



# AGENDA

## EL SEGUNDO CITY COUNCIL

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

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The City Council, with certain statutory exceptions, can only take action upon properly posted and listed agenda items.

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** portion of the Meeting. The time limit for comments is five (5) minutes per person.

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

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**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.**

### SPECIAL MEETING OF THE EL SEGUNDO CITY COUNCIL Monday, October 13, 2008, 8:00 A.M.

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

**CALL TO ORDER**

**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.*

## PROCEDURAL MOTIONS

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

Recommendation – Approval.

### A. SPECIAL ORDERS OF BUSINESS -

### B. UNFINISHED BUSINESS

1. **Consideration and possible action to terminate the professional services agreement with Bernards who was retained by the City of El Segundo to provide construction management services on the Fire Station 2 project. Additionally, consideration and possible action to authorize the City Manager to execute a temporary professional services agreement with Tom White in the amount of \$9,500 to provide construction management services for the Fire Station 2 project until a new professional services agreement is approved. (Fiscal Impact: None)**

Recommendation – (1) Authorize the City Manager to terminate the professional services agreement with Bernards; (2) Authorize the City Manager to execute a temporary professional services agreement in the amount of \$9,500 with Tom White; (3) Alternatively, discuss and take other action related to this item.

### C. REPORTS OF COMMITTEES, COMMISSIONS AND BOARDS

### D. CONSENT AGENDA

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

2. **Consideration and possible action to extend the City's agreement with Cassidy and Associates through September 30, 2009 for the provision of legislative advocacy services in Washington D.C. and to approve federal advocacy work program elements. (Fiscal Impact: \$160,000 for FY 2008-2009)**

Recommendation – (1) Authorize the Mayor to execute the attached agreement with Cassidy & Associates; (2) Approve the federal advocacy work plan as outlined in Cassidy & Associates Memorandum of September 18, 2008 and City's Homeland Security Needs Assessment; (3) Instruct the City Manager, affected departments, and our Washington, D.C. advocate to work with the Congressional staff and local government associations to pursue the City's federal funding and program objectives; (4) Alternatively, discuss and take other action related to this item.

## **E. REPORTS – CITY COUNCIL MEMBERS**

**Council Member Brann –**

**Council Member Fisher –**

**Council Member Jacobson –**

**Mayor Pro Tem Busch –**

- 3. Consideration and possible action regarding the City commissioned Cost Allocation and Fee Study for fees charged to the public for services rendered by various City Departments that was performed by Revenue Cost Specialist, LLC.**

**Recommendation – (1) Consider directing staff to study and/or incorporate fee incentives/reductions for environmentally sensitive (“Green”) construction projects ; (2) Alternatively discuss and take other action related to this item.**

**Mayor McDowell –**

### **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.*

**CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Gov’t Code §54956.9(a) – -0- matter**

### **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

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

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

**CONFERENCE WITH CITY'S LABOR NEGOTIATOR (Gov't Code §54957.6): - 4- matters**

1. City Negotiators: Interim City Manager Jack Wayt; Human Resources Director Bob Hyland; Finance Director Deborah Cullen; Richard Kreisler. Employee Organizations: (a) Unrepresented management/confidential employees (City employees who are not members of bargaining units); (b) El Segundo Police Officers' Association; (c) El Segundo Firefighter's Association; and (d) El Segundo Police Management Association.

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

**SPECIAL MATTERS:** - 0- matter

**REPORT OF ACTION TAKEN IN CLOSED SESSION** (if required)

**ADJOURNMENT:**

POSTED:

DATE: *Oct. 8, 2008*

TIME: *11:45 a.m.*

NAME: *S.M. Jy*

**AGENDA DESCRIPTION:**

Consideration and possible action to terminate the professional services agreement with Bernards who was retained by the City of El Segundo to provide construction management services on the Fire Station 2 project. Additionally, consideration and possible action to authorize the City Manager to execute a temporary professional services agreement with Tom White in the amount of \$9,500 to provide construction management services for the Fire Station 2 project until a new professional services agreement is approved. (Fiscal Impact: None)

**RECOMMENDED COUNCIL ACTION:**

Recommendation – (1) Authorize the City Manager to terminate the professional services agreement with Bernards; (2) Authorize the City Manager to execute a temporary professional services agreement in the amount of \$9,500 with Tom White; (3) Alternatively, discuss and take other action related to this item.

