

**ALL ITEMS FOR CONSIDERATION BY THE CITY COUNCIL AND CITY COUNCIL AS SUCCESSOR AGENCY TO THE COMMERCE COMMUNITY DEVELOPMENT COMMISSION ARE AVAILABLE FOR PUBLIC VIEWING IN THE OFFICE OF THE CITY CLERK AND THE CENTRAL LIBRARY**

**Agendas and other writings that will be distributed to the Councilmembers in connection with a matter subject to discussion or consideration at this meeting and that are not exempt from disclosure under the Public Records Act, Government Code Sections 6253.5, 6254, 6254.3, 6254.7, 6254.15, 6254.16, or 6254.22, are available for inspection following the posting of this agenda in the City Clerk's Office, at Commerce City Hall, 2535 Commerce Way, Commerce, California, and the Central Library, 5655 Jillson Street, Commerce, California, or at the time of the meeting at the location indicated below.**

**NOTICE OF CONCURRENT SPECIAL MEETINGS OF THE CITY COUNCIL OF THE CITY OF COMMERCE AND THE CITY COUNCIL OF THE CITY OF COMMERCE AS SUCCESSOR AGENCY TO THE COMMERCE COMMUNITY DEVELOPMENT COMMISSION**

I, Joe Aguilar, Mayor, do hereby call concurrent Special Meetings of the City Council of the City of Commerce, California, and the City Council of the City of Commerce, California, as Successor Agency to the Commerce Community Development Commission to convene at **5:00 p.m. on Tuesday, February 7, 2012**, in the Senior Citizens Center, 2555 Commerce Way, Commerce, California.

The City Council and City Council as Successor Agency to the Commerce Community Development Commission will convene to consider the following matters:

**CALL TO ORDER**

Mayor Aguilar

**ROLL CALL**

City Clerk Olivieri

**PUBLIC COMMENT (TIME LIMITATION – 5 MINUTES)**

Citizens wishing to address the City Council and City Council as Successor Agency to the Commerce Community Development Commission ("Successor Agency") on any item on the agenda or on any matter not on the agenda may do so at this time. However, State law (Government Code Section 54950 et seq.) prohibits the City Council/Successor Agency from acting upon any item not contained on the agenda posted 72 hours before a regular meeting and 24 hours before a special meeting. Upon request, the City Council/Successor Agency may, in their discretion, allow citizen participation on a specific item on the agenda at the time the item is considered by the City Council/Successor Agency. Request to address City Council/Successor Agency cards are provided by the City Clerk. If you wish to address the City Council/Successor Agency at this time, please complete a speaker's card and give it to the City Clerk prior to commencement of the City Council/Successor Agency meetings. Please use the microphone provided, clearly stating your name and address for the official record and courteously limiting your remarks to five (5) minutes so others may have the opportunity to speak as well.

To increase the effectiveness of the Public Comment Period, the following rules shall be followed:

No person shall make any remarks which result in disrupting, disturbing or otherwise impeding the meeting.

**RECESS TO CLOSED SESSION**

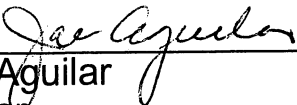
1. Pursuant to Government Code §54956.8,
  - A. **The City Council as Successor Agency to the Commerce Community Development Commission** will confer with its real property negotiators, Jorge Rifá and Bob Zarrilli, with respect to real estate negotiations with Mayans Development, Inc., including proposed price and other terms, concerning real property located on Eastern Avenue, commonly known as APN 5241-013-900, APN 5241-013-901, APN 5241-013-902, APN 5241-013-903 and APN 5241-014-900; Greenwood Avenue, commonly known as APN 6357-011-909, APN 6357-011-907 and APN 6357-011-910; Nicola Avenue, commonly known as APN 6351-038-900; Neenah Street, commonly known as APN 6356-015-900; Watcher Street, commonly known as APN 6357-014-900, APN 6257-014-901, APN 6357-014-902 and APN 6357-014-903; Gage Avenue, commonly known as APN 6357-016-900, APN 6357-016-901, APN 6357-016-905 and APN 6357-016-002 and Gage Avenue (privately owned), commonly known as APN 6357-016-003.
  
2. Pursuant to Government Code §54956.9(a),
  - A. **The City Council as Successor Agency to the Commerce Community Development Commission** will confer with its legal counsel and take the appropriate action, with respect to the pending litigation of California Redevelopment Association, et al. v Ana Matosantos, et al., Supreme Court of the State of California, Case No. S194861.
  
  - B. **The City Council and City Council as Successor Agency to the Commerce Community Development Commission** will confer with their legal counsel, and take the appropriate action, with respect to the pending litigation of City of Cerritos, et al. v. State of California, et al., Superior Court of the State of California, County of Sacramento, Case No. 34-2011-80000952.
  
3. Pursuant to Government Code §54956.9(b),
  - A. **The City Council** will confer with its legal counsel, and take the appropriate action, with respect to significant exposure to litigation in one potential case.
  
  - B. **The City Council as Successor Agency to the Commerce Community Development Commission** will confer with its legal counsel, and take the appropriate action, with respect to significant exposure to litigation in one potential case.
  
4. Pursuant to Government Code §54957.6,
  - A. **The City Council** will confer with its labor negotiator, Jorge Rifá, with respect to labor negotiations pertaining to the Memoranda of Understanding between the City and the City of Commerce Employees Association on behalf of the mid-management and non-management full-time employees and part-time employees.

**ADJOURNMENT**


No other business will be transacted at this meeting.

**SPECIAL COUNCIL/SUCCESSOR AGENCY AGENDA**  
**02/07/2012 – 5:00 p.m.**  
**Page 3 of 3**

Dated: February 2, 2012

  
\_\_\_\_\_  
Joe Aguilar  
Mayor

ATTEST:

  
\_\_\_\_\_  
Linda Kay Olwieri, MMC  
City Clerk

**LARGE PRINTS OF THIS AGENDA ARE AVAILABLE UPON REQUEST  
FROM THE CITY CLERK'S OFFICE, MONDAY-FRIDAY,  
8:00 A.M. - 6:00 P.M.**



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**AGENDA FOR THE CONCURRENT REGULAR MEETINGS OF  
THE CITY COUNCIL OF THE CITY OF COMMERCE AND  
THE CITY COUNCIL OF THE CITY OF COMMERCE AS SUCCESSOR  
AGENCY TO THE COMMERCE COMMUNITY DEVELOPMENT  
COMMISSION  
SENIOR CITIZENS CENTER  
2555 COMMERCE WAY, COMMERCE, CALIFORNIA**

**TUESDAY, FEBRUARY 7, 2012 – 6:30 P.M.**

**CALL TO ORDER**

Mayor Aguilar

**PLEDGE OF ALLEGIANCE**

Claude McFerguson  
Director of Transportation

**INVOCATION**

Councilmember Leon

**ROLL CALL**

City Clerk Olivieri

**APPEARANCES AND PRESENTATIONS**

1. Certificates of Recognition – Honoring City Employees Robert Real, Raul Anthony Diaz and Jose Guillen for Act of Heroism

The **City Council** present Certificates of Recognition to City employees Robert Real, Raul Anthony Diaz and Jose Guillen for an act of heroism in responding to the aid of an individual having a medical emergency on January 12, 2012.

**PUBLIC COMMENT**

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## **CITY COUNCIL REPORTS**

### **CONSENT CALENDAR**

Items under the Consent Calendar are considered to be routine and may be enacted by one motion. Each item has backup information included with the agenda, and should any Councilmember desire to consider any item separately he/she should so indicate to the Mayor. If the item is desired to be discussed separately, it should be the first item under Scheduled Matters.

#### **2. Approval of Minutes**

The **City Council and City Council as Successor Agency to the Commerce Community Development Commission** will consider for approval, respectively, the minutes of the Concurrent Regular Meetings of Tuesday, January 3, 2012, held at 6:30 p.m.; Concurrent Special Meetings of Tuesday, January 17, 2012, held at 5:00 p.m.; Concurrent Regular Meetings of Tuesday, January 17, 2012, held at 6:30 p.m. and Concurrent Adjourned Regular Meetings of Tuesday, January 31, 2012, held at 5:00 p.m.

#### **3. Approval of Warrant Register No. 15**

The **City Council and City Council as Successor Agency to the Commerce Community Development Commission** will consider for approval, respectively, the bills and claims set forth in Warrant Registers No. 15A, dated February 7, 2012, and No. 15B, for the period January 18, 2012, to February 2, 2012.

#### **4. Adoption of Revised City of Commerce Personnel Policy and Procedure**

The **City Council** will consider adopting the revised City of Commerce Substance Abuse Policy for Commercial Drivers III-20 and authorizing the City Administrator and Director of Human Resources to execute the revised policy.

#### **5. A Resolution of the City Council of the City of Commerce Declaring That Weeds, Brush, Rubbish and Refuse Upon or in Front of Specified Property in the City Are a Seasonal and Recurrent Public Nuisance, and Declaring its Intention to Provide for the Abatement Thereof**

The **City Council** will consider for approval and adoption a proposed Resolution declaring that weeds, brush, rubbish and refuse upon or in front of specified property in the City are a seasonal and recurrent public nuisance, declaring its intention to provide for the abatement thereof and designating the City Council meeting of February 21, 2012, at 6:30 p.m. as the date and time for the hearing of protests in connection therewith.

The Los Angeles County Agricultural Commissioner/Director of Weights and Measures will mail notices, as required by the Government Code, to the designated property owners upon receipt of City Council approval.

**6. Funding for Temporary Acting Public Information Officer Position**

The **City Council** will consider approving the funding for the temporary Acting Public Information Officer Position.

**7. A Resolution of the City Council of the City of Commerce, California, Approving the Execution of Cash Contract No. 1113 – State Funded Project No. SR2SL-5362(013) Safe Route to School Improvements in the City of Commerce, With E. C. Construction Co., of El Monte, California, Rejecting All Other Bids, and Other Matters Related Thereto**

The City applied for State funding under the Safe Route to School Program for various improvements around the local elementary schools. The intent of the Program is to improve and enhance the safety of pedestrians, motorists and related infrastructure near Bandini Elementary School, Laguna Nueva Elementary School and Rosewood Park School.

The **City Council** will consider for approval and adoption a proposed Resolution approving the execution of Cash Contract No. 1113 – State Funded Project No. SR2SL-5362(013) Safe Route to School Improvements in the City of Commerce, with E. C. Construction Co., of El Monte, California, rejecting all other bids and considering other matters related thereto.

**PUBLIC HEARINGS**

**8. Public Hearing – A Resolution of the City Council of the City of Commerce, California, Authorizing the Allocation for the 38<sup>th</sup> Year of Community Development Block Grant (CDBG) Funds for Fiscal Year 2012/2013**

The **City Council** will conduct a public hearing on, and thereafter consider for approval and adoption, a proposed Resolution authorizing the allocation for the 38<sup>th</sup> year of Community Development Block Grant (CDBG) funds for fiscal year 2012/2013. The estimated allocation for the fiscal year is \$126,289, which, combined with \$10,000, or more, of unprogrammed funds from the current fiscal year, will be utilized to fund the proposed fiscal year 2012/2013 CDBG projects.

**SCHEDULED MATTERS**

**9. Status Report on Elimination of Redevelopment**

As part of the 2011-12 State budget bill, the California Legislature enacted, and the Governor signed, companion bills Assembly Bill 1X 26 (“AB 26”) and Assembly Bill 1X 27 (“AB 27”) requiring that each redevelopment agency in the State be dissolved as of October 1, 2011, unless the community that created it enacted an ordinance committing it to making the payments required by AB 27. On December 29, 2011, the California Supreme Court upheld the constitutionality of AB 26, but determined that AB 27 was unconstitutional.

Pursuant to AB 26 (*Health & Safety Code* §34172(a)(1)) and the Supreme Court decision, redevelopment agencies were not permitted to take on any new obligations and were required to wind down their existing operations effective February 1, 2012, with said operations to be transferred to designated successor agencies.

**CONCURRENT REGULAR COUNCIL/SUCCESSOR AGENCY AGENDA**

02/07/2012 – 6:30 p.m. Amended February 3, 2012, at 3:30 p.m.

Page 4 of 5

By Mireya Gonzalez, Senior Office Assistant

The **City Council and City Council as Successor Agency to the Commerce Community Development Commission** will receive a status report on, and provide appropriate direction as deemed necessary with respect to, the elimination of redevelopment in California and the obligations, duties and responsibilities of the City and/or Successor Agency with respect thereto.

- 10. Fiscal Year 2011-2012 Financial Status, Impacts Related to Death of Redevelopment and Fiscal Year 2012-2013 Initial General Fund Projected Deficit

The **City Council and City Council as Successor Agency to the Commerce Community Development Commission** will receive a status report on, and provide appropriate direction as deemed necessary with respect to, the City's fiscal year 2011-2012 financial status, the impacts related to the death of redevelopment and the fiscal year 2012-2013 initial General Fund projected deficit.

- 11. Update on Status of Green Policy/Green Zones Proposed by Environment Justice Advisory Task Force

The **City Council** will receive an update on, consider for receipt and filing and provide appropriate direction as deemed necessary with respect to, the status of the Green Policy/Green Zones proposed by the Environmental Justice Advisory Task Force.

- 12. Update on Status of Creating Digital Billboards Standards for City of Commerce

The **City Council** will receive an update on, and provide appropriate direction as deemed necessary with respect to, the status of creating digital billboards standards for the City of Commerce.

- 13. Door of Hope Community Center – City Service Organization Renewal

The **City Council** will consider making a decision with respect to the City Service Organization status of the Door of Hope Community Center, which is located in the City of Los Angeles.

- 14. Community Dodger and Galaxy Nights

The **City Council** will discuss, and consider for approval, the elimination of the Community Dodger Night and Community Galaxy Night events as cost-saving measures for the City.

**ORDINANCES AND RESOLUTIONS**

- 15. A Resolution of the City Council of the City of Commerce, California, Rejecting All Bids for Cash Contract No. 1109 – The Central Library, City Hall And Senior Plaza Improvements Project and Other Related Matters Thereto

The **City Council** will consider for approval and adoption a proposed Resolution rejecting all bids received for Cash Contract No. 1109 – The Central Library, City Hall and Senior Plaza Improvements Project and providing direction as deemed appropriate with respect to several alternative options for the Project.

**CIP PROGRESS REPORT**



**LEGISLATIVE UPDATE**

**I-710 LOCAL ADVISORY COMMITTEE UPDATE**

**RECESS TO CLOSED SESSION**

**ADJOURNMENT**

Adjourn in memory of the Commerce Community Development Commission and the elimination of redevelopment activities in the City of Commerce and the State of California.

**LARGE PRINTS OF THIS AGENDA ARE AVAILABLE UPON REQUEST  
FROM THE CITY CLERK'S OFFICE, MONDAY-FRIDAY,  
8:00 A.M. - 6:00 P.M.**





# AGENDA REPORT

MEETING DATE: February 7, 2012

**TO:** HONORABLE CITY COUNCIL

**FROM:** CITY ADMINISTRATOR

**SUBJECT:** COMMENDATION – COMMENDING ROBERT REAL, RAUL ANTHONY DIAZ, AND JOSE GUILLEN FOR AN ACT OF HEROISM BY RESPONDING TO THE AID OF AN INDIVIDUAL HAVING A MEDICAL EMERGENCY ON JANUARY 12, 2012

**RECOMMENDATION:**

Read and present commendation from the City of Commerce to Robert Real, Raul Anthony Diaz, and Jose Guillen.

**MOTION:**

Move to approve recommendation.

**BACKGROUND:**

On January 12, 2012, at approximately 11:20 a.m., a man walking near the corner of Jillson Street and Daniel Avenue (across the Provisor Building) fell to the ground and began convulsing. The 25 year old male was having a seizure.

Robert Real, Raul Anthony Diaz, and Jose Guillen were at the Provisor Building (Central Receiving) picking up supplies when they first observed the young man slump over and then fall onto parkway area. They ran to the man's aid, and while all three employees held the young man, Robert called 911. As instructed by the 911 operator, they held the man and kept him from injuring himself any further, or biting his tongue. The man was foaming and bleeding from the mouth.

When the seizure finally subsided they stayed with the man and asked him important questions to check his alertness and overall condition. They were able to determine that the man suffered from epilepsy and had not taken his medication.

The employees then helped the man gather and secure his personal belongings. They were then able to convey to the Paramedics what had occurred along with the information they obtained from the man. They were all nervous throughout the ordeal, but knew they had to act for someone's life was at stake.

**ANALYSIS:**

The quick actions and humanitarian instincts of Robert, Anthony, and Jose helped save the life an individual during a medical emergency.

Robert Real, Raul Anthony Diaz, and Jose Guillen were raised in Commerce and currently work in the Community Development Department/Public Services Division. The City is fortunate to have individuals like these that we can call residents and employees of the City.

**FISCAL IMPACT:**

This activity can be carried out without additional impact on the current operating budget.

**RELATIONSHIP TO 2009 STRATEGIC GOALS:**

This agenda item relates to the following Council's strategic goal: *"Protect and Enhance Quality of Life in the City of Commerce."*

**Respectfully submitted,**



Jorge Rifa  
City Administrator

**Recommended by:**



for Robert Zarrilli  
Director of Community Development

**Prepared by:**




Danilo Batson  
Assistant Director of Public Services

**Fiscal Impact Reviewed by:**



Vilko Domic  
Director of Finance

**Approved As To Form:**



Eduardo Olivo  
City Attorney

File: 2012 City Council Agenda Reports  
Commendation of Act of Heroism – Individual Having a Medical Emergency (Real Diaz and Guillen)



# AGENDA REPORT

**MEETING DATE:** February 7, 2012

**TO:** HONORABLE CITY COUNCIL

**FROM:** CITY ADMINISTRATOR

**SUBJECT:** ADOPTION OF REVISED CITY OF COMMERCE PERSONNEL POLICY AND PROCEDURE

**RECOMMENDATION:**

Adopt the revised Substance Abuse Policy for Commercial Drivers Policy III-20. Authorize the City Administrator and the Director of Human Resources to execute the revised policy.

**MOTION:**

Move to approve the recommendation.

**BACKGROUND:**

The Human Resources Department manages and maintains the City's Personnel Policies and Procedures Manual. The last comprehensive review of the Human Resources Policies and Procedures Manual was conducted in 1993. The Human Resources Department has committed to a comprehensive review of these policies and procedures. Policies requiring a meet and confer process are presented to the City of Commerce Employees Association Executive Board in order to meet in good faith and to receive employee comment regarding the adoption of such policies and procedures.

A notice regarding the implementation of this revised policy was submitted to the members of the CCEA Executive Board on January 3, 2012 for their review and comment. On January 12, 2012, City staff presented representatives of the City of Commerce Employee Association the attached policy. As a result, suggestions and recommendations from the Association were incorporated. No further comments or concerns were received as of January 30, 2012. Therefore, the following revised Policy and Procedure is being submitted to the City Council for consideration and adoption:

- Substance Abuse Policy for Commercial Drivers Policy III-20

**ANALYSIS:**

The proposed changes herein are result of a recent audit conducted by the Department of Transportation in which it has been identified that our Substance Abuse Policy for Commercial Operators required updating as it relates to the FTA guidelines. Although the deadline for the audit response was December 29, 2011, Mr. McFerguson (Transportation Director) has received approval from FTA to extend the deadline to February 7, 2012.

