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*Memorandum* by City Manager's Office

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Joseph Horwedel  
Jennifer A. Maguire

**SUBJECT:** CONSTRUCTION TAX  
SUSPENSIONS

**DATE:** March 17, 2009

Approved

*Christine J. Shupley*

Date

*3/19/09*

### INFORMATION MEMO

#### BACKGROUND

This memorandum is provided in response to Councilmember Oliverio's questions regarding construction tax suspensions during the February 10, 2009 discussion on the Mid-Year Budget Review. The information below provides the amount of tax suspensions for the last five years and the criteria for which suspensions are imposed on the two major construction taxes.

#### ANALYSIS

The table below details the permit valuation, collected taxes, suspended taxes, potential taxes without suspension and the percentage of the potential taxes that are suspended. This information was extracted from the Planning, Building, and Code Enforcement (PBCE) Department's AMANDA system.

**TABLE 1 – TAX SUSPENSIONS ANALYSIS**

Fiscal Year	Permit Valuation (In Millions)	Collected Tax (In Millions)	Suspended Tax (In Millions)	Potential Tax without Suspensions (In Millions)	% Suspended of Total Potential Tax
2004-2005	\$915.3	\$26.8	\$9.8	\$36.6	27%
2005-2006	\$828.6	\$24.5	\$8.2	\$32.7	25%
2006-2007	\$951.8	\$27.0	\$12.9	\$39.9	32%
2007-2008	\$895.3	\$23.6	\$12.1	\$35.7	34%

As noted in the table above, the total suspended tax ranged from \$8.2 million in 2005-2006 to \$12.9 million in 2006-2007 or 25% and 32% of the total potential tax respectively. The taxes represented include the Building and Structure Construction Tax and Construction Excise Tax (also known as the Commercial – Residential – Mobile Home Park Building Tax) that support the Traffic Capital Program including pavement maintenance activities in the General Fund; the Residential Construction Tax which supports street improvements and median island landscaping in the Developer Assisted Projects Capital Program; and Construction Taxes that support parks, park yards, fire, library, service yards, and communications infrastructure.

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### Reasons for Tax Suspensions

There are multiple reasons as defined by the Municipal Code for which construction taxes are suspended. The summary below details exemptions for the two major construction taxes (Building and Structure Construction and Construction Excise Taxes that support the Traffic Capital Program). It should be noted that similar suspensions impact the Residential Construction Tax which supports street improvements and median island landscaping in the Developer Assisted Projects Capital Program; and Construction Taxes that support parks, park yards, fire, library, service yards, and communications infrastructure.

#### *Building and Structure Construction Tax*

- City, State, County or Federal or any governmental agency
- Reconstruction or repair of a building which was damaged or destroyed over which the owner had no control (within one year)
- Rehabilitation of substandard housing under a government grant or loan program
- Hospitals
- Housing constructed with government assistance
- Construction in certain redevelopment project areas (Park Center, San Antonio Plaza, and Pueblo Uno). This suspension has expired. The Redevelopment Agency, however, reached a retroactive agreement for any project that had achieved the 'entitlement' approval from the Planning Department to keep their exemption for an additional two years.
- Churches and religious facilities
- Certain incentive zones in the downtown (sunset December 2001), enterprise zones (sunset April 2001), and the Edenvale Industrial Zone (sunset January 2000). These zones were extended to 2003 and have since expired.
- Very low income housing (sunset June 2011)
- Solar photovoltaic building equipment (sunset December 2006)
- Certain industrial incentives or downtown office tenant improvements (sunset April 2008)
- Industrial Uses reduced rate (certain uses sunset June 2009; remaining industrial uses have no sunset date)

#### *Construction Excise Tax (also known as the Commercial – Residential – Mobile Home Park Building Tax)*

- City, State, County or Federal or any governmental agency
- Reconstruction or repair of a building which was damaged or destroyed over which the owner had no control (within one year)
- Rehabilitation of substandard housing under a government grant or loan program
- Certain improvements such as pools, patio covers, decks and accessory buildings for single-family dwellings

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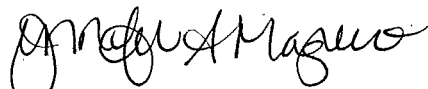
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- Alterations or additions to single-family homes that do not increase the square feet more than fifty percent
- Hospitals
- Housing constructed with government assistance
- Buildings constructed for lease to County for multi-service center purposes
- Construction in certain redevelopment project areas (Park Center, San Antonio Plaza, and Pueblo Uno). This suspension has expired. The Redevelopment Agency, however, reached a retroactive agreement for any project that had achieved the 'entitlement' approval from the Planning Department to keep their exemption for an additional two years.
- Churches and religious facilities
- Certain incentive zones in the downtown (sunset December 2001) or enterprise zones (sunset April 2001) – These zones were extended to 2003 and have since expired.
- Very low income housing (sunset June 2011)
- Small business improvements (partial – sunset November 2007)
- Solar photovoltaic building equipment (sunset December 2006)
- Industrial Uses

Some suspensions, such as for other government entities, result from legal constraints or policy choices; however, many of the construction tax suspensions were implemented in an effort to promote economic development. Many of these types of incentives were enacted with sunset provisions, as noted above. Thus, the suspension can be removed by allowing it to lapse and not reenacting it. With the growing deferred/unmet infrastructure backlog, City's General Fund Structural Deficit, and the plummeting tax revenue that supports a significant portion of the Traffic Capital Program and other various capital programs, it is recommended that the City Council reconsider current suspensions that may be amended without voter approval to generate additional revenue and consider carefully the costs of implementing future tax suspensions.



JOSEPH HORWEDEL  
Director, Planning, Building, and  
Code Enforcement Department



JENNIFER A. MAGUIRE  
Budget Director

For questions, please contact Ed Tolentino, Planning, Building, and Code Enforcement Department, at 408-535-3555 or Kenn Lee, City Manager's Budget Office, at 408-535-8136.