**ATTACHED SUPPORTING DOCUMENTS:**

Resume of Tom White

**FISCAL IMPACT: Included in Adopted Budget**

**Amount Budgeted:** \$7,750,000  
**Additional Appropriation:** N/A  
**Account Number(s):** 310-400-8201-8999

**ORIGINATED BY:** Kevin S. Smith, Fire Chief *KS*  
**REVIEWED BY:** Kevin S. Smith, Fire Chief *KS*  
**APPROVED BY:** Jack Wayt, City Manager *JW*

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**BACKGROUND AND DISCUSSION:**

Staff issued a Request for Proposals (RFP) on December 19, 2007 to secure a management services firm to provide construction management services for a new Fire Station 2. Three proposals were received on January 11, 2008 from Bernards; gkk works; and TG Construction Inc. After an initial review of the proposals, staff interviewed all three management services firms and researched the backgrounds and qualifications of each. Staff recommended to City Council on February 19, 2008 that they approve a professional services agreement with Bernards to provide construction management services for the Fire Station #2 project. Bernards performance on the project to date has not met staff's expectations. Examples of the performance problems include: Bernards changed the mutually agreed upon Project Manager without providing the City notice and staff is not satisfied with the new Project Manager's

performance; Bernards overestimated the construction bid by over \$1.5 million; Bernards failed to coordinate with a key sub-contractor, the fire communications system specialist, to ensure their participation in the project which caused staff to have to intervene to avoid delaying bid submittals or losing the sub-contractor; Bernards newly assigned Project Manager did not complete submittal logs accurately or in a timely manner; and staff is not satisfied with the value of services the City is receiving from Bernards relative to the billing amounts.

Subsequent to the initial interviews of management services firms, staff also interviewed and researched the background and qualifications of Tom White to perform the construction management services for the project. Mr. White was not interviewed by staff for the project in January, 2008 as he was committed to another project. That project has been completed and Mr. White is available to manage our project at this time. Mr. White has considerable experience managing similar municipal construction projects with references that are consistently positive. The attached resume focuses on Mr. White's experience in public works and utility type projects but his background and experience also includes construction and construction management of a number of buildings. Staff recommends that the City retain the services of Tom White on a temporary basis and evaluate his performance before committing to enter into a new professional services agreement.

## Resume of Tom White

6009 W. 85<sup>th</sup> Place  
Los Angeles, CA 90045

310-410-0669 or 256-0632(cell)  
tdwhite50@yahoo.com

### CONSTRUCTION EXPERIENCE

#### 1985-Present SENIOR CONSTRUCTION INSPECTOR/RESIDENT ENGINEER

Providing inspection services, construction management, and project engineering to A/E consulting firms, cities, agencies, and general contractors on public, private, and federal construction contracts. Responsibilities vary with each assignment. They are performed onsite, at a client's office, or both. Prior duties have consisted of multiple tasks including: onsite inspections to monitor contractors' compliance with project plans, specifications, safety orders, and labor laws; project record keeping and correspondence; interfacing with designers, utility personnel, outside agency representatives, and the public; change order/claims documentation and review; progress payment generation; submittal review; directing the activities of other inspectors, surveyors, and material technicians; schedule review; fair cost estimates; and various other administrative tasks. Projects that I have been associated with include:

- ❖ Downtown Advanced Transportation Management System Communications and Traffic Signal Modification Project for the City of Santa Monica (\$3.5M).
- ❖ FAU, CDBG, and capital improvement projects on streets, pipelines, utilities, and landscaping in Bell, Commerce, Cudahy, El Segundo, Maywood, and Santa Monica (\$200K to \$2M).
- ❖ Reinforced concrete box storm drain installations in the City of Los Angeles on Beverly Blvd. (\$9M), Fairfax Ave. (\$7M), Third St. (\$7M), and the Hollyhills Drain (\$10M).
- ❖ Madrona Lateral Reclaimed Waterline for the US Army Corps of Engineers and West Basin Mutual Water District in the City of Torrance (\$10M).
- ❖ Utility permit inspection for the City of Santa Monica.
- ❖ South County Pipeline Project (\$22M) in Mission Viejo for Metropolitan Water District.
- ❖ Rehabilitation of Route 204 in Bakersfield for Caltrans (\$2.5M).
- ❖ City of Commerce Amtrak/Metrolink Commuter Rail Station (\$1.5M).
- ❖ LA Metro, 7<sup>th</sup> St. and Flower St. subway station, Stage 3 construction (\$21M).
- ❖ Permit inspection on the Alameda Transportation Corridor for LACDPW.