**FISCAL IMPACT:**


This activity can be carried out without additional impact on the current operating budget.

**RELATIONSHIP TO 2009 STRATEGIC GOALS:**

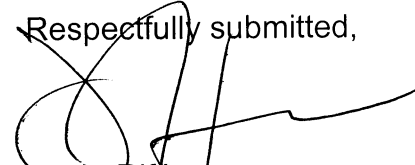
This agenda item report relates to the 2009 strategic planning goal: *Ensure the city will have a trained, quality workforce to efficiently provide services to City of Commerce residents for the future.*

This issue is related to adopting essential revised policies which ensures that the City maintains a compliant and quality workforce to efficiently provide services to City of Commerce residents for the future.


Recommended by:

  
Teresa McAllister  
Director of Human Resources

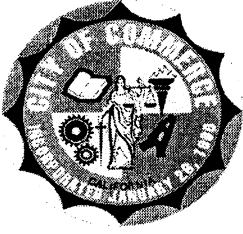
Respectfully submitted,

  
Jorge Rifa  
City Administrator

Approved as to Form:

  
Eduardo Olivo  
City Attorney

Attachment: Substance Abuse Policy for Commercial Drivers III-20



Approved:

**City of Commerce, California  
Human Resources Policy and Procedure Manual**

\_\_\_\_\_  
Director of Human Resources

\_\_\_\_\_  
City Administrator

*Number: III-20 Effective Date:*

**SUBJECT: SUBSTANCE ABUSE POLICY FOR COMMERCIAL DRIVERS**

**POLICY:**

The City of Commerce - Transportation Department (hereinafter referred to as "CTD") is dedicated to providing safe, dependable and efficient transportation services to our customers. We recognize that the use of illegal drugs and misuse of alcohol by our safety-sensitive employees could pose a significant risk to public safety, as well as the employee's health and well-being. In view of this, the City has adopted this Policy ("Policy" herein) to:

1. Create a work environment free from the adverse effects of drug abuse, alcohol misuse, and use of impairing prescription or over-the-counter drugs;
2. Deter and detect employees' use of illegal drugs and misuse of alcohol;
3. Prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances;
4. Encourage employees to seek professional assistance anytime personal problems, including drug or alcohol dependency, adversely affect their ability to safely perform their assigned duties; and
5. Discipline employees who violate the Policy, up to and including termination.

**PURPOSE:**

The purpose of this Policy is to assure worker fitness for duty and to protect our employees, passengers, and the public from the safety and health risks posed by the misuse of alcohol and use of prohibited drugs. This Policy is intended to comply with all applicable State and Federal regulations governing workplace anti-drug use and alcohol misuse programs in the transportation industry. They include the regulations promulgated by the U.S. Department of Transportation ("DOT") and the Federal Transit Administration ("FTA"), and include the following: DOT 49 CFR Part 40, as amended ("Procedures for Transportation Workplace Drug and Alcohol Testing Programs") (hereinafter referred to as "Part 40"); FTA 49 CFR Part 655 ("Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations") (hereinafter referred to as "Part 655"); DOT 49 CFR Part 29 ("Drug-Free Workplace Act of 1988"); and California Government Code Sections 8350 et seq. ("Drug-Free Workplace Act of 1990"). This Policy incorporates the requirements of above regulations for safety-sensitive employees.

**NOTE:** Additional requirements and/or disciplinary actions established solely under CTD authority are entered in **bold-faced type**. Requirements of the Drug-Free Workplace Act (DFWA) are in *Italics*.

## 1. APPLICABILITY

This Policy applies to all employees of CTD defined as “safety-sensitive” under the FTA regulations (Part 655); see also Section 8.0 herein. It applies to off-site lunch periods or breaks when an employee is scheduled to return to work or is on-call.

Visitors, invitees, and vendors also are prohibited from entering the premises and from conducting any work on behalf of the City when illegal substances are present in their system, or the odor of alcohol is present on their breath. In addition, this Policy applies to contractors who have employees performing safety-sensitive functions on City vehicles and/or property.

All positions within the City requiring a commercial driver’s license, excluding safety-sensitive positions as defined by FTA regulations (Part 655), falls under the Federal Motor Carrier Safety Administration (FMCSA) regulation, 49 C.F.R., Part 382, which mandates urine drug testing and breath alcohol testing for CDL holders. In order to obtain a unified policy, the City will implement the most stringent requirements of these regulations. The Federal law provides minimum standards for drug and alcohol testing; the City will exceed these minimum standards only where reasonable and necessary to maintain a cohesive testing program for all affected City employees.

## 2. PRE-EMPTION OF STATE AND LOCAL LAWS

If any conflict occurs between State and local laws and any requirement of the above-mentioned Federal regulations, the Federal regulations shall prevail. However, Federal regulations do not pre-empt provisions of State criminal laws that impose sanctions for reckless conduct attributed to prohibited drug use or alcohol misuse, whether the provisions apply specifically to transportation employees, employers, or the public in general.

## 3. DEFINITIONS

**Adulterated Specimen:** A urine specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with normal human urine.

**Alcohol Use:** The drinking or swallowing of any beverage, liquid mixture or preparation (including any medication) containing alcohol. For purposes of this Policy, alcohol is alcohol regardless of source.

**BAC:** Breath Alcohol Concentration, expressed in terms of grams of alcohol per 210 liters of breath.

**Breath Alcohol Technician (BAT):** An individual who instructs and assists employees in the alcohol testing process and operates an Evidential Breath Testing (EBT) device.



**Canceled Test:** A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which Part 40 requires to be canceled. A canceled test is neither a positive nor a negative test.

**Collector:** A person who instructs and assists individuals at a collection site, who receives and makes an initial inspection of the specimen provided by the individual, and who initiates and completes the Custody and Control Form (CCF).

**Controlled Substances:** Any drug classified by the U.S. Drug Enforcement Agency (DEA) into the five schedules or classes on the basis of their potential for abuse, accepted medical use, and accepted safety for use under medical supervision.

**Designated Employer Representative (DER):** An employee or employees authorized by the City to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, following a positive test; test refusal; or other policy violations.

**DHHS:** Department of Health and Human Services.

**Dilute Specimen:** A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

**Disabling Damage:** Damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs, including damage to motor vehicles that could have been driven, but would have been further damaged if so driven. "Disabling damage" does not include:

- Damage which can be remedied temporarily at the scene of the accident without special tools or parts.
- Tire disablement without other damage even if no spare tire is available.
- Headlamp or taillight damage.
- Damage to turn signals, horn, or windshield wipers which make them inoperative.

**DOT:** Department of Transportation.

**Drug Abuse:** Use of any illegal drug or controlled substance without a valid prescription, misuse of legally prescribed drugs, or use of illegally obtained prescription drugs. This includes use of prescription drugs legally prescribed to another individual.

**Evidential Breath Testing (EBT) Device:** A device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath under DOT Part 40 and placed on the NHTSA's Conforming Products List.

**FTA:** Federal Transit Administration.

**Invalid Drug Test:** The result of a urine drug test that contains an unidentified adulterant or an unidentified interfering substance, has abnormal physical characteristics, or has an endogenous substance at an abnormal concentration that prevents the laboratory from completing or obtaining a valid drug test result.

**Mass Transit Vehicles:** Vehicles used for mass transportation or ancillary services.

**Medical Review Officer (MRO):** A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory drug test results, who has knowledge of substance abuse disorders, and has the appropriate medical training to interpret and evaluate an individual's confirmed drug and/or validity test results together with the individual's medical history and any other relevant biomedical information. This individual must meet the qualification requirements under Sec. 40.121 of Part 40.

**Non-Negative Specimen:** A urine specimen that is reported as adulterated, substituted, positive for drug(s) or drug metabolite(s), and/or invalid.

**Positive Alcohol Test:** The presence of alcohol in the body at a concentration of 0.04 BAC or greater as measured by an EBT device.

**Positive Drug Test:** Any urine that is chemically tested (screened and confirmed), shows the presence of controlled substances at or above the concentrations listed in Section 40.87(a) of the DOT drug testing regulation, and is verified as positive by the MRO.

**Refusal to Test:** Includes circumstances or behaviors such as:

- Failure to appear for any test (except a pre-employment test) at the collection site in the time allotted.
- Failure to remain at the testing site until the testing process is completed, except in pre-employment situations where leaving the site before the testing process begins is not deemed to be a test refusal.
- Failure to provide a urine, breath, or saliva specimen as required by DOT Part 40.
- Failure to permit the observation or monitoring of specimen collection when it is required.
- Failure to provide a sufficient amount of urine or breath specimen without a valid medical explanation.
- Failure or refusal to take a second test when required.
- Failure to undergo a medical evaluation when required. In the case of a pre-employment test, the individual is deemed to have refused to test only if the pre-employment test is conducted following a contingent offer of employment.
- Failure to cooperate with the testing process. (Examples: refusal to empty pockets when requested, behaving in a confrontational manner that disrupts the collection process, or failure to wash hands after being directed to do so by the collector)
- For an observed collection, failure to follow the observer's instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if individual is wearing any type of device that could be used to interfere with the collection process.
- Possession or wearing of a prosthetic or other device that could be used to interfere with the collection process.
- Admitting adulteration or substitution of the specimen to the collector or the MRO.
- In alcohol testing, refusal to sign Step 2 of the Alcohol Test Form.
- Leaving the scene of the accident without just cause prior to submitting to a test.
- If the MRO reports a verified adulterated or substituted test result.

**Note:** A refusal to test is equivalent to a positive test result.

**Screening Test Technician (STT)**: A person who instructs and assists employees in the alcohol testing process and operates an alcohol screening device, such as a breath or saliva device, other than an EBT.

**Specimen Validity Testing**: A test to determine if a urine specimen is adulterated, diluted or substituted.

**Split Specimen**: In drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second DHHS-certified laboratory for testing upon employee request following a verified positive or a verified adulterated or substituted test result from the primary specimen.

**Subject to Duty**: An employee is considered "subject to duty" under any of the following circumstances: 1) on his or her regularly scheduled duty days prior to sign-on; 2) when reporting for work, 3) during any split period between assignments, whether on or off City premises; 4) when informed in advance, while on duty, that he or she is expected to be on duty at some point in the future; and 5) when being tested under the re-entry to work provisions of this Policy.

**Substance Abuse Professional (SAP)**: A person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare. In order to be a qualified SAP, the individual must have certain credentials, possess specific knowledge, receive training, and achieve a passing score on an examination, as required under 49 CFR Part 40.281.

**Substituted Specimen**: A specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal human urine.

**Vehicles**: Includes buses, electric buses, vans, trucks, automobiles, rail cars, trolley cars, trolley buses or vessels, non-revenue commercial motor vehicles, and vehicles used by armed security personnel.

#### **4. EDUCATION AND TRAINING**

The education and ongoing awareness component of this Policy will include display of posters, distribution to all covered employees and representatives of employee organizations of the drug and alcohol policy and other informational materials, and periodic information seminars. Each employee will be required to sign an acknowledgment form indicating that they have received a copy of the current policy.

As required by FTA regulations, the City will provide to all safety-sensitive employees a minimum of sixty (60) minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use.

Supervisors or company officials who may make reasonable suspicion referrals shall receive an additional sixty (60) minutes of training on the physical, behavioral, and performance indicators of probable drug use, and at least sixty (60) minutes of training on the physical, behavioral, speech and performance indicators of probable alcohol misuse.

**5. CONTACT PERSON**

Any questions about this Policy or any aspect of the City's drug- and alcohol-free program should be referred to the following:

Name: Claude McFerguson  
Title: Director of Transportation  
Address: 5555 Jillson, Street  
Commerce, CA 90640

Telephone # (323) 887-4419  
Fax # (323) 887-4643

**6. COVERED EMPLOYEES**

**FTA Positions:**

As a condition of employment, safety-sensitive employees are required to submit to drug and alcohol tests administered in accordance with 49 CFR Parts 40 and 655. A refusal to submit to a test as directed will be considered to be a positive test result and the employee will be subject to all the attending consequences as stated in this Policy. (Please refer to Section 5.0 for specific circumstances or behaviors that are considered a refusal to test.)

As defined by the FTA, "safety-sensitive employees" include those who perform, or may be called upon to perform, the following safety-sensitive functions.

1. Operating a revenue service vehicle, even when it is not in revenue service;
2. Operating a non-revenue service vehicle when required to be operated by a Commercial Driver's License (CDL) holder;
3. Controlling dispatch or movement of a revenue service vehicle;
4. Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service.

Supervisors are considered safety-sensitive only if they perform, or may be called upon to perform any of the above safety-sensitive functions.

CTD has analyzed the actual job duties performed by all of its employees, and those they may be called upon to perform, and has determined that the job classifications listed below are considered "safety-sensitive" for the purposes of this Policy.

- Bus Operator I
- Bus Operator II
- Fleet Mechanic
- Transit Supervisor
- Transportation Dispatcher
- Transit Operations Assistant
- Fleet Maintenance Supervisor
- Transportation Service Worker
- Lead Transportation Service Worker

**FMSCA Positions:**

All positions within the City requiring a commercial driver's license, excluding safety-sensitive positions as defined above by FTA regulations falls under the Federal Motor Carrier Safety Administration (FMCSA) regulation, 49 C.F.R. Part 382, which mandates urine drug testing and breath alcohol testing for CDL holders.

The City has analyzed the actual job duties performed by all of its employees, and those they may be called upon to perform, and has determined that the assigned job tasks listed below are considered for the purposes of this Policy.

- Maintenance staff who are required to operate a Dump Truck as part of their job tasks
- Parks and Recreation Senior Center staff who are assigned to drive the City's Medi-Van as part of their job tasks
- Park Maintenance staff who are assigned to tow the Parks & Recreation Show mobile.
- Community Services staff assigned to operate the Mobile Command Post (5<sup>th</sup> Wheel)

**7. DRUGS (OR THEIR METABOLITES) TESTED FOR AND CONFIRMATORY CUT-OFF LEVELS**

	<u>Confirmatory Cut-Off (ng/mL)</u>
• Marijuana	15
• Cocaine	100
• Opiates	2000
• Amphetamines (includes methamphetamines)	250
• Phencyclidine (PCP)	25

**8. PROHIBITED BEHAVIORS**

8.1 Illegal Drugs

The prohibited drugs listed in Section 9.0 are always illegal and employees are prohibited from consuming any of them at all times. Employees may be tested for illegal drugs anytime they are on duty or subject to duty.

8.2 Prescription or Over-the-Counter Medications

CTD recognizes the safety risks associated with employee use of certain prescription and over-the-counter medications that affect work performance.

Under this Policy, the appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of medications that cause drowsiness or fatigue, or those that carry warning labels which caution against the operation of machines, heavy equipment, or automobiles, is strictly prohibited while performing safety-sensitive work. Covered employees are required to notify their manager or supervisor regarding the use of such medication, and may not perform any safety-sensitive function, if their medication carries a warning label that mental functioning, motor skills or judgment may be adversely affected. The

only exception to this is if the medication is being used in accordance with the instructions of a physician who has provided a written determination that the substance will not adversely affect the employee's ability to safely perform safety-sensitive duties. The employee must then provide his or her manager or supervisor with a copy of the medical authorization. While observing confidentiality rules with regards to medical information and records, CTD will make the final determination whether or not to allow the employee to perform any safety-sensitive work, or require the employee to see a company-approved physician.

The employee is responsible for describing his or her safety-sensitive duties to the physician and obtaining appropriate medical professional information on whether or not the drug might impair his or her ability to perform his or her duties safely and effectively. If possible, employee must ask for alternative medicine/dosage/schedule that does not jeopardize safety.

A prescription is considered valid only if it is in writing and indicates the employee's name, date, the name of the substance, quantity or amount to be taken, and the period of authorization. Controlled substances obtained illegally outside the United States are not considered valid medical prescriptions. It is a violation of this Policy to use any controlled substance in a manner that is inconsistent with the prescription. Any covered employee who violates this section of the policy is subject to disciplinary action, up to and including termination.

### 8.3 Alcohol

Safety-sensitive employees are prohibited from consuming alcohol in any form:

- While performing safety-sensitive functions (see Section 8.0);
- Within four (4) hours prior to performing safety-sensitive functions;
- While they are on call; or
- Within eight (8) hours following an accident requiring a post-accident alcohol test, unless the test was completed within 8 hours.

Alcohol tests may only be conducted just before, during, and just after the employee's performance of a safety-sensitive function. If a covered employee tests positive for alcohol at a concentration equal to or greater than 0.02 but less than 0.04, the employee will be immediately removed from duty, referred to a SAP, and, subject to disciplinary action in accordance with established City disciplinary procedures.

The employee will not be allowed to return to safety sensitive duties until he or she produces an alcohol test result of 0.02 or below. An alcohol test result of 0.04 or above will result in immediate removal from safety-sensitive duties, referral to a SAP, and disciplinary action as described in section 16.0 (Consequences) of this Policy.

## 9. TYPES OF TESTING

### 9.1 Pre-Employment Testing

Candidates for employment in safety-sensitive positions, or any employee transferring from a non-safety-sensitive to a safety-sensitive position, will be required to undergo a pre-employment drug test at a time and place designated by CTD. A verified negative drug test result must be received by CTD before an employee or candidate can be allowed to perform any safety-

sensitive function for the first time. If a pre-employment test is canceled, the individual will be required to undergo another test and successfully pass the test.

Subject to the candidate's written consent, CTD will check on the drug and alcohol testing background of candidates and employees being considered for final selection into any safety-sensitive position within CTD. If the individual refuses to provide the written consent, he or she will not be hired into the safety-sensitive position. In addition, if the individual has had a positive pre-employment drug or alcohol test, or has refused such a test, he or she will not be hired until and unless the individual has provided a documentation of successful completion of the return-to-duty process, which includes a SAP referral, evaluation and treatment plan. (See also, Section 11.5 herein)

An employee who has not performed any safety-sensitive function for at least 90 consecutive calendar days (regardless of the reason) and has been out of the random pool during that period must pass a pre-employment drug test before he or she is allowed to return to safety-sensitive work.

## 9.2 Reasonable Suspicion Testing

Whenever a Supervisor (or other City official) has reason to believe that a covered employee has used a prohibited drug and/or engaged in alcohol misuse, reasonable suspicion testing will be conducted. The referral will be made by a trained supervisor or City official based on the specific, contemporaneous, and articulable observations concerning the appearance, behavior, speech, or body odors of the employee. The supervisor/official who makes the referral need not be the employee's own supervisor, as long as he or she has received training in detecting the signs and symptoms of drug use and alcohol misuse. The supervisor's observations will be documented and such documentation shall be kept in the employee's confidential drug and alcohol testing file.

A reasonable suspicion alcohol test may only be conducted if the reasonable suspicion observation is made just before, during, or just after the employee's performance of safety-sensitive function. If the alcohol test is not conducted within two hours, reason for the delay must be documented and kept in the employee's reasonable suspicion test file. All attempts to complete the alcohol test must cease after eight hours.

