In general, the vesting requirement for retiree medical is employment with the City for five years. In order to set funds aside for the OPEB benefit, the City opened a section 115 Trust account with CalPERS in 2008. The City initially funded the OPEB Trust in the amount of \$2,425,000 in 2008. As of November 19, 2020, the balance in the OPEB Trust is \$29,176,411. This is a combination of \$17,725,000 in contributions, \$1,000,000 in withdrawals, and \$12,451,652 in investment earnings.

The total OPEB liability for the City is \$55,862,000. With \$29,176,411 prefunded in the OPEB Trust, the OPEB unfunded liability is \$26,685,589. This equates to a funded status of 52%. About 75% of municipalities in the State of California that offer retiree medical insurance benefits have a funded ratio of 25% or less. The City of El Segundo is well positioned to be fully funded for the OPEB liability by 2031.

As of the latest actuary report (dated October 2020), the City no longer needs to make additional contributions into the OPEB Trust. The investment earnings over the next ten years is expected to get the OPEB Trust to 100% funded status. The annual contribution to the OPEB Trust has been \$548,000 over the past several years. These are General Fund dollars that can now be earmarked for other City Council strategic goal purposes. Once the OPEB Trust is 100% funded, the City can begin to pull money out of the OPEB Trust to make the monthly medical retiree premium payments. This will provide further monetary relief the General Fund.

**NEXT STEPS:**

If City Council approves moving forward with the POBs as articulated in this report, the next steps will be for staff to do the following:

- City Council approval of City Pension Policy -- December 15, 2020
- Municipal Advisor and City staff assemble POB “Transactional Team” (Bond Counsel and Disclosure Counsel and return to City Council approval – December 15, 2020
- City Council approval of Municipal Advisor to coordinate POB process – December 15, 2020
- Share Bartel Associates report re the financial considerations of a potential withdrawal from CalPERS pension system and costing of other alternative retirement options with Ad-Hoc Pension Committee in mid-December. The final report will be shared with full City Council after Committee review..
- Municipal Advisor and City staff assemble POB “Transactional Team” (Underwriter(s), etc.) and return to City Council approval – January/February, 2021
- City Council approval of POB Resolution and Bond Indenture -- January 19, 2021
  - File validation complaint – Judicial validation process begins (week of January 25)
  - Obtain order for publication of summons (week of February 1)
  - First publication of summons in the newspaper of general circulation (week of February 8)
  - Second publication of summons in the newspaper of general circulation (week of February 15)
  - Third publication of summons in the newspaper of general circulation (week of February 22)
  - Submit final documentation and request judgement (week of March 29)
  - Receipt of validation judgement (week of April 5)
- Complete First Draft of POB Preliminary Official Statement (POS) – mid-February 2021
- Complete Second Draft of POS – mid-March 2021



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- Complete Third Draft of POS – early April 2021
- Credit rating review with credit rating agency – late-April
- Receive credit rating – early May 2021
- City Council approval of POS and Bond Purchase Agreement – early May 2021
- Pricing of POBS – early June 2021
- Financing close – mid-June 2021
- Other transactional steps as needed
- City’s new fiscal year begins July 1, 2021

**CITY STRATEGIC PLAN COMPLIANCE:**

**Goal:** 5 -- Champion Economic Development and Fiscal Sustainability:

**Objective:** B -- El Segundo approaches its work in a financially strategic and responsible way

**ORIGINATED BY:** Joseph Lillio, Chief Financial Officer

**REVIEWED BY:** Barbara Voss, Deputy City Manager

**APPROVED BY:** Scott Mitnick, City Manager

**ATTACHED SUPPORTING DOCUMENTS:**

None.