#### 1983-1985 CONSTRUCTION INSPECTOR

Employed by Tierra Engineering Co. of Tarzana, CA on public works projects for LA County Flood Control District, LA County Road Dept., and the Culver City Redevelopment Agency (\$100K to \$2M).

#### 1973-1983 CONSTRUCTION ENGINEER

Employed by heavy civil contractors as a field engineer/project supervisor on interstate highway projects, wastewater treatment plants, and commercial building construction throughout northern New England. Employers included Perini Corporation of Framingham, MA and H. E. Sargent Construction Co. of Stillwater, ME (\$500K to \$20M).

### EDUCATION

1998-1999 California State University-Dominguez Hills, Carson, CA  
Certificate in Construction Management awarded June 1999

1968-1972 University of Vermont, Burlington, VT  
Bachelor of Arts degree in Mathematics awarded February 1973.

### COMPUTER SKILLS

Basic proficiency in Windows XP, Word, Outlook, and Excel.

*References Available Upon Request*

**AGENDA DESCRIPTION:**

Consideration and possible action to extend the City's agreement with Cassidy & Associates through September 30, 2009 for the provision of legislative advocacy services in Washington, D.C., and to approve federal advocacy work program elements. (Fiscal Impact: (\$160,000 for FY 2008-2009)

**RECOMMENDED COUNCIL ACTION:**



1. Authorize the Mayor to execute the attached agreement with Cassidy & Associates;
2. Approve the federal advocacy work plan as outlined in Cassidy & Associates Memorandum of September 18, 2008 and City's Homeland Security Needs Assessment;
3. Instruct the City Manager, affected departments, and our Washington, D.C. advocate to work with the Congressional staff and local government associations to pursue the City's federal funding and program objectives.
4. Alternatively, discuss and take other action related to this item.

**ATTACHED SUPPORTING DOCUMENTS:**

Cassidy & Associates memorandum outlining a proposed work plan for FY 2008-2009; Scope of Services; City's Homeland Security Needs Assessment; Draft Agreement

**FISCAL IMPACT:** Budget Adjustment Required

**Amount Budgeted:** \$155,400  
**Additional Appropriation:** Yes \$4,600  
**Account Number(s):** 001-400-2901-6407

**ORIGINATED BY:** Bill Crowe   
**REVIEWED BY:** Bill Crowe  
**APPROVED BY:** Jack Wayt, City Manager 

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**BACKGROUND AND DISCUSSION:**

Over the past decade, Cassidy & Associates has been extremely successful in federal advocacy on behalf of the City. In addition to their policy work, which has ranged from aviation noise impact related advocacy to base support and retention lobbying on behalf of Los Angeles Air Force Base during the most recent Base Realignment and Closure round, Cassidy has been successful at securing federal appropriations on behalf of the City for a variety of infrastructure projects ranging from the implementation of the City's Sewer Master Plan to the Douglas Street Gap Closure project. Federal funds of over \$10 million have been secured since fiscal year 2000 for these important infrastructure projects.



For the new fiscal year, the City – with the assistance of Cassidy & Associates – has developed a federal advocacy scope of work that focuses on homeland security and hazards mitigation. Those funding strategies are outlined in the attached Homeland Security Needs and Hazards Mitigation briefing paper. Key priorities include: obtaining an additional tactical operations radio frequency, acquisition of a new public safety computer-aided dispatch and records management system (CAD/RMS), purchase of a mass notification and warning system, and establishment of an alternate emergency dispatch and operations center.

These important public safety program enhancements along with recommended communications and utility infrastructure improvements will contribute substantially to improve the City's preparedness to deal with security threats and multiple hazard situations. Therefore, staff recommends Council (1) approve an agreement with Cassidy & Associates for federal legislative advocacy services for a monthly retainer of \$13,333, or \$160,000 annually; (2) approve the federal advocacy work plan as outlined in Cassidy & Associates Memorandum of September 18, 2008 and City's Homeland Security Needs Assessment document; and (3) instruct the City Manager, affected departments, and Cassidy & Associates to work with congressional members, their staff and local government associations to pursue the City's federal funding and program objectives.