To ensure the safety of the employee, the public and co-workers, when an employee has reasonable suspicion or information that a co-worker or subordinate has consumed or is under the influence of drugs/alcohol while at work, they must immediately report their suspicion and/or information to their Department Head and/or Supervisor for further impairment assessment. Whenever a manager or supervisor observes, or is advised of, a health or safety risk as a result of possible intoxication, they should contact their Department Head or designee and the Human Resources Department to carry out an assessment.

All impairment assessments must be conducted by the Department Head or designee and concurred by the Human Resources Department, who have been properly trained and are considered to be competent to conduct the impairment assessment. The employee has the right to representation during these assessments.

If an impairment assessment is conducted and the employee is deemed fit to continue duties, no further testing is required.

Upon concurrence of the Human Resources Department that an employee is reasonably deemed to be impaired, the employee shall be transported immediately to a medical facility to be examined by a physician and take the appropriate test for drug or alcohol use. The examination shall be conducted while the employee is "on the clock". The City shall bear the expense of the examination, and shall provide transportation to and from the medical facility and the employee's work station. The supervisor shall use good judgment and at their discretion may request assistance from another staff to assist them when transporting an employee who is reasonably believed to be under the influence of drugs/alcohol. A Supervisor shall contact the Transportation Department if a vehicle is required for transport.

The employee will be placed on paid administrative leave pending the results of the drug/alcohol test. The employee shall not be allowed to drive himself/herself home. Either the employee may arrange for someone to transport him/her to their home or the supervisor and one other employee may transport the employee home. If the employee refuses to be transported home and insists on operating a motor vehicle, then the supervisor will be responsible for calling the appropriate contacts including law enforcement to report the circumstances, in order to prevent the employee from driving away in a car and to protect the employee and the public. If an employee gets behind the wheel of any vehicle and proceeds to activate the vehicle after being admonished not to do so, said action will be deemed insubordination and grounds for immediate termination.

Failure to submit to an examination and test, when so ordered by the department head or designee, will be considered insubordination, and grounds for immediate termination.

If the examination shows that the employee is under the influence of drugs and or alcohol, or over-the-counter medications in excess of prescribed dosages, the City's drug and alcohol policy has been violated and the employee shall be subject to immediate termination.

An employee whose drug test and/or alcohol test produces a negative result shall be promptly returned to his or her regular work.

### 9.3 Post-Accident Testing

Any covered employee operating a mass transit vehicle at the time of an accident shall be required to submit to drug and alcohol tests as soon as practicable after the accident. For purposes of this Policy, "accident" is defined as an accident involving a mass transit vehicle where the result is:

- An individual dies;
- An individual suffers a bodily injury and immediately receives medical treatment away from the scene;
- The mass transit vehicle (if bus, electric bus, van, or automobile) or any other vehicle(s) involved in the accident suffers a disabling damage as a result of the accident and is transported away from the scene by a tow truck or other vehicle; or
- The mass transit vehicle (if rail car, trolley car, trolley bus, or vessel) is removed from revenue service.



#### 9.4 Fatal Accidents

Whenever there is a loss of human life, any surviving employee operating the City vehicle at the time of the accident shall be tested for drugs and alcohol. Any other safety-sensitive employee not in the vehicle but whose performance could have contributed to the accident also shall be tested.

#### 9.5 Non-Fatal Accidents

Following non-fatal accidents, the employee operating the vehicle at the time of the accident shall be tested unless his or her performance can be completely discounted as a contributing factor to the accident. Any other safety-sensitive employee whose performance could have contributed to the accident also shall be tested.

#### 9.6 Other Post-Accident Testing Requirements

Employees involved in an accident that requires testing must remain readily available for testing, including notifying CTD of their location if they leave the scene of the accident before testing to obtain emergency medical care, or to obtain assistance in responding to the accident. They will be considered to have refused to submit to testing if they fail to do so. This requirement should not be construed to delay the necessary medical attention for injured people following the accident.

Employees are prohibited from using alcohol for eight (8) hours following an accident or until the post-accident testing is completed, whichever occurs first. Every effort will be made to conduct alcohol testing within two (2) hours after the accident. In the event the alcohol test is delayed beyond two hours, CTD will prepare and maintain a record stating the reason(s) for the delay.

If an alcohol test is not administered within eight hours following the accident, CTD will cease all efforts to administer the test and document the reason for the inability. In the event a drug test is not administered within 32 hours from the time of the accident, CTD will cease all attempts to administer the drug test.

If CTD is unable to perform post-accident tests within the required period of compliance, CTD may use the post-accident test results administered by State or local law enforcement personnel under their own authority, provided the test results are obtained by CTD.

Following a post-accident test, the employee is not allowed to perform any safety-sensitive function until the company has received negative test results. While awaiting test results, the employee shall remain on paid status in accordance with the employee's regular work schedule. An employee whose drug test and/or alcohol test produces a negative result shall be promptly returned to his or her regular work.

#### 9.7 Random Testing

Safety-sensitive employees are required to undergo random drug and alcohol tests to deter use of prohibited drugs and misuse of alcohol. The random selection will be conducted using a scientifically valid method, such as a random number table or a computer-based random number generator which gives each covered employee an equal chance of being selected every time a selection is made. As is the nature of the random method, it is possible that some

employees will be selected several times in one year, and other employees not for several years. Management does not have any discretion on who will be selected.

A covered employee shall only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions, just before, or just after the performance of such functions. Random testing for drugs may occur anytime the employee is on duty.

Every effort will be made by CTD to spread random testing reasonably throughout the calendar year, all days of the week, and all hours when safety-sensitive functions are performed. The testing dates and times are unannounced and employees are required to immediately proceed to the designated collection site following notification.

CDT will conduct random drug and alcohol tests at a minimum annual percentage of covered employees as required by the FTA. The rates are subject to change on an annual basis, depending on the industry-wide positive rate determined by the FTA from the annual Management Information Systems ("MIS") reports submitted by covered employers.

#### 9.8 Return-to-Duty Testing

CTD has a "zero tolerance" policy. In the unusual event that an employee who has refused a required test, has a verified positive, adulterated or substituted drug test result, or tests positive for alcohol at 0.04 or greater, is allowed to return to safety-sensitive duties, he or she must first complete the return-to-duty process. This includes evaluation by a SAP, successful completion of the rehabilitation, treatment or education program outlined by the SAP, and obtaining a verified negative return-to-duty drug test and/or alcohol test under 0.02.

Under the City's own authority, employees who are allowed to return to work after a policy violation will be required to sign a Re-entry Agreement (See Appendix A).

#### 9.9 Follow-Up Testing

In addition to the Return-to-Duty test described in Section 11.5, an employee who previously tested positive, or refused to take a required test (including MRO reports of adulteration or substitution), shall be subject to follow-up testing for drugs and/or alcohol, as prescribed by the SAP, for a minimum period of 12 months, up to a maximum of five years. As mandated by the FTA, the employee shall undergo at least six follow-up tests during the first 12 months of his or her return to work. Although they are both unannounced, follow-up testing is apart and separate from random testing. The duration and frequency of testing will be designated by the SAP, but the actual follow-up testing dates will be decided by the employee's manager or supervisor.

### 10. DRUG & ALCOHOL TESTING PROCEDURES

All DOT drug and alcohol tests required under this Policy will be administered in accordance with the "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" (Part 40), as amended.

Prior to the test, the employee must present a photo ID (e.g., driver's license or employee ID) for proper identification. Throughout the testing process, the privacy of the employee will be protected and the integrity and validity of the process will be maintained. The drug testing procedure will include a split specimen collection method and a federal Custody and Control

Form with a unique identification number to ensure that the correct test result is attributed to the correct employee. An initial screening test using an immunoassay technique will be performed. If the specimen is positive for one or more of the drugs tested, then a confirmation test will be performed using the state-of-the-art gas chromatography/mass spectrometry (GC/MS) analysis. If the test is confirmed positive, the MRO will conduct a verification process, which includes giving the employee an opportunity to provide a valid medical explanation for the positive test result.

Additionally, the laboratory will conduct specimen validity testing to determine if a urine specimen has been adulterated, substituted, or diluted. If the MRO reports a "negative-dilute" test result, CTD will direct the employee to take a second test with no advance notice and depending on the creatinine level reported by the laboratory to the MRO, the second collection may be directly observed. Should the second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.

If the laboratory reports to the MRO an "Invalid Result" or "Rejected for Testing" (because of a fatal or uncorrectable flaw), a recollection may be required by the MRO, and depending on the circumstances, the recollection may be directly observed.

Tests for alcohol concentration will be conducted using an alcohol screening device and an evidential breath testing (EBT) device if the screen test is at 0.02 BAC or greater. A DOT Alcohol Testing Form will be used and a unique sequential number will be assigned to each test.

Detailed drug and alcohol specimen collection procedures are available upon request from the Contact Person identified in Section 7.0 of this Policy.

#### **11. DIRECTLY OBSERVED URINE SPECIMEN COLLECTION**

Under the following circumstances, the employee will be directed to undergo an immediate urine specimen collection under direct observation with no advance notice:

- If the laboratory reported to the MRO that a specimen is invalid and there was no adequate medical explanation for the result;
- If the MRO reported that the original positive, adulterated, or substituted test result had to be canceled because the split specimen testing could not be performed;
- If the drug test is a return-to-duty or a follow-up test;
- If the collector observes materials brought to the collection site or employee conduct that clearly indicates an attempt to tamper with a specimen;
- If the temperature on the original specimen was out of range;
- If the original specimen appeared to have been tampered with; or
- If the previous specimen was negative dilute with creatinine between 2 to 5 mg/dl.

The observer shall be the same gender as the employee, but need not be a trained collector. Prior to the collection, the observer must request the employee to raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist; lower clothing and underpants; and to turn around to show the observer that he or she is not wearing any type of prosthetic or other device that could be used to interfere with the collection process. If none is observed, the employee may return clothing to its proper position for observed urination. The observer is responsible for

ensuring that the specimen goes from the employee's body into the collection container. If the employee declines to allow a directly observed collection when required or permitted under this Policy, it is considered a refusal to test.

**12. MONITORED URINE SPECIMEN COLLECTION**

Under those circumstances when a multi-stall restroom has to be used for urine specimen collection and the facility cannot be adequately secured, the collector will conduct a monitored collection. The monitor shall be the same gender as the employee, unless the monitor is a medical professional. The monitor will not watch the employee void into the collection container. However, if the monitor hears sounds or observes attempts to tamper with a specimen, an additional collection under direct observation will be ordered. If the employee declines to permit a collection authorized to be monitored, it is considered a refusal to test.

**13. SPLIT SPECIMEN TESTING**

After notification by the MRO of a verified positive drug test or refusal to test because of adulteration or substitution, the employee has 72 hours to request (verbally or in writing) a test of the split specimen. (Note: Effective 8/25/08, there is no split specimen testing allowed for an invalid test result.) After 72 hours have passed, the request can be considered only if the employee can present to the satisfaction of the MRO information that unavoidably prevented the employee from making a timely request.

Following the employee's timely request, the MRO shall send a written request to the primary laboratory to forward the split specimen to a second DHHS-certified laboratory for testing without regard to the cut-off concentration. If the second laboratory fails to reconfirm the substance detected in the primary specimen or the adulterant identified, or if the split specimen is unavailable for testing, the test shall be canceled.

The MRO shall report the cancellation and the reasons for it to the DOT, the DER, and the employee. In the case of the split specimen being unavailable, the employee shall be directed, with no advance notice, to submit another specimen under direct observation.

**14. CONSEQUENCES**

As required by FTA regulations, any safety-sensitive employee who has a verified positive drug and/or alcohol test result, or refuses to submit to a drug or alcohol test (including adulteration or substitution) shall be:

1. Immediately taken out of safety-sensitive duty;
2. Referred to a SAP for evaluation, education or treatment and provided educational materials.

FTA regulations allow individual employers to determine the discipline to be imposed on employees who violate the Federal regulations or employer policy. Under the City of Commerce Substance Abuse Policy for Commercial Operators, employees who test positive for drugs or alcohol at 0.04 or above, or refuse a required test, are subject to immediate termination. Such disciplinary action will follow the FTA required actions outlined above.

In addition, under City authority, any covered employee who tests non-negative for alcohol between 0.02 and 0.04 for the first time will be immediately removed from duty, referred to a

substance abuse counselor, and subject to disciplinary action in accordance with City Disciplinary Policy and Procedures. The employee will not be allowed to return to safety sensitive duties until he or she completes the education and/or treatment requirements prescribed by the substance abuse counselor. If the employee again tests non-negative for alcohol at 0.02 or above, under any circumstance, he or she will be subject to immediate termination. Any requirement for an employee to be retested or to see a substance abuse counselor will be done on the employee's own time.

#### **15. REFERRAL, EVALUATION AND TREATMENT**

If an employee (including an applicant) tests positive for drug(s) or alcohol or refuses to submit to a test when required, CTD shall advise the individual of the resources available for evaluating and resolving problems associated with prohibited drug use and alcohol misuse and document such referral. He or she shall be given the name, address and phone number of a Substance Abuse Professional (SAP) acceptable to the City. For existing employees, CTD will pay for the cost of the initial evaluation as long as the employee meets with the SAP within 30 days of referral. All other costs related to the SAP recommendation, such as rehabilitation, treatment and/or education, shall be the responsibility of the employee.

#### **16. CONFIDENTIAL AND ACCESS TO FACILITIES AND RECORDS**

Employees have a right to examine their own drug and alcohol testing records, provide information to dispute the results, and have access to any pertinent data such as EBT calibration or drug testing laboratory certification. They also have a right to obtain a copy of their own drug and/or alcohol testing results by submitting a written request to the Contact Person identified in Section 7.0 of this Policy.

CTD will do everything possible to safeguard the confidentiality of drug and alcohol testing records and medical information obtained in accordance with this Policy. Individual test results or medical information will be released to third parties (e.g., previous employers or union representatives) only with the employee's specific written consent, or to those parties authorized by the DOT or FTA to receive such information without the employee's consent. Specific written consent applies only to a particular piece of information released to a particular person or organization at a particular time. Blanket releases are specifically prohibited by DOT.

The employee's written consent is not required in administrative or legal proceedings such as:

- A lawsuit, grievance, or administrative proceeding brought by, or on behalf of the employee, resulting from a positive drug or alcohol test or a refusal to test; or
- A criminal or civil action resulting from an employee's performance of safety-sensitive duties where the alcohol or drug test information is deemed relevant.

Access to the CTD facilities and drug and alcohol program records also must be provided, without the employee's consent, to DOT or FTA agency representatives; the National Transportation Safety Board as part of an accident investigation; or a Federal, state or local safety agency with regulatory authority over CTD or the employee.

**17. DRUG FREE WORKPLACE ACT OF 1988 (DFWA) REQUIREMENTS**

Under the DFWA, employees are prohibited from the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in the workplace. Employees are required to notify management in writing of any criminal drug statute convictions he/she receives for a violation occurring in the workplace, no later than one (1) working day after such a conviction. Within ten (10) calendar days of receiving such notice, the City shall provide written notification of the conviction to the FTA. Within thirty (30) calendar days of receiving notice of the conviction, the City shall take appropriate disciplinary action, or require the employee to participate and successfully complete a drug rehabilitation program. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.

## **Appendix A**

### **Re-Entry to Work**

#### **A. After Mandatory Referral**

Following successful completion of the rehabilitation and/or education program prescribed by the SAP, an employee who is given an opportunity to return to work must agree to the terms of a "Re-entry Agreement," the terms of which shall be established by the City of Commerce at its sole discretion. That Agreement may include, but is not limited to, the following:

1. A release to work statement from an approved treatment specialist, as well as from the SAP.
2. A plan, designed by the SAP, setting out after-care (if any) and follow-up testing, the frequency and duration of which shall be established by the SAP.
3. A negative return-to-duty test for drugs and alcohol.
4. A statement of expected work-related behaviors.
5. Specific agreement by the employee that violation of the Re-entry Agreement will be grounds for termination.

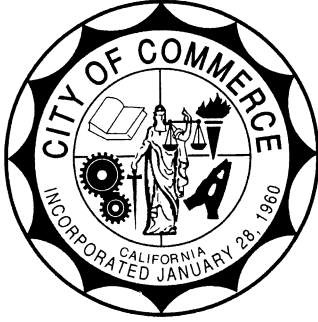
**Failure to successfully complete a treatment and/or education program or to comply with the re-entry agreement, or any positive drug or alcohol test after re-entry shall be grounds for termination.**

#### **B. After Voluntary Referral**

1. Employees who voluntarily enter a substance abuse treatment program without taking a leave of absence will not require a re-entry agreement since the employee never left work.
2. Employees who voluntarily enter a substance abuse treatment program and request a leave of absence, with or without pay, must:
  - a) Submit a release to work from the City's MRO or substance abuse counselor as designated by the City; and
  - b) Pass a non-DOT Return-to-Duty alcohol and drug test (under City authority) before being allowed to return to safety-sensitive work.







# AGENDA REPORT

Meeting Date: 02/07/2012

TO: Honorable City Council

FROM: City Administrator

SUBJECT: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMMERCE DECLARING THAT WEEDS, BRUSH, RUBBISH AND REFUSE UPON OR IN FRONT OF SPECIFIED PROPERTY IN THE CITY ARE A SEASONAL AND RECURRENT PUBLIC NUISANCE, AND DECLARING ITS INTENTION TO PROVIDE FOR THE ABATEMENT THEREOF

RECOMMENDATION:

Approve the Resolution.

MOTION:

Move to approve and adopt the Resolution and assign the number next in order.

BACKGROUND:

Attached please find a copy of the letter from the County of Los Angeles, Agricultural Commissioner/Director of Weights and Measures' Office outlining the recommended action of the City Council. The proposed Resolution declares that weeds, brush, rubbish and refuse upon or in front of certain specified property in the City are a seasonal and recurrent public nuisance and declares the City Council's intention to provide for the abatement thereof.

ANALYSIS:

Adoption of the Resolution will designate the City Council meeting of February 21, 2012, at 6:30 p.m., as the date and time for the Hearing of Protests against the action of the City Council to abate the seasonal and recurrent public nuisance as outlined above. The Los Angeles County Agricultural Commissioner/Director of Weights and Measures will mail notices, as required by the Government Code, to the affected property owners upon receipt of City Council approval.

This is a routine item considered and approved by the City Council annually.

FISCAL IMPACT:

This activity can be carried out without additional impact on the current operating budget.

RELATIONSHIP TO 2009 STRATEGIC GOALS:

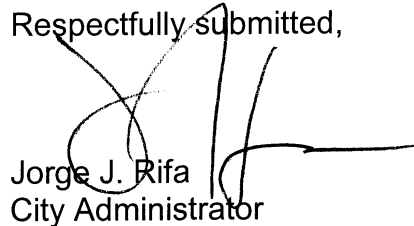
This activity is an annual program carried out by the County of Los Angeles on behalf of the City and is consistent with the 2009 strategic planning goal "Protect and Enhance Quality of Life in the City of Commerce" in that its intent is to keep the City free of seasonal and recurrent public nuisances.

Recommended by:




Linda Kay Olivieri  
City Clerk

Respectfully submitted,



Jorge J. Rifa  
City Administrator

Fiscal impact reviewed by:



Vilko Domic  
Director of Finance

Reviewed as to form:



Eduardo Olivo  
City Attorney

**SUM (WEED ABATEMENT 1).DOC**

Attachment: January 10, 2012 Letter from Department of Agriculture  
and Resolution



**Kurt E. Floren**  
Agricultural Commissioner  
Director of Weights and Measures

**COUNTY OF LOS ANGELES**

**Department of  
Agricultural Commissioner/  
Weights and Measures**

12300 Lower Azusa Road  
Arcadia, California 91006-5872  
<http://acwm.lacounty.gov>



**Richard K. Lizuka**  
Chief Deputy

January 10, 2012

The Honorable Mayor Joe Aguilar  
City of Commerce  
2535 Commerce Way  
Commerce, CA 90040

Dear Mayor Aguilar:

**RESOLUTION DECLARING THAT WEEDS, BRUSH, RUBBISH, ETC., ARE A  
SEASONAL AND RECURRENT PUBLIC NUISANCE**

Transmitted herewith is the Declaration List of properties which have been found by inspection to have weeds, brush and/or rubbish growing or occurring upon them and which constitute an existing or potential hazard to the health and safety of adjacent property owners.

Also attached is a resolution for adoption by the City Council declaring that hazardous weeds, brush, rubbish, etc., growing or occurring upon or in front of the listed properties are a seasonal and recurrent public nuisance.

It is my recommendation that the Honorable City Council adopt this resolution at its meeting of February 7, 2012, which sets February 21, 2012, at 6:30 p.m. as the date and time for Hearing of Protests. After your City Council adopts the resolution, please send a copy to our Weed Abatement Division at the above address.

On or before February 1, 2012, annual weed abatement notices will be sent to the owners of the properties identified in the resolution pursuant to state law. An affidavit of the mailing will be submitted to the City Council after the mailing has been completed.

If you have any questions, please contact Raymond B. Smith, Deputy Director/Weed Hazard and Pest Management Bureau at (626) 575-4393.

Respectfully submitted,

**KURT E. FLOREN**  
Agricultural Commissioner  
Director of Weights and Measures

KEF:RKI:RBS:fm

Enclosures

**Protecting Consumers and the Environment Since 1881  
To Enrich Lives Through Effective and Caring Service**

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMMERCE DECLARING THAT WEEDS, BRUSH, RUBBISH AND REFUSE UPON OR IN FRONT OF SPECIFIED PROPERTY IN THE CITY ARE A SEASONAL AND RECURRENT PUBLIC NUISANCE, AND DECLARING ITS INTENTION TO PROVIDE FOR THE ABATEMENT THEREOF.

THE CITY COUNCIL OF THE CITY OF COMMERCE DOES RESOLVE AS FOLLOWS:

BE IT RESOLVED THAT, pursuant to the provisions of Title 4, Division 3, Part 2, Chapter 13, Article 2, of the California Government Code, Sections 39560 to 39588, inclusive, and evidence received by it, the City Council of the City of Commerce specifically finds:

SECTION 1. That the weeds, brush or rubbish growing or existing upon the streets, sidewalks, or private property in the city attain such large growth as to become, when dry, a fire menace to adjacent improved property, or which are otherwise noxious, dangerous, or a public nuisance.

SECTION 2. That the presence of dry grass, stubble, refuse, or other flammable materials are conditions which endanger the public safety by creating a fire hazard.

SECTION 3. That by reason of the foregoing fact, the weeds, brush, rubbish, dry grass, stubble, refuse, or other flammable material growing or existing upon the private property hereinafter described, and upon the streets and sidewalks in front of said property constitute a seasonal and recurrent public nuisance and should be abated as such.

SECTION 4. That the private property, together with the streets and sidewalks in front of same herein referred to, is more particularly described as follows, to wit: That certain property described in the attached list hereto and by this reference made a part hereof as though set forth in full at this point.

BE IT THEREFORE RESOLVED, pursuant to the findings of fact, by this Council heretofore made, that the weeds, brush, rubbish, dry grass, stubble, refuse, or other flammable material in and upon and in front of the real property hereinbefore described constitute and are hereby declared to be a seasonal and recurrent public nuisance which should be abated. The Agricultural Commissioner/Director of Weights and Measures, County of Los Angeles, is hereby designated the person to give notice to destroy said weeds, brush, rubbish, dry grass, stubble, refuse, or other flammable material and shall cause notices to be given to each property owner by United States Mail and said notice shall be substantially in the following form to wit.

NOTICE TO DESTROY WEEDS,

REMOVE BRUSH, RUBBISH AND REFUSE

Notice is hereby given that on February 7, 2012, the City Council of the City of Commerce passed or will pass a resolution declaring noxious or dangerous vegetation including weeds, brush, tumbleweeds, sagebrush, and chaparral or rubbish and refuse were growing or occurring upon or in front of said property on certain streets in said city or unincorporated area of the County of Los Angeles, and more particularly described in the resolution, and that they constitute a public nuisance which must be abated by the removal of said noxious or dangerous vegetation, rubbish and refuse. The resolution further declares that, if not abated, the vegetation and/or rubbish and refuse may be removed and the nuisance abated by County authorities in which case the cost of removal shall be assessed upon the land from or in front of which the noxious or dangerous vegetation, rubbish and refuse are removed. Such cost will constitute a special assessment against such lots or lands. Reference is hereby made to said resolution for further particulars. In addition, the Board of Supervisors of the County of Los Angeles authorized and directed the Agricultural Commissioner to recover its costs of details. All property owners having any objections to the proposed removal of noxious or dangerous vegetation, rubbish and refuse and the recovery of inspection costs, are hereby notified that they may attend a hearing of the City Council of said city to be held at 5655 Jillson Street, Commerce, CA 90040, in the Council Chambers on February 21, 2012 at 6:30 p.m. where their objections will be heard and given due consideration. If the property owner does not want to present objections to the proposed removal of the noxious or dangerous vegetation including weeds, brush, tumbleweeds, sagebrush, and chaparral or rubbish and refuse, or the recovery of inspection costs, the owner need not appear at the above mentioned hearing.

---

City Clerk of the City of Commerce

BE IT THEREFORE RESOLVED, that the Agricultural Commissioner is hereby authorized and directed to recover its costs of inspection of the properties hereinabove described in a manner consistent with prior action of the Board adopting a fee schedule for such inspections. The recovery of these costs is vital to the ongoing operation governing the identification and abatement of those properties that constitute a seasonal and recurrent public nuisance and endanger the public safety.

BE IT FURTHER RESOLVED THAT the 21st day of February, 2012, at the hour of 6:30 p.m. of said day is the day and hour, and the Meeting Room of the City Council of the City of Commerce in the City Hall in the City of Commerce is fixed by this City Council as the place when and where any and all property owners having any objections to the aforesaid proposed removal of weeds, brush, rubbish, dry grass, stubble, refuse, or other flammable material may appear before the City Council and show cause why said weeds, brush, rubbish, dry grass, stubble, refuse, or other flammable material should not be removed in accordance with this resolution, and said objections will then and there be heard and given due consideration; and

BE IT RESOLVED THAT the notices to destroy weeds, brush, rubbish, dry grass, stubble, refuse or other flammable material hereinbefore referred to shall be mailed by said Agricultural Commissioner/Director of Weights and Measures at least ten days prior to February 21, 2012.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2012

\_\_\_\_\_  
MAYOR OF THE CITY OF COMMERCE

ATTEST:

BY \_\_\_\_\_  
CITY CLERK OF THE CITY OF COMMERCE

LOS ANGELES COUNTY DECLARATION LIST      DATE: 01/10/12  
**CITY OF COMMERCE**  
 IN SEQ BY WEED-KEY, THEN PARCEL UNIMPROVED

ZONE	CITY CODE	LOCATION	PARCEL	KEY
04	143	1362 S EASTERN AVE	5241 013 016	4
04	143	1368 S EASTERN AVE	5241 013 017	4
04	143	TRIGGS ROAD	5241 013 018	4
04	143	1350 S EASTERN AVE	5241 013 019	4
- 04	143	2336 BEDESSEN AVE	5243 027 024	4
04	143	DUNCAN Ave	5244 002 031	4
04	143	DUNCAN Ave	5244 002 032	4
- 04	143	DUNCAN AVE	5244 002 033	4
04	143	1411 S MCBRIDE AVE	5244 002 034	4
04	143	5200 TRIGGS ST	5244 006 010	4
04	143	GAGE AVE	6330 001 802	4
04	143	E 26TH Street	6332 006 004	4
04	143	5706 E WASHINGTON BLVD	6334 004 022	4
04	143	STRONG AVE	6335 014 805	4
04	143	STRONG AVE	6335 014 806	4
04	143	5533 E WASHINGTON BLVD	6335 019 043	4
04	143	5519 E WASHINGTON BLVD	6335 019 046	4
04	143	5556 E WASHINGTON BLVD	6335 024 051	4
04	143	GARFIELD AVE	6336 001 803	4
04	143	GARFIELD AVE	6336 001 811	4
04	143	GARFIELD AVE	6336 001 812	4
04	143	WASHINGTON BLVD	6336 011 801	4
04	143	WASHINGTON BLVD	6336 013 804	4
04	143	GARFIELD AVE	6336 014 009	4
04	143	FLOTILLA ST	6336 014 800	4
- 04	143	2000 S TUBE WAY	6336 016 021	4
04	143	TUBEWAY AVE	6336 020 806	4
04	143	GERHART AVE	6339 002 012	4
04	143	GARFIELD AVE	6356 013 803	4
04	143	WASHINGTON BLVD	6356 013 804	4
04	143	GARFIELD AVE	6356 013 805	4
04	143	GREENWOOD AVE	6356 013 806	4
04	143	NEENAH Street	6356 013 807	4
04	143	GAGE AVE	6356 013 809	4
- 04	143	6920 E SLAUSON AVE UNIT 22	6356 017 021	4
04	143	6904 E SLAUSON AVE	6356 017 028	4
04	143	GARFIELD AVE	6356 018 800	4
04	143	GARFIELD AVE	6356 018 801	4
04	143	GARFIELD AVE	6356 018 804	4
04	143	7165 E GAGE AVE	6357 016 003	4

LOS ANGELES COUNTY DECLARATION LIST      DATE: 01/10/12  
**CITY OF COMMERCE**  
 IN SEQ BY WEED-KEY, THEN PARCEL UNIMPROVED

ZONE	CITY CODE	LOCATION	PARCEL	KEY
04	143	GAGE AVE	6357 016 025	4
04	143	7155 E GAGE AVE	6357 016 026	4
04	143	7169 E GAGE AVE	6357 016 028	4
04	143	TELEGRAPH RD	6367 034 804	4
TOTAL VACANT/IMPROVED RECORDS				4
TOTAL UNIMPROVED RECORDS				40
TOTAL RECORDS				44





# AGENDA REPORT

MEETING DATE: February 7, 2012

**TO: HONORABLE MAYOR & CITY COUNCIL**  
**FROM: CITY ADMINISTRATOR**  
**SUBJECT: RE-APPROPRIATION OF FUNDING FOR PUBLIC INFORMATION OFFICER**

**RECOMMENDATION:**

The City Council has requested to reconsider the re-appropriation of funding for the Public Information Officer position.

**MOTION:**

City Council discretion.

**BACKGROUND & ANALYSIS:**

On October 18, 2011, the City Council amended the Classification and Compensation Plan to establish a new job classification and salary range for Deputy City Administrator and approved the position allocation change in the City Administration Department's budget. The City Administrator was requested to return with various funding options for City Council consideration for the Deputy City Administrator, Public Information Officer and Senior Management Analyst positions.

On October 25, 2011, the City Administrator provided various budgetary funding options for the newly created Deputy City Administrator classification, Public Information Officer and Senior Management Analyst positions. City Council approved Option A as recommended by the City Administrator to create the Deputy City Administrator position and freeze the Public Information Officer and Senior Management Analyst positions.

The City Council has requested to reconsider the re-appropriation of funding for the Public Information Officer position. Funding is required to fill a Temporary Acting Public Information Officer position. The individual selected will assume responsibilities in coordinating the daily activities of the Public Information Office subject to the direction of the Deputy City Administrator. This Acting position is temporary pending further organizational structure review and impacts to be considered for the 2012/2013 fiscal year budget.

**BUDGET IMPACT:**

If the City Council decides to move forward with filling a temporary Acting Public Information Officer position, this would result in an additional cost of \$8,045 for the duration of the current fiscal year. In light of redevelopment coming to an end and the seriousness of the related impact on the City's General Fund Budget, a decision to move forward and appropriate this position is not recommended.

**RELATIONSHIP TO 2009 STRATEGIC GOALS:**

The reorganization of the City Administrator's Office is related to the City Council's goal to ensure the City will have a trained, quality workforce to efficiently provide services to City of Commerce residents for the future.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jorge Rifa', with a long horizontal flourish extending to the right. The signature is written over the printed name below it.

Jorge Rifa, City Administrator



# AGENDA REPORT

MEETING DATE: February 7, 2012

TO: HONORABLE CITY COUNCIL

FROM: CITY ADMINISTRATOR

**SUBJECT:** RESOLUTION OF THE CITY OF COMMERCE, CALIFORNIA APPROVING THE EXECUTION OF CASH CONTRACT NO. 1113 – STATE FUNDED PROJECT NO. SR2SL-5362(013) SAFE ROUTE TO SCHOOL IMPROVEMENTS IN THE CITY OF COMMERCE, WITH E.C. CONSTRUCTION COMPANY OF EL MONTE, CALIFORNIA, REJECTING ALL OTHER BIDS, AND OTHER MATTERS RELATED THERETO

**RECOMMENDATION:**

Approve the Resolution and assign the number next in order.

**MOTION:**

Move to approve recommendation.

**BACKGROUND:**

The City applied for state funding under the Safe Route to School Program for various improvements around our elementary schools. The intent of the program is to improve and enhance the safety of pedestrians, motorists and related infrastructure near Bandini Elementary School, Laguna Nueva School and Rosewood Park School.

On July 20, 2010, the City Council approved the execution of the Master and Program Supplemental Agreements between the City of Commerce and the State of California Transportation Department (Caltrans) for this project.

On September 21, 2010, the City Council received an update on the Safe Route to School Program.

On December 21, 2010, the City Council awarded a Professional Services Agreement to Elie Farah, Inc., for design and engineering services related to the preparation and development of the proposed project plans and specifications.

As part of the development of the project Plans and Specifications, individual meetings with the principal of each school and other staff from the Montebello Unified School District have taken place. They reviewed the design and proposed improvements and are in favor of the improvements.

On May 4, 2011, the Traffic Commission approved the design and proposed improvements contemplated under this project. They are also looking forward to the implementation of the project.

On September 20, 2011, the City Council approved the bid and contract documents, including the project Plans and Specifications and Notice Inviting Sealed Bids.

On October 27, 2011, at 3:00 p.m., in accordance with the Notice Inviting Sealed Bids, six (6) bids were received by the City Clerk for this project. They are as follows:

<u>Name</u>	<u>City</u>	<u>Bid Amount</u>
E. C. Construction Co.	El Monte, CA	\$436,604.25
Nobest, Inc.	Garden Grove, CA	\$458,005.00
Martinez Concrete	Azusa, CA	\$461,059.90

PIMA Corporation dba Advanced Construction	Los Angeles, CA	\$482,850.00
All American Asphalt	Corona, CA	\$530,987.00
L H Engineering Company, Inc.	Anaheim, CA	\$579,552.20

**ANALYSIS:**

After careful consideration, evaluation of the proposals and reference checks, staff has found that E. C. Construction Co., submitted the lowest, responsible and responsive bid for providing the requested services.

The contractor will be responsible for providing all labor, materials, equipment, tools and incidentals necessary for the improvements which include removal/replacement of sidewalks, curbs, and streets; installation of new lighted crosswalks; installation of new speed-feedback signs; replacing faded signs; restriping crosswalks/curb markings; etc.

**FISCAL IMPACT:**

This activity can be carried out at this time without additional impact on the current operating budget, as funding for this activity has been approved and included in the FY 2010/11 Capital Improvement Project Budget. As part of CIP budget, the City Council approved a project funding level of \$572,100, with a 10% City Match, as follows:

State Grant	\$514,890
City Match (General Reserves)	\$ 57,210
Total Funding	\$572,210

E. C. Construction’s bid is \$436,604.25. A project contingency of ten percent (10%) or \$43,660.43 is also recommended to carry out this project, for a total allocation of \$480,264.68.

**RELATIONSHIP TO 2009 STRATEGIC GOALS:**

The issue before the Council is applicable to the following Council’s strategic goal: *“Protect and Enhance Quality of Life in the City of Commerce.”* Although, there are no specific objectives connected to this issue, the City is responsible for general pedestrian and motorist safety, as well as, the proper upkeep and maintenance of streets and sidewalks.

**Recommended by:**

  
for Robert Zarrilli  
Director of Community Development

**Respectfully submitted,**

  
Jorge Rifa  
City Administrator


**Prepared by:**

  
Danilo Batson  
Assistant Director of Public Services

**Fiscal Impact Reviewed by:**

  
Vilko Domic  
Director of Finance

**Approved As To Form:**

  
Eduardo Olivo  
City Attorney

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMMERCE, CALIFORNIA, APPROVING THE EXECUTION OF CASH CONTRACT NO. 1113 – STATE FUNDED PROJECT NO. SR2SL-5362(013) SAFE ROUTE TO SCHOOL IMPROVEMENTS IN THE CITY OF COMMERCE, WITH E. C. CONSTRUCTION CO., OF EL MONTE, CALIFORNIA, REJECTING ALL OTHER BIDS, AND OTHER MATTERS RELATED THERETO**

**WHEREAS**, as part of the Fiscal Year 2010/11 Capital Improvement Project Budget, the City Council appropriated \$572,210 for various improvements around our elementary schools; and

**WHEREAS**, at its meeting of September 20, 2011, the City Council approved the bid and contract documents, including the project Plans and Specifications and Notice Inviting Sealed Bids; and

**WHEREAS**, on October 27, 2011, in accordance with the Notice Inviting Sealed Bids, six (6) bids were received by the Community Development Department for this project; and

**WHEREAS**, after careful examination, evaluation of all bids received and reference checks, City staff determined that E. C. Construction Co., of El Monte, California, is the lowest, responsive and most responsible bidder.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COMMERCE DOES HEREBY RESOLVE AS FOLLOWS:**

**Section 1.** That all bids received are hereby rejected except the bid of E. C. Construction Co., (hereinafter referred to as the "Successful Bidder"), being the lowest and best bid. Cash Contract No. 1113 between the City and Successful Bidder is hereby approved. The Mayor is hereby authorized and directed on behalf of the City of Commerce to execute Contract.

**Section 2.** That a ten percent (10%) contingency or \$43,660.43 will be set aside for said project in order to successfully carry out and implement this project.