# CASSIDY & ASSOCIATES

700 Thirteenth Street, NW, Suite 400  
Washington, DC 20005

## MEMORANDUM

**TO:** Mayor Kelly McDowell  
Members of the City Council  
City of El Segundo

**FROM:** Gerry Warburg and Christine O'Connor  
Cassidy & Associates

**DATE:** September 18, 2008

**RE:** Work on behalf of City of El Segundo in Washington

### INTRODUCTION

It is our privilege to carry forward our work supporting your staff as federal government relations advocates for the City of El Segundo in Washington D.C. This memorandum will serve to briefly summarize past, present and future work plans, including results and goals. We would welcome the opportunity to address any questions or suggestions members of the City Council or staff might have and propose to travel to visit with City officials next September 18 at 1:00 at City Hall. We look forward to the continued opportunity to serve the taxpayers and citizens of El Segundo in the year ahead.

### PAST ACCOMPLISHMENTS

Our work in Washington has focused on a series of infrastructure and funding issues crucial to El Segundo citizens. Some have been primarily regulatory and policy in nature—such as the continued struggle to shape city, state and federal policy towards the proposed renovation and expansion of Los Angeles International Airport, or the effort to discourage the Base Closure Commission from acting to shut Los Angeles Air Force Base. Others have been primarily budget opportunities, such as our successful efforts to help our Congressional delegation secure federal funds totaling nearly \$10 million for El Segundo, funds available in a highly competitive process of lobbying for earmarks for infrastructure improvements. Here, we have advanced successful City efforts to secure funds for projects as diverse as the Douglas Street Gap Closure or the Smoky Hollow sewage renovation. We have succeeded in helping the City win numerous funding grants to support such projects, while ensuring bipartisan support, sympathy and understanding for the challenges confronting our City officials.

## **CURRENT EFFORTS**

Our work in Washington in recent months has focused primarily on the effort to secure funding in the Fiscal Year 2009 Transportation, Housing and Urban Development. These funds will be dedicated in El Segundo primarily to the completion of the Park Place Extension. In FY 2008, we were able to secure \$750,000 toward this project. In FY 2009, we have requested \$3,250,000, the balance of the total request. The House has not yet taken action on this bill. It is expected the House will continue work on the FY 2009 bills in September. In addition, we have been working on the development of other possible federal funding opportunities for FY 2010—for instance, in the area of emergency response preparedness, where we will be conferring with key City officials again later this week in a working session by teleconference. We see great promise in this area. This is expected to be a more fruitful opportunity in the next appropriations cycle given the recent inclusion of similar projects in the FY09 bills. Numerous emergency operations centers were funded in the FEMA State and Local account in the House's Homeland Security Appropriations bill.

## **LOOKING FORWARD**

Congress continues to build upon reforms established in the FY 2008 cycle to improve transparency of the earmarking process. As you know, we applaud efforts we believe will only enhance the competitiveness of worthy initiatives which enjoy local elected officials' support, such as those we have carried for El Segundo. Rules continue to change, but we have worked hard to stay ahead of the curve and ensure we help our elected Federal representatives to secure a fair share of tax dollars to return home for the common good. We will recommend to City leaders that we once again pursue federal homeland security funding assistance for emergency preparedness next year as well as transportation funding.

## **CONCLUSION**

We appreciate the confidence placed in us by City staff and officials. We welcome the spirit of teamwork and candor that mark both our brainstorming sessions and our systematic, cooperative follow through. We look forward to continued success working together to advance your public interests in the twelve months ahead.

## **HOMELAND SECURITY NEEDS & HAZARDS MITIGATION**

### Background

The City of El Segundo is located immediately south of Los Angeles International Airport. The 5.5 square mile city is home to the largest oil refinery on the West Coast; two electricity generating plants; the primary sewage treatment facility for the City of Los Angeles; 21 high-rise buildings; Los Angeles Air Force Base; over 12 major aerospace and defense firms; and many other high-tech and other Fortune 500 companies.

As a major employment center for the South Bay of Los Angeles County, the City's daytime population exceeds 85,000 people. El Segundo is also near not only the ports of Los Angeles and Long Beach, it is within minutes of many of the region's significant transportation corridors.

These facts mean that the City and the surrounding region are exposed to an unusually high risk of threats associated with homeland security issues and multiple hazard scenarios. A homeland security event or other disaster that significantly impacted El Segundo would have far-reaching impacts on the region, the economy of Southern California and the nation's defense as a whole.

In recent years the City of El Segundo has focused significant emphasis on being prepared for the impacts of a homeland security event or other type of disaster. Significant progress has been made, but much remains to be done to ensure the City's readiness and capability to provide services in the event of a disaster, protect its residents and workers and recover quickly.