**PASSED, APPROVED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2012.

ATTEST:

\_\_\_\_\_  
Linda Kay Olivieri, MMC  
City Clerk

\_\_\_\_\_  
Joe Aguilar, Mayor



**A. CITY OF COMMERCE STANDARD CONTRACT**  
**CASH CONTRACT 1113**  
**STATE FUNDED PROJECT # SR2SL-5362(013)**  
**SAFE ROUTE TO SCHOOL IMPROVEMENTS IN THE CITY OF COMMERCE**

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2012, by and between the **CITY OF COMMERCE**, a Municipal corporation, hereinafter called CITY, and **E. C. Construction Co.**, hereinafter called CONTRACTOR.

**RECITALS**

CITY, by its Notice Inviting Bids duly advertised for written bids to be submitted on or before October 27, 2010, for the following:

**CASH CONTRACT 1113**  
**STATE FUNDED PROJECT # SR2SL-5362(013)**  
**SAFE ROUTE TO SCHOOL IMPROVEMENTS IN THE CITY OF COMMERCE**

hereinafter called PROJECT.

At 3:00 PM, on said date, in the Conference Room of the City of Commerce City Hall, said bids were duly opened.

At its regular meeting held on February 7, 2012, the City Council duly accepted the bid of CONTRACTOR for said PROJECT for being the lowest responsible, responsive bid received and directed that a written contract be entered into with CONTRACTOR. NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, said parties do hereby agree as follows:

**ARTICLE I**

The contract documents for the PROJECT shall consist of the Notice Inviting Sealed Bids, Instructions to Bidders, General Specifications, Standard Specifications, Special Provisions, Plans, CONTRACTOR'S Proposal, and all referenced specifications, details, standard drawings, and appendices, together with this Contract and all required bonds, insurance certificates, permits, notices, and affidavits, and also including any and all addenda or supplemental agreements clarifying, amending, or extending the work contemplated as may be required to insure its completion in an acceptable manner.

All of the rights and obligations of CITY and CONTRACTOR are fully set forth and described in the Contract Documents.

All of the above-mentioned documents are intended to complement the other documents so that any work called for in one, and not mentioned in the others, or vice versa, is to be executed the same as if mentioned in all of said documents. The documents comprising the complete contract are hereinafter referred to as CONTRACT DOCUMENTS and are incorporated herein by this reference and made part hereof as though they were fully set forth herein.

**ARTICLE II**

For and in consideration of the payments and agreements to be made and performed by CITY, CONTRACTOR agrees to furnish all materials and perform all work required for the PROJECT and to fulfill all other obligations as set forth in the CONTRACT DOCUMENTS.

**ARTICLE III**

CONTRACTOR hereby agrees to receive and accept the total amount of FOUR HUNDRED THRITY-SIX THOUSAND FOUR HUNDRED AND SIX DOLLARS AND TWENTY-FIVE CENTS (\$436,406.25), which is based on performing all of the bid quantities shown on Bid Schedule as full compensation for furnishing all materials, performing all work, and fulfilling all obligations hereunder. The final total amount to be paid to the CONTRACTOR shall be based on actual bid quantities completed. Said compensation shall cover all expenses, losses, damages, and consequences arising out of the nature of the work during its progress or prior to its acceptance including those for well and faithfully completing the work and the whole thereof in the manner and time specified in the CONTRACT DOCUMENTS, and also including those arising from actions of the elements, unforeseen difficulties or obstructions encountered in the prosecution of the work, suspension or discontinuance of the work, and all other unknowns or risks of any description connected with the work. CITY shall herein retain ten percent (10%) of said price until said time as the provisions of Article XII herein have been met.

**ARTICLE IV**

CITY hereby promises and agrees to employ, and does hereby employ, CONTRACTOR to provide the materials, do the work, and fulfill the obligations according to the terms and conditions herein contained and referred to, for the said amounts set forth in Article III hereof, and hereby agrees to pay the same at the time, in the manner, and upon the conditions set forth in the CONTRACT DOCUMENTS.

In addition, CONTRACTOR hereby promises and agrees to comply with all of the provisions of Federal and/or State law as the same shall apply to this PROJECT pertaining to the employment of unauthorized aliens as defined therein.

Should CONTRACTOR so employ unauthorized aliens for the performance of work and/or services covered by this contract, and should the Federal Government impose sanctions against the CITY for use of unauthorized aliens, CONTRACTOR hereby agrees to, and shall, reimburse CITY for the cost of all such sanctions imposed, together with any and all costs, including attorneys' fees, incurred by the CITY in connection therewith.

**ARTICLE V**

CONTRACTOR shall commence work on the date specified in the Notice to Proceed to be issued to said CONTRACTOR by the CITY and shall complete work on the PROJECT within the time schedule specified in the specifications.

**ARTICLE VI**

- A. CONTRACTOR shall, without disturbing the condition, notify CITY in writing as soon as CONTRACTOR, or any Contractor's subcontractor, agents or employees have knowledge and reporting is possible, of the discovery of any of the following conditions:
1. The presence of any material that the CONTRACTOR believes is hazardous waste, as defined in Section 25117 of the Health and Safety Code;
  2. Subsurface or latent physical conditions at the site differing from those indicated in the specifications; or,



3. Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of this character provided for in this Contract.
- B. Pending a determination by the CITY of appropriate action to be taken, CONTRACTOR shall provide security measures (e.g., fences) adequate to prevent the hazardous waste or physical conditions from causing bodily injury to any person.
- C. CITY shall promptly investigate the reported conditions. If CITY, through the City Engineer or his/her, and in the exercise of its sole discretion, determines that the conditions do materially differ, or do involve hazardous waste, and will cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the work, then CITY shall issue a change order.
- D. In the event of a dispute between CITY and CONTRACTOR as to whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the CONTRACTOR's cost of, or time required for, performance of any part of the work, CONTRACTOR shall not be excused from any schedule completion date, and shall proceed with all work to be performed under the Contract. CONTRACTOR shall retain any and all rights, which pertain to the resolution of disputes and protests between the parties.

#### **ARTICLE VII**

CONTRACTOR shall assume the defense of and indemnify and save harmless the CITY, its elective and appointive boards, officers, agents and employees, from all claims, loss, damage, injury and liability of every kind, nature and description, directly or indirectly arising from the performance of the Contractor's work, regardless of responsibility of negligence; and from any and all claims, loss, damage, injury and liability, howsoever the same may be caused, resulting directly or indirectly from the nature of the work covered by the contract, regardless of responsibility of negligence; provided:

- (a) That CITY does not, and shall not, waive any rights against CONTRACTOR which it may have by reason of the aforesaid hold-harmless agreement because of the deposit with CITY by CONTRACTOR, of any of the insurance policies hereinafter described in this Agreement.
- (b) That the aforesaid hold-harmless agreement by CONTRACTOR shall apply to all damages and claims for damages of every kind suffered, or alleges to have been suffered, by reason of any of the aforesaid operations of CONTRACTOR or any subcontractor, regardless of whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

#### **ARTICLE VIII**

CONTRACTOR, before commencing said PROJECT, shall furnish and file with CITY, a bond, or bonds, in a form satisfactory to the CITY, in the sum of one hundred percent (100%) of the contract price thereof conditioned upon the faithful performance of this contract and upon the payment of all labor and materials furnished in connection with this contract.

#### **ARTICLE IX**

CONTRACTOR shall not commence work under this contract until CONTRACTOR shall have obtained all insurance required by the CONTRACT DOCUMENTS and such insurance shall have been approved by CITY as to form, amount and carrier, nor shall CONTRACTOR allow any subcontractor to commence work on any subcontract until all similar insurance required of the subcontractor shall have been so obtained and approved.

- (a) COMPENSATION INSURANCE. CONTRACTOR shall take out and maintain, during the life of this contract, Worker's Compensation Insurance for all of Contractor's employees employed at the site of improvement; and, if any work is sublet, CONTRACTOR shall require the subcontractor's similarly to provide Worker's

Compensation Insurance for all of the latter's employees, unless such employees are covered by the protection afforded by CONTRACTOR. If any class of employees engaged in work under this contract at the site of the PROJECT is not protected under any Worker's Compensation law, CONTRACTOR shall provide and shall cause each subcontractor's to provide adequate insurance for the protection of employees not otherwise protected. CONTRACTOR shall indemnify CITY for any damage resulting to it from failure of either CONTRACTOR or any subcontractor to take out or maintain such insurance.

- (b) COMPREHENSIVE GENERAL LIABILITY, PRODUCTS / COMPLETED OPERATIONS HAZARD, COMPREHENSIVE AUTOMOBILE LIABILITY AND CONTRACTUAL GENERAL LIABILITY INSURANCE. CONTRACTOR shall take out and maintain during the life of this contract such comprehensive general liability, products/completed operations hazard, comprehensive automobile liability and contractual general liability insurance as shall protect the CITY, its elective and appointive boards, officers, agents and employees, CONTRACTOR, and any subcontractor performing work covered by this contract, from claims for damage for personal injury, including death, as well as from claims for property damage which may arise from CONTRACTOR or any subcontractor, or by anyone directly or indirectly employed by either CONTRACTOR or any subcontractor's, and the amounts of such insurance shall be as follows:
- (1) Public Liability and Property Damage Insurance in an amount of not less than TWO MILLION DOLLARS (\$2,000,000);
  - (2) Products/Completed Operations Hazard Insurance in an amount of not less than TWO MILLION DOLLARS (\$2,000,000);
  - (3) Comprehensive Automobile Liability Insurance in an amount of not less than TWO MILLION DOLLARS (\$2,000,000);
  - 4) Contractual General Liability Insurance in an amount of not less than TWO MILLION DOLLARS (\$2,000,000);
  - (5) or GENERAL AGGREGATE LIABILITY in an amount of not less than TWO MILLION DOLLARS (\$2,000,000).

A combined single limit policy with aggregate limits in an amount of not less than TWO MILLION DOLLARS (\$2,000,000) shall be considered equivalent to the said required minimum limits set forth herein above.

- (c) PROOF OF INSURANCE. The City of Commerce shall be named as "additional insured" on all policies required hereunder, and CONTRACTOR shall furnish CITY, concurrently with the execution hereof, with satisfactory proof of carriage of the insurance required, and adequate legal assurance that each carrier will give CITY at least thirty (30) days' prior notice of the cancellation of any policy during the effective period of this contract. Such insurance shall be primary and noncontributory with any other insurance maintained by the City of Commerce
- (d) NOTICE TO COMMENCE WORK. The CITY will not issue any notice authorizing CONTRACTOR or any subcontractor to commence work under this contract until CONTRACTOR has provided to the CITY the proof of insurance as required by subparagraph (c) of this article.

**ARTICLE X**

If any dispute shall arise concerning this Agreement, the prevailing party shall be entitled to attorney fees.

**ARTICLE XI**

The parties agree that it would be impractical and extremely difficult to fix the actual damages to the CITY in the event the PROJECT is not commenced and/or completed on or before the dates specified for commencement and completion of the PROJECT in the CONTRACT DOCUMENTS. The parties have considered the facts of breach of this contract and have agreed that the liquidated damages sum hereinafter set forth is reasonable as liquidated damages in the event of a breach, and that said sum shall be presumed to be the amount of the damages sustained by the CITY in the event of such a breach. The parties therefore agree that in the event such work is not begun and/or completed and accepted by the times so specified in the CONTRACT DOCUMENTS, the sum of Two-hundred-fifty dollars (\$250) shall be presumed to be the amount of damages suffered by the CITY for each day's delay in the starting and/or completion and acceptance of said PROJECT after the dates specified in the CONTRACT DOCUMENTS for the start and/or completion thereof, and CONTRACTOR hereby agrees to pay said sum of Two-hundred-fifty dollars (\$250) as liquidated damages for each day of delay in the starting and/or completion and acceptance of said PROJECT beyond the date specified in the CONTRACT DOCUMENTS. Any and all such liquidated damage assessed shall be done so in accordance with that certain edition of the Specification for Public Works Construction, currently in effect as of the date of this Agreement.

**ARTICLE XII**

Contractor hereby promises and agrees to comply with all of the provisions of the Federal Requirements related to employment and labor relations.

**ARTICLE XIII**

Upon completion of the PROJECT and acceptance of same by the City Council, the CITY Manager shall have cause to be recorded a Notice of Completion with the office of the Los Angeles County Recorder; and, after thirty-five (35) days from the date said Notice of Completion is recorded, the Director of Finance of CITY shall release the funds retained pursuant to Article III hereof; provided there have been no mechanics' liens or stop notices filed against said work which have not been paid, withdrawn or eliminated as liens against said work.

**ARTICLE XIV**

This contract shall not be assignable, either in whole or in part, by the CONTRACTOR without first obtaining the written consent of the CITY thereto.

**ARTICLE XV**

The provisions of this agreement are cumulative and in addition to and not in limitation of any rights or remedies available to CITY.

**ARTICLE XVI**

If either party to this agreement is required to initiate or defend, or is made a party to, any action or proceeding in any way connected with this agreement, the party prevailing in the final judgment in such action or proceeding, in addition to any other relief which may be granted, shall be entitled to reasonable attorney's fees. Attorney's fees shall include reasonable costs for investigating such action conducting discovery and all other necessary cost the court allows, which are incurred in such litigation.

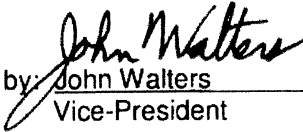
The provisions of this agreement are cumulative and in addition to and not in limitation of any rights or remedies available to the CITY.

IN WITNESS WHEREOF the parties hereto have caused this contract to be executed on the date first above written by their respective officers duly authorized in that behalf.

CITY OF COMMERCE,  
a Municipal corporation

CONTRACTOR

Signed by: \_\_\_\_\_  
Joe Aguilar, Mayor

Signed by:  \_\_\_\_\_  
John Walters  
Vice-President

ATTEST:

Signed by: \_\_\_\_\_  
Linda Olivieri, MMC  
City Clerk

Signed by: \_\_\_\_\_  
Secretary

APPROVED AS TO FORM:

Signed by: \_\_\_\_\_  
Eduardo Olivo, City Attorney

**FAITHFUL PERFORMANCE BOND  
FOR  
CASH CONTRACT 1113  
STATE FUNDED PROJECT # SR2SL-5362(013)  
SAFE ROUTE TO SCHOOL IMPROVEMENTS IN THE CITY OF COMMERCE**

KNOW ALL MEN BY THESE PRESENTS that \_\_\_\_\_, as CONTRACTOR and \_\_\_\_\_, as SURETY, are held and firmly bound unto the City of Commerce, in the penal sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_), which is one-hundred percent (100%) of the total contract amount for the above stated project, for the payment of which sum, CONTRACTOR and SURETY agree to be bound, jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH that, whereas CONTRACTOR has been awarded and is about to enter into a Contract with the City of Commerce for the above stated project, if CONTRACTOR faithfully performs and fulfills all obligations under the contract documents in the manner and time specified therein, then this obligation shall be null and void, otherwise it shall remain in full force and effect in favor of the City of Commerce; provided that any alternations in the obligations or time for completion made pursuant to the terms of the contract documents shall not in any way release either CONTRACTOR or SURETY, and notice of such alternations are hereby waived by SURETY.

IN WITNESS WHEREOF the parties hereto have set their names, titles, hands, and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

CONTRACTOR\* \_\_\_\_\_

SURETY\* \_\_\_\_\_

\* Provide CONTRACTOR/SURETY name, address and telephone number and the name, title, address and telephone number for authorized representative. Subscribed and sworn to this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

NOTARY PUBLIC \_\_\_\_\_

**MATERIAL AND LABOR BOND  
FOR  
CASH CONTRACT 1113  
STATE FUNDED PROJECT # SR2SL-5362(013)  
SAFE ROUTE TO SCHOOL IMPROVEMENTS IN THE CITY OF COMMERCE**

KNOW ALL MEN BY THESE PRESENTS that \_\_\_\_\_

\_\_\_\_\_, as CONTRACTOR and \_\_\_\_\_, as SURETY, are held and firmly bound unto the City of Commerce, in the penal sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_), which is one-hundred percent (100%) of the total contract amount for the above stated project, for the payment of which sum, CONTRACTOR and SURETY agree to be bound, jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH that, whereas CONTRACTOR has been awarded and is about to enter into a Contract with the City of Commerce for the above stated project, if CONTRACTOR faithfully performs and fulfills all obligations under the contract documents in the manner and time specified therein, then this obligation shall be null and void, otherwise it shall remain in full force and effect in favor of the City of Commerce; provided that any alternations in the obligations or time for completion made pursuant to the terms of the contract documents shall not in any way release either CONTRACTOR or SURETY, and notice of such alternations are hereby waived by SURETY.

IN WITNESS WHEREOF the parties hereto have set their names, titles, hands, and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

CONTRACTOR\* \_\_\_\_\_

\_\_\_\_\_

SURETY\* \_\_\_\_\_

\_\_\_\_\_

\* Provide CONTRACTOR/SURETY name, address and telephone number and the name, title, address and telephone number for authorized representative.

Subscribed and sworn to this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

NOTARY PUBLIC \_\_\_\_\_



# AGENDA REPORT

DATE: February 7, 2012

**TO:** HONORABLE CITY COUNCIL

**FROM:** CITY ADMINISTRATOR

**SUBJECT:** PUBLIC HEARING – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMMERCE, CALIFORNIA, AUTHORIZING THE ALLOCATION FOR THE 38th YEAR OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS FOR FISCAL YEAR 2012/2013

**RECOMMENDATION:**

That the City Council conduct a public hearing concerning the allocation of the 38th Year Community Development Block Grant funds, then approve and adopt the Resolution and assign the number next in order.

**MOTION:**

1. Declare the public hearing open.
2. Now is the time for anyone wishing to speak on the subject to step forward.
3. Declare the public hearing closed.

Move to approve the recommendation.

**BACKGROUND:**

The City of Commerce is a participant city in the County of Los Angeles Small Cities Block Grant Program that distributes Federal Community Development Block Grant (CDBG) Funds. Each year, the City receives an allocation of funding administered by the Community Development Commission of Los Angeles County for programs and projects that benefit low- and moderate-income persons. The allocation for Fiscal Year 2012/2013 is estimated to be \$126,289 and includes a twenty-two percent reduction of \$35,481 from last year's allocation of \$161,770. The new Fiscal Year 2012/2013 allocation of \$126,289 and unprogrammed funds from the current fiscal year in the amount of \$10,000 or more will be utilized to fund these proposed Fiscal Year 2012/2013 CDBG projects.

To encourage citizen participation, a public hearing is being conducted, prior to the selection of programs and projects to be funded. A resolution from the City Council authorizing the allocation of the Community Development Block Grant Funds is the method the City uses to demonstrate City approval and adoption, which is then forwarded to the Community Development Commission of Los Angeles County.

**ANALYSIS:**

The City has provided funding for a variety of programs and projects over the years, which has included Community Policing Enforcement, Home Preservation Grant programs, public facility ADA improvements, and street and sidewalk reconstruction. Continuing projects/programs are being recommended for funding in FY 2012/2013 and existing projects/programs are as follows:

*Continuing Projects/Programs:*

▪ **Code Enforcement Program**

This is a continuing project to purchase, equipment, hardware and/or software for Code Enforcement Program staff and to conduct code enforcement activities, including the collection of housing and other code violation case data in the northern portion of the City

located in the low/mod Census Tract 5323.02 (Bristow, Ayers and Bandini), Census Tract 5323.03, Block Group 3 (Rosini area) and within the southern portion of the low/mod Census Tract 5323.04, Block Group 1 (Veterans Park and Lanto Pacific area).