To that end, the Fire and Police Departments recommend that the City pursue assistance to acquire the following prioritized public safety resource needs:

- Additional Radio Frequency for Tactical Operations  
Estimated cost: \$1,000,000
- New Computer Aided Dispatching/Records Management System for use in Primary and Alternate Police/Fire Dispatch Centers  
Estimated costs: \$1,000,000
- Mass Notification and Warning System: Audible warning systems utilizing sirens and/or voice combined with electronic technology systems utilizing computers, pagers, email, and telephones.  
Estimated costs: \$500,000
- Alternate Emergency Police/Fire Dispatch Center (To be combined with Alternate EOC).  
Estimated cost: \$1,000,000

- Emergency Operations Center Equipment: Computers, LCD projectors, televisions, phones, and chairs.  
Estimated costs: \$125,000
- Alternate Emergency Operations Center Equipment: Computers, LCD projectors, televisions, phones, tables, and chairs.  
Estimated costs: \$150,000
- Fiber Optic Information Network: Linking of City owned facilities through a fiber optic network.  
Estimated costs: \$2,500,000
- Voice Over Internet Phone System: Replace existing City phone system with voice over internet phone capability.  
Estimated costs: \$500,000

Implementation of these resources would dramatically improve the City's overall readiness and preparedness to address homeland security events and other disasters. These resources would ensure that the City has the ability to communicate with and address the needs of residents, business, industry, the military and the surrounding region.

Sepulveda Boulevard and El Segundo Boulevard divide the City into four major quadrants. The northwest quadrant consists of the residential community, Downtown Business District, the El Segundo Civic Center (City Police and Fire Departments), all schools of the El Segundo Unified School District, City water storage facilities, and the Smoky Hollow commercial and industrial district. The Chevron refinery is located in the southwest quadrant. The southeast and northeast quadrants are primarily Commercial and Industrial areas. El Segundo Boulevard also provides public access to the Pacific Ocean beach recreational areas.

El Segundo Boulevard is the only major arterial roadway for residents, employees, Police and Fire emergency vehicles, and the Chevron refinery entering and exiting the two western quadrants of the City. It handles an average daily traffic in the magnitude of 40,000 to 75,000 vehicle trips. Any disruption of this access mode could have a major impact on the city's evacuation plans during emergencies.

There are utility poles along the north side of El Segundo Boulevard covered by overhead utility lines that provide power to the western quadrants of El Segundo. These poles are 12" and larger in diameter and 80'-100' tall. Natural disasters such as earthquake or any homeland security event can cause damage to the poles resulting in the closure of the only major arterial roadway within the two western quadrants.

To address this condition, the Fire and Police and Public Works Departments recommend that the City pursue assistance to mitigate this hazard:

- Undergrounding of overhead utilities  
Estimated cost: \$6,000,000
- 

In addition, the Americans with Disabilities Act (ADA) requires construction of safe traveling sidewalks and handicap accessible pedestrian ramps whenever the City undertakes construction of improvements.

- ADA sidewalk improvements  
Estimated cost: \$1,500,000

### Summary

With funding for these aforementioned projects, the City will be able to take significant steps to minimize the impact resulting from the threats associated with homeland security issues or natural disasters to the City.

## AGREEMENT

### FOR PROFESSIONAL SERVICES

**THIS AGREEMENT**, made and entered into this 7<sup>th</sup> day of October, 2008, between the CITY OF EL SEGUNDO, a municipal corporation, hereinafter referred to as "City" and Cassidy & Associates hereinafter referred to as "Consultant". This Agreement shall be in full force and effect through September 30, 2009, unless extended by mutual agreement of City and Consultant. In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. **SCOPE OF SERVICES.** Consultant agrees to perform the services set forth in Exhibit "A" "SCOPE OF SERVICES" and made a part hereof. Consultant represents and warrants that it has the qualifications, experience and facilities to properly perform said services in a thorough, competent and professional manner and shall, at all times during the term of this Agreement, have in full force and effect, all licenses required of it by law, including, but not limited to, a valid El Segundo Business License. Consultants shall begin its services under this Agreement on October 1, 2008. Consultant shall complete each of the services set forth in Exhibit A to the City's satisfaction. If the City is not satisfied with any such services, the Consultant shall work on such matter until the City approves of the service. Further, Consultant shall complete the services set forth in Exhibit A strictly according to the schedule provided therein.