- **Community-Based Policing Enforcement Program**  
 The Community-Based Policing Enforcement Program pays for Sheriff's services and Community Policing equipment and vehicle expenses for crime prevention program activities.
- **Home Preservation Grant Program**  
 CDBG funds will provide grants to income-qualified households throughout the City with up to \$20,000 to conduct code compliant home improvement repairs such as painting, plumbing, roofing and windows.
- **Rodent Abatement Program – Phase II Project**  
 CDBG funds will continue to be utilized to perform rodent abatement and prevention by sealing entryways in the home and removing landscaping in the Ayers and Bandini neighborhoods located in Census Tract 5323.02, Block Groups 3 and 4.

*Existing Projects/Programs:*

- **Mixed-Use and Affordable Housing Overlay Zoning Studies Project**  
 This is an existing planning project for establishing development standards for housing and business district properties, including design, parking and lot consolidation guidelines for the mixed-use area along Atlantic Boulevard within the geographic boundaries of the Redevelopment Project Area III and the housing opportunity sites for new construction affordable housing development applications.
- **Bristow Park Street Improvement Project**  
 CDBG funds will provide street improvements for McDonnell (Triggs to Dunham), Dunham (McDonnell to Duncan), McBride (Noakes to north of Triggs), Duncan (Noakes to north of Triggs), Marianna (Lovett to Union Pacific) and Lovett (Marianna to Eastern). All other street improvements located in the Bristow Park neighborhood will be improved with the City's General Fund.
- **Bristow Park ADA Curb Cuts Project**  
 This project will provide ADA curb cut ramps in the predominately low- to moderate-income Bristow Park neighborhood, throughout the Census Tract 5323.03, Block Group 1
- **ADA Council Chambers Improvement Project**  
 CDBG funds are being utilized to conduct ADA improvements in the City's Council Chambers to include ramps, seating and improved ADA compliant emergency exits.

*Existing and Continuing Programs/Projects:*

**TABLE 1**

CONTINUING AND EXISTING PROGRAMS/PROJECTS	FY 2011/2012 CDBG Budget	FY 2012/2013 CDBG Budget	Total 2 Year Funding	CDBG Project Account No.
<i>Continuing Projects/Programs</i>				
Code Enforcement Program; Equipment	\$10,000	\$10,000	\$20,000	29-2910-80210.10703
Community Policing Enforcement; Sheriff Services, Vehicle Maintenance and Equipment	\$18,000	\$16,289	\$34,289	29-3035-54050; 29-3035-62090-10040 & 29-3035-80300
Home Preservation Grant Program; Construction and Program Admin.	\$170,000	\$100,000	\$270,000	29-2910-71715-10337 & 29-2910-71715-10338
Rodent Abatement Program - Phase II; Services	\$0	\$10,000	\$10,000	29-2910-54096-10386
<i>Existing Projects/Programs</i>				
Mixed Use and Housing Overlay Zoning Studies; Services	\$11,901	\$0	\$11,901	29-2920-54053.10701 & 29-2920-54043.10702
Bristow Park Street Improvements; Services and Construction	\$133,949	\$0	\$133,949	29-2920-52010-10386
Bristow Park ADA Curb Cut Project; Services	\$10,000	\$0	\$10,000	29-2920-57071.10700
ADA Improvements for Council Chambers; Services	\$82,106	\$0	\$82,106	29-2920-57113.10386
<b>Total CDBG Funds:</b>	<b>\$435,956</b>	<b>\$136,289</b>	<b>\$572,245</b>	



**FISCAL IMPACT:**

CDBG funds are Federal funds allocated to the City through the Community Development Commission of Los Angeles County. They provide an additional source of revenue to fund needed programs and reduce the impact to the General Fund.

**RELATIONSHIP TO THE STRATEGIC GOALS:**

This agenda item relates to the 2009 strategic planning goal: *“Protect and Enhance the Quality of Life in the City of Commerce,”* as it addresses an environmental issue of concern important to the community.

**Recommended by:**



Bob Zarrilli  
Director of Community Development

**Respectfully submitted,**



Jorge Rifa  
City Administrator

**Prepared by:**



Christina Diaz Perez  
RDA Project and Housing Manager

**Reviewed by:**



Alexander Hamilton  
Assistant Director of Community Development

**Fiscal impact reviewed by:**



Vilko Domic  
Director of Finance

**Approved as to Form**



Eduardo Olivo  
City Attorney

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMMERCE,  
CALIFORNIA, AUTHORIZING THE ALLOCATION FOR THE 38<sup>th</sup> YEAR OF  
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS FOR  
FISCAL YEAR 2012/2013

WHEREAS, the Community Development Block Grant (CDBG) Program has operated since 1974 to provide local governments the resources to meet the needs of persons of low- and moderate-income; and

WHEREAS, the City of Commerce contracts with the Los Angeles County Community Development Commission for the disbursement of Community Development Block Grant Funds, through the Small Cities Program; and

WHEREAS, the City of Commerce will receive an estimated total of \$126,289 in Fiscal Year 2012/2013 in Community Development Block Grant Funds and will also utilize any unprogrammed funds in the amount of \$10,000 or more to budget these Fiscal Year 2012/2013 projects for a total of \$136,289; and

WHEREAS, the City Council has conducted a public hearing and the required prior noticing to provide the public an opportunity to comment on the Fiscal Year 2012/2013 programs proposed for the Community Development Block Grant Program.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COMMERCE DOES HEREBY RESOLVE AND ORDER AS FOLLOWS:

Section 1: The City Council approves the Community Development Block Grant (CDBG) Program Budget for Fiscal Year 2012/2013 and instructs staff to submit the necessary documents and a copy of this Declaration to the Los Angeles County Community Development Commission for the approval of the 2012/2013 CDBG Project funding as follows:

CONTINUING CDBG PROGRAMS/PROJECTS	FY 2012/2013 CDBG Budget	CDBG Project Account No.
Code Enforcement Program; Equipment	\$10,000	29-2910-80210.10703
Community Policing Enforcement; Sheriff Services, Vehicle Maintenance and Equipment	\$16,289	29-3035-54050; 29-3035-62090-10040 & 29-3035-80300
Home Preservation Grant Program; Construction	\$100,000	29-2910-71715-10337
Phase II - Rodent Abatement Program; Services	\$10,000	29-2910-54096.10396
<b>Total FY 2012-2013 CDBG Allocation:</b>	<b>\$136,289</b>	

Section 2: The City Council authorizes staff to adjust the Program Budget, as needed throughout the program year and to take into account the final amount of funding awarded to the City in addition to any amounts remaining unspent at the close of the fiscal year.

PASSED, APPROVED and ADOPTED this 7th day of February, 2012.

\_\_\_\_\_  
Joe Aguilar  
Mayor

ATTEST:

\_\_\_\_\_  
Linda Kay Olivieri, MMC  
City Clerk



# AGENDA REPORT

Meeting Date: 02/07/2012

TO: Honorable City Council & City Council as Successor Agency to the  
Commerce Community Development Commission

FROM: City Administrator

SUBJECT: Status Report on Elimination of Redevelopment

**This report will consist of an oral presentation only.**





# AGENDA REPORT

MEETING DATE: February 7, 2012

**TO:** HONORABLE CITY COUNCIL

**FROM:** CITY ADMINISTRATOR

**SUBJECT: FISCAL YEAR 2011-12 FINANCIAL STATUS, THE IMPACT RELATED TO THE END OF REDEVELOPMENT, AND THE FISCAL YEAR 2012-13 INITIAL GENERAL FUND PROJECTED DEFICIT**

**RECOMMENDATION:**

Receive, file and provide direction at Council discretion

**ACTION:**

City Council discretion.

**EXECUTIVE SUMMARY:**

Sadly, another severe and terrible budget cycle is ahead of the City in FY2012/2013. It threatens to set back three years of painstaking budget decisions made by the Commerce City Council to move forward and recover from the "Great "Recession".

The reason for this is the decision of the Governor and Legislature to bring to an end the California Redevelopment Law in order to try and correct the State's multibillion dollar deficit. In so doing the State has laid to waste the City's primary economic engine for jobs, housing, infrastructure investment, environmental remediation, and revenues to the City's General Fund.

On January 24, 2012 Commerce held its last official meeting of its redevelopment agency (Development Commission in this case). On February 1, the City began operating as the Successor Agency. The Successor Agency's job is to primarily carry out and finish the projects that are in the pipeline and also dispose of the assets of the City's now defunct redevelopment program.

More than 400 California redevelopment agencies were officially shuttered on February 1, leaving a trail of uncertainty – and a potentially staggering debt load.

Across the state, cities and counties have loaned more than \$4 billion to their redevelopment agencies over the past few decades, but according to the law governing how agencies will be dissolved, they may not be able to recover that money.

Until the Department of Finance reviews each agency's plan to pay off existing debts and obligations in late April, it is unclear how much of the money will be returned to cities and counties. In our case, the city stands to lose \$17.8 million in loans that transpired between the city and the commission.

The immediate concerns are the potential impacts that the demise of redevelopment will have on the City's current and future operating budgets beginning in FY2012/2013. Approximately \$2.0 million in personnel costs and \$600,000 in indirect costs are associated with the administration of Commerce redevelopment. These expenditures were funded through tax increment (and are no longer available).

The last 3 budget cycles were trying and difficult processes to say the least. The City Council (along with staff) worked arduously and painstakingly to deal with consecutive budget deficits as follows:

- ✓ Cash reserves (\$1,585,167)
- ✓ Operational savings (\$5,024,437)
- ✓ Transfers in from other funds (specifically the Card Club)
- ✓ Implementation of an early retirement program (2 consecutive years)
- ✓ Blue Ribbon Advisory Panel recommended fees
- ✓ Full-time employee wage reduction of 2%
- ✓ City Council wage reduction of 2%
- ✓ City Administrator compensation reduction of approximately 6%
- ✓ City Attorney compensation reduction of 2%

**Refer to Attachment A for further detail**

**DISCUSSION:**

This section will touch on the following:

- ✓ The General Fund Budget projection for FY 2012-13
- ✓ Projected Amount necessary to get us through the current fiscal year (FY2011/2012) if the General Fund absorbs staff costs associated to the Commission
- ✓ Administrative Allowance Provided the Successor Agency
- ✓ Administrative Allowance Provided the Oversight Board
- ✓ Additional action is required in order to address structural deficit issues confronting the City (Development of a series of Potential Actions and/or Plan that addresses the projected deficit and assists the Council in making prudent decisions)

The General Fund Projection for FY 2012-13

The preliminary projection for the upcoming budget cycle stands at a deficit of just under **\$2 million**. This figure is exclusive of the redevelopment component that the City Council will consider on a parallel track to the budget process. There is a critical and urgent need to address the complexities associated with the dismantlement of the Commission, some of which we are still trying decipher.

This budget cycle will have critical implications to the entire organization. The Council and staff have the daunting task of solving a **\$4 million deficit** in one budget process as opposed to the three years it took to implement just over \$5 million of operational costs reductions.

Staff will return on February 21 with a course of action to address the immediate need, laying a framework for the rest of the budget process.

**Refer to Attachment B for further detail**

Projected Amount Necessary To Get Us Through the Current Fiscal Year if the General Fund Absorbs Staff Costs Associated to the Commission

As the City Council initiates the FY 2012-13 budget process, it will also have to address the last five months of FY 2011/2012 due to the loss of redevelopment revenues and their impact on the City's General Fund:

- ✓ Revenue Loss of approximately \$300,000
- ✓ Absorbing approximately \$900,000 in staff costs

**Refer to Attachment C for a comprehensive analysis**

Administrative Allowance Provided the Successor Agency

By definition in ABx1 26, Administrative Cost Allowance means an amount that, subject to the approval of the Oversight Board, is payable from property tax revenues of up to 5% of the property tax allocated to the Successor Agency for the 2011-12 fiscal year

and up to 3% for each fiscal year thereafter, however, that amount shall not be less than \$250,000.

This is one area (on a list of many) that the League of California Cities and the redevelopment community CRA believe is defective and should be corrected by the Governor and the Legislature. As of the date of this report there is no indication that there will be revisions to the administrative cost provisions of ABx1 26

For Example:

**Problem:** The statute can't be implemented because of delay in implementation of ABx1 26. The successor agency did not receive property tax for the full 2011-12 fiscal year.

**Solution:** Amend the statute to calculate 5% based upon full 2011-12 fiscal year tax increment.

Given these uncertainties, staff believes it prudent at this time in presenting a range that speaks to the potential impact using a "Maximum Administrative Allowance" of \$950,000 and a "Minimum Administrative Allowance" of \$250,000 (both figures pro-rated for the remaining 5 months of the fiscal year).

#### Administrative Allowance Provided the Oversight Board

If the statute wasn't already confusing, there is the question on whether or not future Oversight Board compensation will be netted out of the Successor Agency's Administrative Allowance or be paid out of a different source. In addition, the Oversight Boards compensation isn't spelled out anywhere in the statute.

At this point, staff did not include a dollar figure in the Enforceable Obligations Payment Schedule that the Successor Agency adopted on January 31, 2012.

#### Series of Potential Actions and/or Plan that addresses the projected deficit and assists the Council in making prudent decisions

Staff will return with a series of actions and/or a blueprint on February 21 for initial Council review and direction. This plan will speak to the immediate concern and a course of action going into the future. It is anticipated that this fluid process will solicit input from stakeholders throughout the process, making this a collaborative effort in addressing the community's and organizational needs for the next 2 to 3 years.

Staff has initiated a consultation process with the Commerce Employees Association and will be in discussions on these issues.

#### **BUDGET IMPACT**

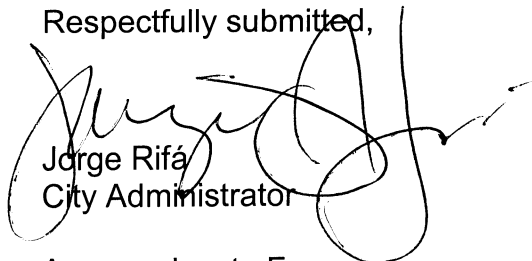
The City will be facing difficult challenges in addressing not only a \$1.5 million problem in this fiscal year, but more importantly a \$4 million projected deficit starting July 1.

Mindful of the organizational and financial impact involving last years' budget process (FY 2011-2012), staff will continue to make a concerted effort to minimize the impact to personnel in trying to bridge the FY 2012-2013 budget deficit.

#### **RELATIONSHIP TO 2009 STRATEGIC GOALS:**

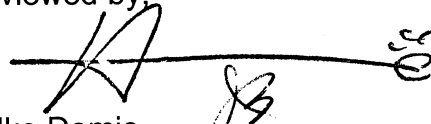
**This item is related to the City Council's goal of making financially and economically sound decisions consistent with economic conditions.**

Respectfully submitted,



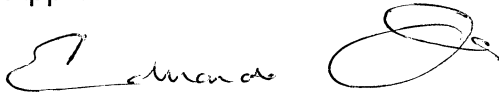
Jorge Rifá  
City Administrator

Reviewed by,



Vilko Domic  
Finance Director/City Treasurer

Approved as to Form



Eduardo Olivo  
City Attorney

Attachments: Attachments A, B and C



**CITY OF COMMERCE  
BUDGET IMPACT OVER THE LAST 3 YEARS**

**What is the total, or size of the City's General Fund Budget?**

- Adopted FY 09-10      \$49,470,187
- Adopted FY 10-11      \$47,817,106
- Adopted FY 11-12      \$47,808,189
- Decrease of      \$ **1,661,998** over the last 3 years

**Amount of Departmental Operational reductions were approved over the last 3 years?**

- Adopted FY 09-10      \$2,518,582
- Adopted FY 10-11      \$1,690,604
- Adopted FY 11-12      \$ 815,251
- Reductions of      \$ **5,024,437** over the last 3 years

**Amount of lay-offs associated with the \$5 million dollar plus reductions highlighted above?**

- None, however, there has been a decrease in Full Time Equivalent (FTE) staff of **42.40**.
- A breakdown of the 42.40 is as follows:
  - 19.0 Full-time positions (mostly positions related to the PARS early retirement program implemented for FY 10-11 only. These figures are exclusive of the 9 individuals that participated in the FY 11-12 program because it was implemented subsequent to the July budget adoption)
  - 23.40 Part-time (FTE) or 24,190.40 hours reduced

**How have each Department fared over the last 3 years?**

- City Council                      (\$ 12,196)
- Administration                  (\$ 14,411)
- PIO/Graphics                    (\$ 41,827)
- City Clerk                        (\$ 42,211)
- City Attorney                  (\$ 2,400)
- Human Resources                (\$ 128,168)
- Finance/IT                        (\$ 108,519)
- Community Dev                 (\$ 344,927)
- Public Services                 (\$ 170,615)
- Community Services            (\$ 137,847)
- Library Services                 (\$ 274,154)
- Parks & Recreation             (\$1,178,521)
- Employee Benefits              \$ 610,545
- General Services                \$ 313,569

**How much of the City is spent on Public Safety? (Or, on some other major program area?)**

- Public Safety           \$15,674,515
- Parks & Recreation   \$ 8,341,285
- Public Services       \$ 4,711,864
- Library Services       \$ 3,022,684

**How much is spent on computers, Information Technology (data processing) and/or other equipment?**

- Capital Outlay has been one area that has been hit hard since FY 08-09. For example:
  - Information Technology operating budget has been reduced by \$62,079
  - Computer related equipment has been reduced by \$72,000
  - Capital Outlay in general has been reduced by \$290,000

**What other tools did the City Council use to address the budget shortfalls?**

- Implementation of the PARS early retirement program
- Employee Concessions (approximately \$250,000 annually)
- Use of Reserves (\$1,585,167 over a 3 year period) – it is projected that the third installment of the Budget Stabilization Fund (\$500,000) will be needed to assist in buffering the additional burden that the General Fund will realize from the shutdown of redevelopment.
- Adoption of the Blue Ribbon Panel Recommendations on Fees (\$280,000 annually)

**City of Commerce**  
**General Fund Financial Forecast**  
**FY 2012-13 Projection**  
**Inclusive of the Redevelopment Impact**

	<b>Actual 2010 - <u>2011</u></b>	<b>Projected 2012 - <u>2013</u></b>	
Revenues	47,618,447	47,556,766	A
Expenditures	<u>47,544,604</u>	<u>49,553,788</u>	B
Annual Excess/(Deficit) of Recurring Revenue to Expenditure	73,843	(1,997,022)	
Redevelopment Staff Costs		(2,000,000)	
Recurring Revenue to Expend		<u><u>(3,997,022)</u></u>	

**A Redevelopment Impact**

Additional Property Tax	1,200,000
Loss of Interest Earnings	(1,200,000)
Loss of Indirect Costs	(627,000)

**A Other Factors**

Increase in Sales Tax	350,000
Increase in Card Club Allocation	300,000
Decrease in Bldg/Planning Permit Fees	(200,000)

**B Other Factors**

Increase in LA Sheriff Costs	2.5%
Increase in LA Fire Costs	3.0%
Increase in Health/Insurance Costs	4.0%