Additionally, Consultant shall provide the services specified in Exhibit A in compliance with the following conditions: All work performed by Consultant shall be directed through the City Manager or designee; all work requested of Consultant by the City shall be directed by the City Manager or designee; consultant shall submit periodic reports of work product and progress on stated goals outlined in Exhibit A to the City Manager not less frequently than once each month.

2. **STATUS OF CONSULTANT.** Consultant is and shall at all times remain as to the City a wholly independent contractor. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City nor any of its officers, employees or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner officers, employees or agents of the City. Consultant shall not incur or have the power to incur any debt, obligation or liability whatever against City, or bind City in any manner. Consultant shall not disseminate any information or reports gathered or

created pursuant to this Agreement without the prior written approval of City except information or reports required by government agencies to enable Consultant to perform its duties under this Agreement.

**3. CONSULTANT'S KNOWLEDGE OF APPLICABLE LAWS.**

Consultant shall keep itself informed of applicable local, state and federal laws and regulations which may affect those employed by it or in any way affect the performance of its services pursuant to this Agreement. Consultant shall observe and comply with all such laws and regulations affecting its employees. City and its officers and employees, shall not be liable at law or in equity as a result of any failure of Consultant to comply with this section. Without limiting the foregoing, Consultant shall not expend any funds in violation of: California Constitution, Article 16, Section 6; Government Code, Section 81000 et. seq. ("Political Reform Act"); or any other federal or state law governing the expenditure of public funds. Consultant shall be solely responsible for submittal of all documents, forms and other information that may be required by all applicable agencies as a result Contractor's performing the services specified in this Agreement.

**4. PERSONNEL.** Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff assigned to perform the services hereunder and shall obtain the approval of the City Manager of all proposed staff members performing services under this Agreement prior to any such performance.

**5. COMPENSATION AND METHOD OF PAYMENT.** Compensation to the Consultant shall be paid as a fixed monthly retainer not to exceed thirteen thousand three hundred and thirty-three dollars (\$13,333) per month. Payments shall be made in approximately thirty (30) days after receipt of each invoice as to all non-disputed fees. If the City disputes any of consultant's fees it shall give written notice to Consultant in 30 days of receipt of an invoice of any disputed fees set forth on the invoice.

**6. ADDITIONAL SERVICES OF CONSULTANT.** Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein or listed in Exhibit "A", unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services.

**7. ASSIGNMENT.** All services required hereunder shall be performed by Consultant, its employees or personnel under direct contract with



Consultant. Consultant shall not assign to any subcontractor the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without the prior written consent of City Manager.

**8. FACILITIES AND RECORDS.** City agrees to provide: suitably equipped and furnished office space, public counter, telephone, and use of copying equipment and necessary office supplies for Consultant's on-site staff, if any. Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by City that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of City or its designees at reasonable times to such books and records, shall give City the right to examine and audit said books and records, shall permit City to make transcripts therefrom as necessary, and shall allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

**9. TERMINATION OF AGREEMENT.** This Agreement shall expire on September 30, 2008, unless extended by mutual agreement of City and Consultant. The City upon 30 days written notice or 120 days by contractor written notice may terminate with or without cause this Agreement. In the event of such termination, Consultant shall be compensated for non-disputed fees under the terms of this Agreement up to the date of termination.

**10. COOPERATION BY CITY.** All public information, data, reports, records, and maps as are existing and available to City as public records, and which are necessary for carrying out the work as outlined in the Scope of Services, shall be furnished to Consultant in every reasonable way to facilitate, without undue delay, the work to be performed under this Agreement.

**11. OWNERSHIP OF DOCUMENTS.** Upon satisfactory completion of, or in the event of termination, suspension or abandonment of, this Agreement, all original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall, become the sole property of City. With respect to computer files, Consultant shall make available to the City, upon reasonable written request by the City, the necessary

computer software and hardware for purposes of accessing, compiling, transferring and printing computer files.

**12. RELEASE OF INFORMATION/CONFLICTS OF INTEREST.**

**A.** All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization excepting that information which is a public record and subject to disclosure pursuant to the California Public Records Act, Government Code, 6250, et seq. Consultant, its officers, employees, agents or subcontractors, shall not without written authorization from the City Manager or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

If Consultant or any of its officers, employees, consultants or subcontractors does voluntarily provide information in violation of this Agreement, City has the right to reimbursement and indemnity from Consultant for any damages caused by Consultant's conduct, including the City's attorney's fees.

Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder or with respect to any project or property located within the City. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

**B.** Consultant covenants that neither they nor any officer or principal of their firm has any interest in, or shall they acquire any interest, directly or indirectly which will conflict in any manner or degree with the performance of their services hereunder. Consultant further covenants that in the performance of this Agreement, no person having such interest shall be employed by them as an officer, employee, agent, or subcontractor without the express written consent of the City Manager.

13. **DEFAULT.** In the event that Consultant is in default of any provision of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Consultant.

14. **INDEMNIFICATION.** Consultant agrees to the following:

**A. Indemnification for Professional Services.** Consultant will save harmless and indemnify, including, without limitation, City's defense costs (including reasonable attorney's fees), from and against any and all suits, actions, or claims, of any character whatever, brought for, or on account of, any injuries or damages sustained by any person or property resulting or arising from any negligent or wrongful act, error or omission by Consultant or any of Consultant's officers, agents, employees, or representatives, in the performance of this Agreement.

**B. Indemnification for other Damages.** Consultant indemnifies and holds City harmless from and against any claim, action, damages, costs (including, without limitation, attorney's fees), injuries, or liability, arising out of this Agreement, or its performance. Should City be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of this Agreement, or its performance, Consultant will defend City (at City's request and with counsel satisfactory to City) and will indemnify CITY for any judgment rendered against it or any sums paid out in settlement or otherwise.

**C.** For purposes of this section "City" includes City's officers, officials, employees, agents, representatives, and certified volunteers.

**D.** It is expressly understood and agreed that the foregoing provisions will survive termination of this Agreement.

**E.** The requirements as to the types and limits of insurance coverage to be maintained by Consultant as required by this Agreement, and any approval of said insurance by City, are not intended to and will not in any manner limit or qualify the liabilities and obligations otherwise assumed by Consultant pursuant to this Agreement, including, without limitation, to the provisions concerning indemnification.

**F.** Consultant represents it is skilled in the professional calling necessary to perform the services and duties agreed to hereunder by Consultant, and City relies upon the skills and knowledge of Consultant. Consultant shall perform such services and duties consistent with the standards generally recognized as being employed by professionals performing similar service in the State of California.

**G.** Consultant is an independent contractor and shall have no authority to bind City nor to create or incur any obligation on behalf of or liability against City, whether by contract or otherwise, unless such authority is expressly conferred under this agreement or is otherwise expressly conferred in writing by City.

CONSULTANT HAS READ THIS SECTION 14 IN ITS ENTIRETY AND KNOWINGLY AND WILLINGLY ACCEPTS THE OBLIGATIONS CONTAINED HEREIN.

15. **INSURANCE.**

**A. Insurance Requirements.** Consultant shall provide and maintain insurance acceptable to the City Attorney in full force and effect throughout the term of this Agreement, against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by Consultant, its agents, representatives or employees. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII. Consultant shall provide the following scope and limits of insurance:

(a) **Minimum Scope of Insurance.** Coverage shall be at least as broad as:

- (i) Insurance Services Office form Commercial General Liability coverage (Occurrence Form CG 0001).
- (ii) Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, including code 1 "any auto" and endorsement CA 0025, or equivalent forms subject to the written approval of the City.
- (iii) Workers' Compensation insurance as required by the Labor Code of State of California and Employer's Liability insurance and covering all persons providing services on behalf of the Consultant and all risks to such persons under this Agreement. (Not needed if Self-employed with no employees.)
- (iv) Errors and omissions liability insurance appropriate to the Consultant's profession.

(b) **Minimum Limits of Insurance.** Consultant shall maintain limits of insurance no less than:

- (i) **General Liability:** \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the

general aggregate limit shall apply separately to the activities related to this Agreement or the general aggregate limit shall be twice the required occurrence limit.

- (ii) **Automobile Liability:** Including owned, non-owned and hired vehicles for bodily injury and property damage with (See cover letter (page 1) for actual dollar level Requirements):
  - At least \$1,000,000 per occurrence.
  - \$100,000 - \$300,000 per occurrence.
  - As required by State Statutes. A copy of your current policy must be submitted naming yourself and or your company.
  
- (iii) **Workers' Compensation and Employer's Liability:** Workers' Compensation as required by the Labor Code of the State of California and Employers Liability limits of \$1,000,000 per accident.
  
- (iv) **Errors and Omissions or Malpractice or Professional Liability:** At least \$1,000,000 per occurrence.

**B. Other Provisions.** Insurance policies required by this Agreement shall contain the following provisions:

(a) **All Policies.** Each insurance policy required by this paragraph 15 shall be endorsed and state the coverage shall not be suspended, voided, canceled by the insurer or either party to this Agreement, reduced in coverage or in limits except after 30 days' prior written notice by Certified mail, return receipt requested, has been given to the City.