**CASH ON HAND (As of Nov 30, 2011)**

Non-Housing Funds	\$	3,589,539
Housing Funds	\$	<u>23,363,763</u>
<b>Total</b>	<b>\$</b>	<b>26,953,302</b>

**LOAN INTEREST PAYMENTS**

Current Outstanding Principal Balance	\$	17,800,000
Annual Interest Payments	\$	<u>1,200,000</u>
Gen Fund Interest Revenue Recognized to-date	\$	<u>700,000</u>
Gen Fund Interest that will not be Recognized	\$	<u>500,000</u> A

**COMMISSION PAYROLL / OPERATION & MAINTENANCE**

Salary	\$	1,350,000
Benefits	\$	<u>625,000</u>
<b>Total</b>	<b>\$</b>	<b>1,975,000</b>
<b>STAFF COSTS PER MONTH</b>	<b>\$</b>	<b>164,583</b>
<b>STAFF COSTS FOR THE REMAINDER OF THE FY</b>	<b>\$</b>	<b>822,917</b> B
<b>OPERATION &amp; MAINT (REMAINING 5 MONTHS)</b>	<b>\$</b>	<b><u>446,003</u></b> C
<b>STAFF COSTS/O&amp;M FOR THE REMAINDER OF THE FY</b>	<b>\$</b>	<b>1,268,919</b> D = B + C

**ADMINISTRATIVE FEE**

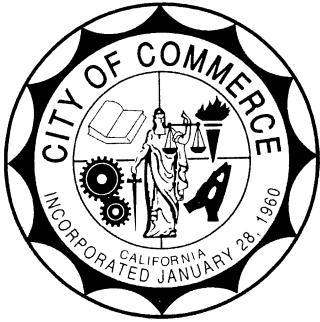
**Maximum Allowance**

5% of the Gross Tax Increment	\$	950,000
\$ 19,000,000		
Admin Fee for the remaining 5 months	\$	<u>395,833</u> E
<b>REMAINING NET STAFF COSTS TO BE ADDRESSED (Potentially Absorbed by the General Fund)</b>	<b>\$</b>	<b>873,086</b> F = D - E
Projected Additional General Fund Property Taxes	\$	1,125,000
Projected Property Taxes for remaining 5 months	\$	<u>468,750</u> G
<b>REMAINING PROJECTED PROPERTY TAXES NET OF THE REMAINING STAFF COSTS</b>	<b>\$</b>	<b>(404,336)</b> H = G - F

<u>Minimum Allowance</u>		
\$250,000 - Pro Rata for the remainder of the FY	\$	104,167 I
<b>REMAINING NET STAFF COSTS TO BE ADDRESSED (Potentially Absorbed by the General Fund)</b>	\$	<b>1,164,753 J = D - I</b>
Projected Additional General Fund Property Taxes	\$	1,125,000
Projected Property Taxes for remaining 5 months	\$	<u>468,750 K</u>
<b>REMAINING PROJECTED PROPERTY TAXES NET OF THE REMAINING STAFF COSTS</b>	\$	<b>(696,003) L = G - F</b>

<u>INDIRECT COSTS</u>		
Contribution to the General Fund	\$	625,000
Gen Fund Revenue Recognized to-date	\$	<u>364,583</u>
Gen Fund Revenue that will not be Recognized	\$	260,417 M

<u>POTENTIAL GENERAL FUND NET IMPACT (5 Remaining Months)</u>		
<u>Maximum Allowance</u>		
GEN FUND INTEREST THAT WILL NOT BE RECOGNIZED	\$	(500,000) A
REMAINING PROJECTED STAFF COSTS NET OF ADMIN FEE AND ADDITIONAL TAXES	\$	(404,336) H
GEN FUND REVENUE THAT WILL NOT BE RECOGNIZED (Indirect Costs)	\$	<u>(260,417) M</u>
<b>POTENTIAL GENERAL FUND NET IMPACT</b>	\$	<b>(1,164,753) N = A + F + M</b>
<u>Minimum Allowance</u>		
GEN FUND INTEREST THAT WILL NOT BE RECOGNIZED	\$	(500,000) A
REMAINING PROJECTED STAFF COSTS NET OF ADMIN FEE AND ADDITIONAL TAXES	\$	(696,003) L
GEN FUND REVENUE THAT WILL NOT BE RECOGNIZED (Indirect Costs)	\$	<u>(260,417) M</u>
<b>POTENTIAL GENERAL FUND NET IMPACT</b>	\$	<b>(1,456,419) O = A + L + M</b>



# AGENDA REPORT

DATE: February 7, 2012

TO: HONORABLE CITY COUNCIL

FROM: CITY ADMINISTRATOR

SUBJECT: AN UPDATE ON THE STATUS OF THE GREEN POLICY/GREEN ZONES AS PROPOSED BY THE ENVIRONMENTAL JUSTICE ADVISORY TASK FORCE.

RECOMMENDATION:

Receive and file.

MOTION:

Receive and file.

BACKGROUND AND ANALYSIS:

The City Council directed staff to work with the Environmental Justice Advisory Task Force (EJATF) to discuss and potentially develop a series of policy recommendations for consideration. These policies could eventually help serve to guide the City in its attainment of green economic development strategies, bringing into balance the human health problems associated with the environmental impacts of industrial and commercial land uses in a predominantly industrial community and the need to improve the environmental quality of life in Commerce.

The Environmental Protection Agency (EPA), Region 9, was asked by the EJATF to collaborate with them and the City on this matter. EPA is in the process of retaining MIG Consulting (at their cost) to facilitate the discussions and input from stakeholders to develop a series of recommendations that will be presented to the City Council in the future. Currently the contract with MIG is being finalized and it is anticipated that MIG will be given authorization to proceed by the EPA by the end of the month.

Given the need to commence the process, staff will set up a meeting with the core group of individuals from EJATF, the EPA, the City Administrator as well as other city staff, and MIG to discuss the make-up of the stakeholders group and a schedule for this initiative to include milestones. Below are some suggested milestones and dates to move forward:

- February/Early March: Meet with core group EPA, EJATF, and City staff to develop recommended stakeholders list and schedule with milestones.
- March: Present stakeholders list and schedule to City Council for consideration.
- April: Commence stakeholders meeting.
- April-September: Conduct stakeholders meetings.

In the end, MIG will work with the group to achieve consensus on a common vision. Through the formal discussions and with the proper outreach, a final report will be prepared, including the need for a Green policy framework in the City of Commerce. It will include, amongst other things, all the necessary considerations and specific recommendations developed throughout the discussion process. At minimum, this process would take six to twelve months, with at least one meeting taking place per month.

RELATIONSHIP TO 2009 STRATEGIC GOALS:

This agenda report relates to the 2009 strategic planning goal: "*Protect and Enhance the Quality of Life in the City of Commerce*".

FISCAL IMPACT:

The purpose of this report is to provide information to the City Council. Therefore, the program discussed in it will not have an immediate additional impact on the current operating budget. The results of this program and further direction provided by the City Council will determine the future fiscal impact.

Recommended by:

  
Bob Zarrilli  
Director of Community Development

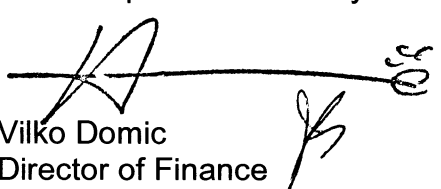
Respectfully submitted,

  
Jorge Rifa  
City Administrator

Prepared by:

  
Alex Hamilton  
Assistant Director of Community Development

Fiscal Impact reviewed by:

  
Vilko Domic  
Director of Finance

Approved as to Form



Eduardo Olivo  
City Attorney





# AGENDA REPORT

DATE: February 7, 2012

TO: HONORABLE CITY COUNCIL

FROM: CITY ADMINISTRATOR

SUBJECT: AN UPDATE ON THE STATUS OF CREATING DIGITAL BILLBOARDS STANDARDS

**RECOMMENDATION:**

Council discretion.

**MOTION:**

Council discretion.

**BACKGROUND:**

The City Council has received a proposal from Clear Channel Outdoor that would include replacing two existing static billboards, with electronic/digital sign displays (i.e. "digital billboards"). In response, the City Council requested that staff conduct a workshop on digital billboards. The workshop took place on October 24, 2011. At that time, the Council received a presentation from staff and representatives from the billboard industry and requested that staff further research the matter. On January 3, 2012 the City Council received another update on this matter. At that time staff presented two options to the Council as to how digital billboard standards could be developed. Additionally, staff presented information on the City of Long Beach's proposed billboard ordinance, as well as information on Commerce's current sign standards, different fee structures, and other issues to consider when creating digital billboard standards. In response, the City Council asked staff to come back with additional information on the following:

1. The City of Long Beach's proposed billboard ordinance.
2. The impacts of the First Amendment on regulating digital billboards.
3. Existing billboard inventory.
4. Industry standard rates.
5. Potential fee structure.

**THE CITY OF LONG BEACH:**

As previously discussed, many other jurisdictions have adopted digital billboard ordinances. Locally, Long Beach was the most recent city to draft such an ordinance. The process is instructive and was being watched by staff because it raised issues applicable to the City of Commerce's process. The Long Beach process was initiated with a one-year moratorium on issuing permits for new billboards. The moratorium was extended for another year to allow staff more time to research and develop comprehensive regulations for billboards throughout the city. Some of the basic principles included in the proposed ordinance were as follows:

1. Capping the amount of billboard space in the City.

2. Required removal of a specified amount of existing billboards space before new billboard or electronic billboard space can be constructed – 8:1 ratio for new electronic billboards and 6:1 for new non-electronic billboards.
3. CUP required for any major billboard project, including new billboards, conversions from a standard to digital billboard, and expansion of an existing billboard.

After Long Beach's Planning Commission examined the proposed ordinance, their City Council reviewed it on December 6 and December 13, 2011. According to draft minutes from the December 13<sup>th</sup> meeting (see attached), the City Council voted to amend the proposed ordinance with the following changes:

1. Remove the cap and trade system.
2. Ban the conversion of electronic readerboards.
3. Request that the City Manager return in 90 days with a report for additional City Council deliberations regarding the cap and trade system and further discussion related to defining a conforming billboard.

Certain Councilmembers believed in concept, that the ordinance was the correct course of action. However, there was still some reluctance because they felt it could potentially still lead to existing billboards in residential neighborhoods remaining in place. There was also concern with the prioritization of billboards for removal. Some felt there was not sufficient security measures drafted into the ordinance, and that certain Council districts would feel a greater impact than others. Another Councilmember questioned staff on the CEQA process associated with the ordinance and another did not believe the City of Long Beach would gain any significant benefit from the proposed ordinance.

In response, staff informed the Council of their belief that the main benefit would be fewer billboards in residential neighborhoods. They believe the proposed cap and trade system would be significant enough to create a reduction. Staff discussed the proposed CUP process for billboards and informed the Council that each application would be subject to its own environmental analysis, potentially triggering the necessity for a CEQA document. Currently, State law and Long Beach's Municipal Code provides for a seven year amortization period for billboards. Upon written notice, a nonconforming billboard would have to be removed within the seven year period. However, staff was quick to point out that this is a lengthy process and often times these actions are challenged in court.

Initially, the City Council's action was not clear to staff. However, once they were able to obtain some clarification, it was determined that City Council's decision amounted to a ban on electronic/digital billboards in the City and a new CUP requirement for new billboard construction. Staff was also instructed to report back to the Council within 90 days with more detail on the proposed cap-and-replace mechanism. Staff is anticipating bringing a revised ordinance back before the Council sometime in February.

#### THE FIRST AMENDMENT

Amongst other things, the First Amendment prohibits the making of any law abridging the freedom of speech or infringing on the freedom of the press. Expression that is not protected by this Amendment includes the following:

1. Defamation;
2. Obscenity, child pornography
3. Fraud, deceit;
4. Perjury;

5. Incitement to violence or destructive acts;
6. Blackmail, criminal conspiracies;
7. Threats against the President and Vice President;
8. Commercial messages promoting illegal goods or services;

Although controversial, protected expression includes the following:

1. Flag desecration and draft card burning;
2. Pornography which does not meet the definition of "obscene";
3. Erotic/nude dancing;
4. Abortion, war protests with grotesques pictures;
5. Racist, sexist comments;
6. All political, religious views (not including including incitement to immediate violence)

The United States Supreme Court's only case on billboard regulation and the First Amendment is *Metromedia v. San Diego* (1981). In that case, the Supreme Court held that the Government:

1. Can ban billboards, even if it allows on-site signs.
2. Cannot favor commercial speech over noncommercial speech.
3. Cannot favor one class or type of noncommercial speech over others.

(League of California Cities, 2011)

The First Amendment issues are complicated; the analysis can vary, depending on the circumstances of each case. Nevertheless, the general rule is that the City cannot discriminate against protected speech. Because advertising on billboards involves speech, the First Amendment protections are applicable.

#### EXISTING BILLBOARDS IN COMMERCE

Currently, there are five companies that maintain billboards in the City of Commerce. Staff has met with representatives from each company and they have provided information on the signs they maintain. Below is a list of each company and the number of signs they have in the City:

1. CBS Outdoor – 39 signs
2. Clear Channel Outdoor – 11 signs
3. Bulletin Displays, LLC – 4 signs
4. Van Wagner – 3 signs
5. Regency Outdoor – 1 sign

In total the five companies listed above maintain 58 signs in the City (according to the information provided to staff). A majority of these signs are located along Washington Boulevard, as well as Interstate 5. As discussed during previous meetings on this topic, State law seems to limit the area in Commerce where digital billboards can be placed along freeways.

#### INDUSTRY STANDARD RATES:

Each sign company has a different rate structure. Below is an example from Clear Channel Outdoor.

# of Boards	Network Type	Digital Unit Type	Art Pixel Dimensions	Seconds per Spot	Four Week Rate for 1 Position
11	Bulletin Network 4	Digital Bulletin	400 h x 1400 w	8	\$110,000
10	Bulletin Network 3	Digital Bulletin	400 h x 1400 w	8	\$110,000
10	Premiere Network 1	Digital Poster	400 h x 840 w	8	\$42,000
4	Bulletin Freeway Network	Digital Bulletin	400 h x 1400 w	8	\$58,000
10	Bulletin Network 5	Digital Bulletin	400 h x 1400 w	8	\$110,000
10	Bulletin Network 1	Digital Bulletin	400 h x 1400 w	8	\$110,000
10	Bulletin Network 2	Digital Bulletin	400 h x 1400 w	8	\$110,000
10	Premiere Network 3	Digital Poster	400 h x 840 w	8	\$42,000
10	Premiere Network 2	Digital Poster	400 h x 840 w	8	\$42,000
2	Valley Bulletin Network	Digital Bulletin	400 h x 1400 w	3600	\$20,000

As shown above, there is a wide range of rates charged by sign companies. In staff's discussion with these companies, they were told these rates are subject to change and availability. Furthermore, these rates are negotiable, especially during the current economic climate. Understandably, it is not beneficial for sign companies to have a number of vacancies. Therefore, they are willing to negotiate leases in order to fill any vacancy.

Cities across the country have dealt with or are currently dealing with this issue. Some cities have chosen to embrace these signs; others have been somewhat hesitant, while others have banned them all together. Digital technology allows billboard companies to rent space to multiple advertisers. "A billboard company in San Antonio, for example, estimated that annual revenue from one billboard that had been converted from a static image to a changeable digital image would increase tenfold, from \$300,000 to \$3 million just one year after it went digital" (APA, 2008). The federal Highway Beautification Act prohibits amortization and requires cash compensation for billboard removal. "Some cities and counties have struck deals with billboard companies requiring them to remove two boards for every new one they install. Other jurisdictions have established simple no-net increase policies". (APA, 2008).

**POTENTIAL FEE STRUCTURE:**

As shown below there are options for revenue generation as it relates to billboards:

**1. Business License Fees:**

Commerce, like other cities, has in place a licensing scheme which charges outdoor advertisers through the business license division. The fee is under the portion of the ordinance for "all other non-local businesses" and is currently only \$150 per year. There is also a provision in the CMC that provides that the minimum fee is only \$93 per sign. This appears to have been in existence since at least 1992. The City's total signboard revenue for 2010 was a total of \$750. An increase in these fees could lead to an increase in revenue.

**2. Gross Receipts:**

In regards to generating revenue, cities do have the ability to tax advertising signage. These taxes may be based on gross receipts or other factors such as dollars per sign, dollars per square foot of signage or any other rate set by the City Council.

Recently, the Sacramento Business Journal reported that the City of Sacramento “negotiated a one-time signing bonus of \$330,000, and receives rent payments totaling \$720,000 a year for all four billboards for the first five years”. This revenue will be generated via a deal with Clear Channel for signs that were built on City owned property. In the end, Sacramento will receive over \$1million dollars in payments. Other cities, like Santa Barbara, require every person engaged in the business of billboard advertising to pay an annual tax of two hundred dollars (\$200.00), or fifty cents (\$0.50) per lineal foot of billboard located in the City, whichever is greater. The City of Grand Terrace charges each person carrying on or conducting any business within the city at the flat rate of \$1,500 per side annually. Other cities set up payment structures as shown in the table below:

Gross Annual Receipts	Amount Paid
Less than \$5,000	\$12.50 per quarter
\$5,000.00 and less than \$10,000.00	\$23.50 per quarter;
\$10,000.00 and less than \$15,000.00	\$35.25 per quarter;
\$15,000.00 and less than \$25,000.00	\$58.75 per quarter;
\$25,000.00 and less than \$50,000.00	\$117.50 per quarter
\$50,000.00 and less than \$100,000.00	\$235.00 per quarter;
\$100,000.00 and less than \$200,000.00	\$467.50 per quarter
\$200,000.00 and less than \$300,000.00	\$700.00 per quarter
\$300,000.00 and less than \$400,000.00	\$935.00 per quarter
\$400,000.00 and less than \$500,000.00	\$1,167.50 per quarter
\$500,000.00 and over	\$1,250.00 per quarter

As shown above, the City has the ability to generate revenue from the placement of digital billboards. There are different options available and cities must determine which one will best meet their needs. It is important to note that each of the companies with signs in Commerce is different in size. Therefore, their revenues differ and their rent structures may also be different.

3. CUP (Entitlement Processing Fees):

Although the City of Long Beach planned on creating new standards for digital billboards, there were no plans to update their fee schedule. Initially there was some discussion about requiring a CUP and raising the fee to somewhere around \$40,000. However, they were advised against it by their City Attorney. As discussed above, the City of Commerce receives minimal income from billboards. Today, if a new billboard is proposed, the CUP fee is \$1,000. This is a one-time fee and the only revenue the City would receive from such a request would be the annual business license fees mentioned earlier in this report. To generate additional revenue from these, staff would recommend increasing the CUP fee to an amount proportionate to the amount of staff time necessary to process a CUP (in this case around \$2,500).

4. Agreements for City Owned Property:

When dealing with City owned property, some municipalities choose to negotiate with individual sign companies directly. These agreements could amount to revenue different than what would be required on private property. These independent agreements would be similar to the one in Sacramento mentioned earlier in this report. Each agreement in itself could be different based on the sign company involved.