(b) **General Liability and Automobile Liability Coverages.**

(i) City, its officers, officials, and employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities Consultant performs, products and completed operations of Consultant; premises owned, occupied or used by Consultant, or automobiles owned, leased or hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, officials, or employees.

(ii) Consultant's insurance coverage shall be primary insurance as respect to City, its officers, officials, employees and volunteers. Any insurance or self insurance maintained by City, its officers, officials, employees or volunteers shall apply in excess of, and not contribute with, Consultant's insurance.

(iii) Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(v) Any failure to comply with the reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees or volunteers.

(c) **Workers' Compensation and Employer's Liability Coverage.** Unless the City Manager otherwise agrees in writing, the insurer shall agree to waive all rights of subrogation against City, its officers, officials, employees and agents for losses arising from work performed by Consultant for City.

C. **Other Requirements.** Consultant agrees to deposit with City, at or before the effective date of this contract, certificates of insurance necessary to satisfy City that the insurance provisions of this contract have been complied with. The City Attorney may require that Consultant furnish City with copies of original endorsements effecting coverage required by this Section. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. City reserves the right to inspect complete, certified copies of all required insurance policies, at any time.

(a) Consultant shall furnish certificates and endorsements from each subcontractor identical to those Consultant provides.

(b) Any deductibles or self-insured retentions must be declared to and approved by City. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims.

(c) The procuring of such required policy or policies of insurance shall not be construed to limit Consultant's liability hereunder nor to fulfill the indemnification provisions and requirements of this Agreement.

16. **ENTIRE AGREEMENT.** This Agreement is the complete, final, entire and exclusive expression of the Agreement between the parties hereto and supersedes any and all other agreements, either oral or in writing, between the parties with respect to the subject matter herein. Each party to this Agreement acknowledges that no representations by any party which are not embodied herein and that no other agreement, statement, or promise not contained in this Agreement shall be valid and binding.

17. **GOVERNING LAW.** The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the Los Angeles County Superior Court.

18. **ASSIGNMENT OR SUBSTITUTION.** City has an interest in the qualifications of and capability of the persons and entities who will fulfill the duties and obligations imposed upon Consultant by this Agreement. In recognition of that interest, neither any complete nor partial assignment of this Agreement may be made by Consultant nor changed, substituted for, deleted, or added to without the prior written consent of City. Any attempted assignment or substitution shall be ineffective, null, and void, and constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including summary termination of this Agreement.

18. **MODIFICATION OF AGREEMENT.** The terms of this Agreement can only be modified in writing approved by the City Council and the Consultant. The parties agree that this requirement for written modifications cannot be waived and any attempted waiver shall be void.

20. **AUTHORITY TO EXECUTE.** The person or persons executing this Agreement on behalf of Consultant warrants and represents that he/she/they has/have the authority to execute this Agreement on behalf of his/her/their corporation and warrants and represents that he/she/they has/have the authority to bind Consultant to the performance of its obligations hereunder.

21. **NOTICES.** Notices shall be given pursuant to this Agreement by personal service on the party to be notified, or by written notice upon such

party deposited in the custody of the United States Postal Service  
addressed as follows:

City:  
Jack Wayt  
City of El Segundo  
350 Main Street  
El Segundo, California 90245-3895  
Telephone (310) 524-2301  
Facsimile (310) 322-7137

Consultant:  
Gerry Warburg  
Cassidy & Associates  
700 Thirteenth Street N.W., Suite 400  
Washington D.C. 20005-5917

The notices shall be deemed to have been given as of the date of personal service, or three (3) days after the date of deposit of the same in the custody of the United States Postal Service.

**22. SEVERABILITY.** The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of the other provisions of this Agreement.

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

Company Name: Cassidy & Associates

By \_\_\_\_\_

Title \_\_\_\_\_

**CITY OF EL SEGUNDO**

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
Cindy Mortesen  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Mark D. Hensley  
City Attorney



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**3. Consideration and possible action regarding the City commissioned Cost Allocation and Fee Study for fees charged to the public for services rendered by various City Departments that was performed by Revenue Cost Specialist, LLC.**

Recommendation – (1) Consider directing staff to study and/or incorporate fee incentives/reductions for environmentally sensitive (“Green”) construction projects; (2) Alternatively discuss and take other action related to this item.