Incorporating mechanisms like those mentioned above would ensure an increase in revenue from these signs. Even if no new billboards are constructed in Commerce, the City may still be able to see an increase in revenue by adopting a tax on gross annual receipts and increasing business license fees. It should be noted that the City would have to further consult with the City Attorney about the various legal issues related to the imposition of a gross receipts tax or any other tax.

**NEXT STEPS:**

Previously, staff provided two options to the Council in regards to creating standards for digital billboards. The options are as follows:

1. Direct staff to create standards for digital billboards. Staff anticipates this taking at minimum between 6-8 months to draft an ordinance and have it before the Planning Commission and City Council. As discussed in previous reports to the City Council, although City staff can handle the task of drafting a digital billboard ordinance, the reality is that, because of a significant number of other pending and anticipated projects, it will take a significant period of time.
2. Considering staff's current workload, the quickest way to get these standards developed and adopted would be to hire a consultant to handle the task. A consulting firm would be able to concentrate solely on this task, whereas City staff would have to juggle its current workload, plus any new projects that arise. As mentioned during the Council's initial workshop, this would cost approximately \$8,000 - \$10,000. Staff estimates this process taking 4-6 months.

**STAFF RECOMMENDATION:**

Staff recommends the Council select Option 2 above.

**FISCAL IMPACT:**

The programs discussed in this report can vary in cost. The purpose of this report is to provide information to the City Council and obtain direction. Therefore, the programs and policies discussed will not have additional impact on the current operating budget at this time. The direction provided by the City Council will determine the future fiscal impact. Some potential expenditures are listed in the "Next Steps" section of this report: options for future revenue creation are also detailed.

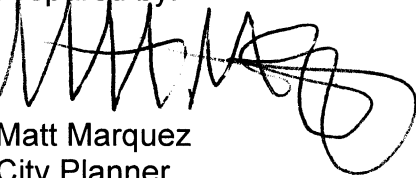
Recommended by:

  
Bob Zarrilli  
Director of Community Development

Respectfully submitted:

  
Jorge Rifa  
City Administrator

Prepared by:

  
Matt Marquez  
City Planner

Reviewed by:

A handwritten signature in black ink, appearing to be 'Vilko Domic', written over a horizontal line. The signature is stylized and includes a flourish at the end.

Vilko Domic  
Director of Finance

Approved as to Form:

A handwritten signature in black ink, appearing to be 'Eduardo Olivo', written in a cursive style.

Eduardo Olivo  
City Attorney

ATTACHMENT:

1. Draft Minutes—12/13/2011 City of Long Beach City Council Meeting





**Enactment No: ORD-11-0029**

see media  
17. 11-1179

Recommendation to declare ordinance amending the Long Beach Municipal Code by amending Sections 21.15.370, 21.15.2980, Table 32-1 of Chapter 21.32, Table 33-2 of Chapter 21.33, and Chapter 21.54; and by adding Sections 21.15.372, 21.15.374, and 21.15.1835, all related to billboards, read and adopted as read. (Citywide)

Motion: Approve recommendation.  
Moved by DeLong, seconded by Lowenthal.

Patrick West, City Manager, spoke.

Amy Bodek, Director of Development Services, spoke.

Councilmember Neal spoke.

Councilwoman Schipske spoke.

Councilmember O'Donnell spoke.

Councilmember Johnson spoke.

Councilmember DeLong spoke.

Councilwoman Gabelich spoke.

Vice Mayor Lowenthal spoke.

Councilwoman Schipske spoke.

Councilwoman Gabelich spoke.

Scott Jackson spoke.

Tommy Favre spoke.

Allen Matthews spoke.

Nick Lopez spoke.

Don Geer spoke.

Jonathan Allen spoke.

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Ray Baker, Lamar Advertising, spoke and submitted correspondence.

Councilwoman Gabelich spoke.

**A substitute motion was made by Councilmember Neal, seconded by Councilwoman Gabelich, to amend the proposed ordinance with the following changes: [a] removal of cap and trade system provisions; [b] banning of the conversion of electronic billboards; and request that the City Manager return in 90 days with a report for additional City Council deliberations regarding the cap and trade system and further discussion of the definition of a "conforming billboard," with the understanding that the City Attorney would provide a revised ordinance for a first reading. The motion carried by the following vote:**

**Yes:** 5 - Schipske, Andrews, Johnson, Gabelich and Neal

**No:** 3 - Lowenthal, DeLong and O'Donnell

**Absent:** 1 - Garcia

see media

18. 11-1199

Recommendation to declare ordinance amending the Long Beach Municipal Code by adding Chapter 5.37 relating to Mobile Food Preparation Vehicles, read and adopted as read. (Citywide)

**A motion was made by Councilwoman Gabelich, seconded by Councilmember Johnson, to approve recommendation and adopt Ordinance No. ORD-11-0030. The motion carried by the following vote:**

**Yes:** 8 - Lowenthal, DeLong, O'Donnell, Schipske, Andrews, Johnson, Gabelich and Neal

**Absent:** 1 - Garcia

**Enactment No:** ORD-11-0030

**NEW BUSINESS (11:32 PM)**

19. Agenda Item No. 19 is listed under Unfinished Business.

20. Agenda Item No. 20 is listed under Unfinished Business.

see media

21. 11-1249

Recommendation to receive and file the Long Beach Hometown Heroes Banner Program presentation.

Councilwoman Schipske spoke.



# AGENDA REPORT

Meeting date: February 7, 2012

**TO:** Honorable City Council  
**FROM:** City Administrator  
**SUBJECT:** Door of Hope/Service Organization Renewal

**RECOMMENDATION:**

The City Council will make a decision as to the status of Service Organization, Door of Hope Community Center, which is located in the City of Los Angeles.

**MOTION:**

Move to approve recommendation.

**BACKGROUND:**

At its meeting of January 17, 2012, Council approved 20 civic and service organizations for annual renewal and deferred a decision on the status of the Door of Hope Community Center, per staff's recommendation. The Door of Hope Community Center is not located in the City of Commerce and staff requested additional time to research how the organization was granted service organization status since 1999, if it is not located in the City of Commerce.

**ANALYSIS:**

Per written guidelines, service organizations must be located in the City of Commerce and must submit the required paperwork each November, to be considered for renewal. The Door of Hope has submitted all required paperwork.

The Door of Hope was first recognized as a service organization on March 17, 1998, when it was located on Goodrich Boulevard, in the City of Commerce. In 1999, the organization moved to its current location at 1414 Atlantic Boulevard, just outside of Commerce, and had its service organization status renewed by Council at an April 20, 1999 Council meeting. Its current membership roster lists 33 members, 19 of which are Commerce residents (58%).

Services provided by the Door of Hope include an emergency food bank (serving over 100 Commerce residents); job placement services; a Workers Investment Act (WIA) Youth Program; and, a Summer Youth Employment Program. The Door of Hope also provides food baskets to approximately 50 Commerce families, during the holidays.

**FISCAL IMPACT:**

This activity can be carried out without additional impact on the current operating budget.

**RELATIONSHIP TO STRATEGIC GOALS:**

This agenda item relates to Strategic Goal #1: Develop Citywide Plan to enhance and maintain the City of Commerce environment and infrastructure to create livability and quality of life for those who live, work and play in the community.

Recommended by:

  
Scott Wasserman  
Interim Director of Parks and Recreation

Respectfully submitted,

  
Jorge Rifa  
City Administrator

Approved as to Form:

  
Eduardo Olivo  
City Attorney

**Door of Hope Community Center****"Where Hopes Become Reality"**

1414 S. Atlantic Blvd.

Los Angeles, CA 90022

(323) 262-2777 Fax (323) 262-3610

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January 30, 2012

**City of Commerce**

Attn: Scott Wasserman

Dear Mr. Wasserman,

It has come to our attention that due to our location, the City of Commerce has questioned the approval of our participation in the City of Commerce Civic/Service Organization. When Door of Hope joined in as a Civic Organization we were located on Goodrich Blvd. in City of Commerce. We later relocated our building to Atlantic Blvd, which is located in East Los Angeles, right on the border of City of Commerce

Our programs include an Emergency Food Bank, a Continuation High School Classroom, Job Placement Assistance Program, WIA Youth Program, Summer Youth Employment Program and Holiday Food Program.

Before making your decision, please take into consideration the fact that our Emergency Food Bank assists over 100 low income Commerce residents; our Job Placement Assistance Program serves Commerce Residents; our WIA Youth Program serves zip codes 90022, 90023, 90040 & 90063; our Summer Youth Employment Program serves all food stamp and/or Cal Works families & foster youth in Commerce; and our Holiday Food Program provides turkey food baskets to about 50 families in City of Commerce.

Thank you for taking these facts into consideration and we eagerly await your decision.

Sincerely,



Shirley A. Melendez  
President/CEO



# AGENDA REPORT

Meeting date: February 7, 2012

**TO: HONORABLE CITY COUNCIL**  
**FROM: CITY ADMINISTRATOR**  
**SUBJECT: COMMUNITY DODGER AND GALAXY NIGHT**

**RECOMMENDATION:**

The City Council will discuss and consider for approval, eliminating the Community Dodger Night and Community Galaxy Night events as cost saving measures.

**MOTION:**

Move to approve the recommendation.

**BACKGROUND:**

For many years, the City of Commerce has provided a Community Dodger Night and Community Galaxy Night. By contract, the minimum amount of tickets the City may purchase is 600 for Community Dodger Night and 350 for Community Galaxy Night. Although these events are successful in nature, only 25 – 30% of these tickets are actually sold, leaving the City to absorb the cost of the unsold tickets.

**ANALYSIS:**

The department recommends eliminating these events, due to the current economic climate. If these events are eliminated, the Miss Commerce Pageant will rename the Royal Court with a title of "Princess," instead of each being named after a City event.

Over the past year, the Parks and Recreation Department has expanded the role of the Queen and Court to include their participation in other events and programs, such as: the Christmas Tree Lighting Event; Easter Egg Hunt; Cinco de Mayo; Children's Holiday Faire; and, preschool graduation. The department will continue to expand the court's involvement in these programs to ensure that they enjoy the same level of exposure to the community as previous courts.


**FISCAL IMPACT:**

Should the City Council choose to approve this item, the City will save approximately \$14,200.00.

**RELATIONSHIP TO STRATEGIC GOALS:**

This agenda item relates to Strategic Goal #3: Make financial and economically sound decisions consistent with economic conditions.

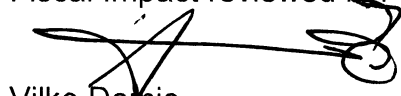
Recommended by:

  
Scott Wasserman  
Interim Director of Parks and Recreation

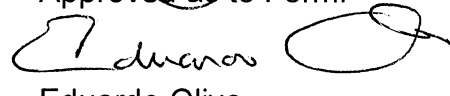
Respectfully submitted,

  
Jorge Rifa  
City Administrator

Fiscal Impact reviewed by:

  
Vilko Domic  
Director of Finance

Approved as to Form:

  
Eduardo Olivo  
City Attorney





# AGENDA REPORT

MEETING DATE: February 7, 2012

**TO:** HONORABLE CITY COUNCIL

**FROM:** CITY ADMINISTRATOR

**SUBJECT:** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMMERCE CALIFORNIA, REJECTING ALL BIDS FOR CASH CONTRACT NO. 1109 – THE CENTRAL LIBRARY, CITY HALL AND SENIOR PLAZA IMPROVEMENTS PROJECT AND OTHER RELATED MATTERS THERETO

**RECOMMENDATION:**

That the City Council:

1. Approve the proposed Resolution and assign the number next in order; and
2. At City Council discretion direct staff to proceed with an alternative option.

**MOTION:**

Move to approve the recommendation and provide direction as noted in item 2.

**BACKGROUND:**

On October 18, 2011, the City Council approved the Project Plans and Specifications, as prepared by Adrian-Gaus Architects, Inc., and Notice Inviting Sealed Bids.

On December 20, 2011, the City Clerk received and opened 14 bids for this project. The bids ranged from \$5,149,000 to \$7,736,000.

On December 21, 2011, the lowest bidder submitted a letter withdrawing its bid for the project.

**ANALYSIS:**

A detailed review and examination of the bids indicate that in most areas the project estimate was close to the actual bids received, with the exception of the following areas:

<b>Project Components/Tasks</b>	<b>Over Estimated Budget</b>
Heating Ventilation and Air Conditioning Work	\$164,000
Electrical Work	\$115,000
Temporary Library	\$250,000

Although, the three lowest bidders are very close to the project estimate and some areas could be modified to fit the project budget, at this time staff is recommending that the City Council reject all bids and considered directing staff to proceed with one of the following alternatives:

**ALTERNATIVE 1.** Value Engineer and Rebid Project (reduce by \$800,000 to \$1,000,000) – Eliminate most exterior work, reduce size of temporary facility, reduce number of HVAC units to be replaced, reduce furnishing/IT purchases, etc.

**ALTERNATIVE 2.** Value Engineer and Rebid Project (reduce by \$1,500,000 to \$2,000,000) – Incorporate all elements in Alternative 1; leave Literacy Center in its current location; run computer wires above ceiling; minimize interior demolition; carpet all area (eliminate use of tiles and rubber flooring); keep existing HVAC system and only install new ducts and registers; no ceiling over stack areas; eliminate Council Lobby improvements; eliminate office/administration improvements; etc.

**ALTERNATIVE 3.** Place Project On-hold until Economy Improves – Do not proceed with any additional work on the project plans and specifications and postpone project to a future fiscal year.

**ALTERNATIVE 4.** Terminate/Cancel Project Completely – Do not proceed with any additional work on the project plans and specifications and cancel project in its entirety.

The City has already invested heavily on the project. This investment may be lost if the project does not move forward. Staff therefore recommends that the City Council consider proceeding with Alternative 2. Although, Alternative 2 drastically reduces the scope of work, it still brings the library up-to-date technically while providing a face lift and reducing the project overall cost/budget.

**FISCAL IMPACT:**

At this time, the proposed project budget is as follows and available in the following accounts:

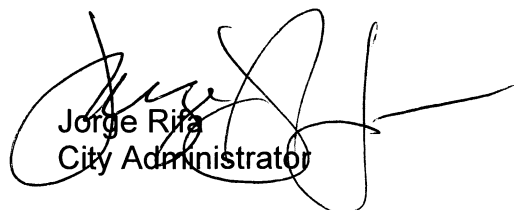
Central Library Renovation Project (040-5180-54043-10134).....	\$6,600,000
Council Chambers/Sr. Center Walkway Project (040-5180-57010-10144)...	\$ 500,000
Total Funding.....	<b>\$7,100,000</b>

As of January 9, 2012, the City has expended \$1,237,794 on this project, leaving a balance of \$5,862,206.

**RELATIONSHIP TO 2009 STRATEGIC GOALS:**

The issue before the Council is applicable to the following Council's strategic goal: "*Protect and Enhance Quality of Life in the City of Commerce.*" Although, there are no specific objectives connected to this issue, the City is responsible for ensuring that city-owned buildings and grounds are in good and safe order for public and staff use.

**Respectfully submitted,**

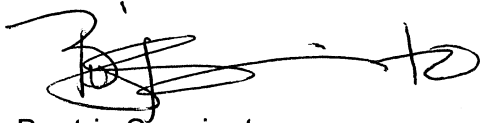
  
Jorge Rifa  
City Administrator

**Recommended by:**

  
for Robert Zarrilli  
Director of Community Development

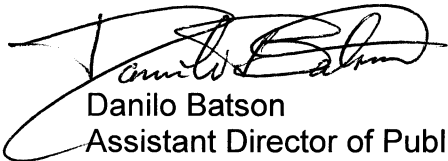


**Recommended by:**



Beatriz Sarmiento  
Interim Director of Library Services

**Prepared by:**



Danilo Batson  
Assistant Director of Public Services

**Fiscal impact reviewed by:**



Vilko Domic  
Director of Finance

**Approved as to form:**



Eduardo Olivo  
City Attorney

**ATTACHMENTS:**      Resolution Rejecting All Bids  
PowerPoint Presentation

File: 2012 City Council Agenda Reports  
Resolution Rejecting All Bids Received for Cash Contract # 1109 Central Library, City Hall and Senior Plaza Improvements  
Project (Adrian-Gaus Architects/Swinerton Management & Consulting)

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMMERCE,  
CALIFORNIA, REJECTING ALL BIDS FOR CASH CONTRACT NO. 1109 – THE  
CENTRAL LIBRARY, CITY HALL AND SENIOR PLAZA IMPROVEMENTS PROJECT  
AND OTHER RELATED MATTERS THERETO**

**WHEREAS**, on October 18, 2011, the City Council of the Commerce approved the Project Plans and Specification, as prepared by Adrian-Gaus Architects, Inc., and Notice Inviting Sealed Bids for Cash Contract No. 1109 – The Central Library, City Hall and Senior Plaza Improvements Project; and

**WHEREAS**, on December 20, 2011, the City Clerk received and publicly opened 14 bids for this project, ranging from \$5,149,000 to \$7,736,000; and

**WHEREAS**, on December 21, 2011, the lowest bidder submitted a letter withdrawing its bid for the project; and

**WHEREAS**, after careful review and examination of the bids, it would be in the City's best interest to reject all bids received.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COMMERCE DOES  
HEREBY RESOLVE AS FOLLOWS:**

**Section 1.** All bids received in response to the Notice Inviting Sealed Bids for Cash Contract No. 1109 – The Central Library, City Hall and Senior Plaza Improvements Project are hereby rejected.

**PASSED, APPROVED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_,  
2012.

\_\_\_\_\_  
Joe Aguilar  
Mayor

ATTEST:

\_\_\_\_\_  
Linda Kay Olivieri, MMC  
City Clerk



# *City of Commerce*

## CENTRAL LIBRARY, CITY HALL & SENIOR PLAZA IMPROVEMENTS

### Bid Process

- A. The estimate was \$5,167,000. This included:
- The Library, Senior Plaza and City Hall Improvements.
  - \$180,000 Allowance for Structural Upgrades unknown at bid time
  - \$500,000 Allowance for furniture and equipment
  - \$18,000 Allowance for Permit Fees
- B. In addition to the estimate the overall project budget included a contingency of \$330,000.



# City of Commerce

## CENTRAL LIBRARY, CITY HALL & SENIOR PLAZA IMPROVEMENTS

### Bid Results

- A. The initial low bidder came in at \$5,149,000. This bidder requested that their bid be withdrawn.
- B. The second low bidder came in at \$5,345,881. This bidder's paperwork was not in order.
- C. The third lowest bidder came in at \$5,537,000. This is the apparent low bidder.
- D. The bids ranged from \$5,149,000 to \$7,736,000.
- E. The combined average of the five lowest bidders was \$5,595,576. This is a difference of \$428,576 from the estimate.
- F. The difference between the estimate and the apparent low bidder is \$388,000
- G. The difference between the estimate and the average of all bidders was \$834,000



# City of Commerce

## CENTRAL LIBRARY, CITY HALL & SENIOR PLAZA IMPROVEMENTS

### Bid Findings

After reviewing the seven lowest bids in detail most items fell within the estimate except for the following:

- A. The HVAC system was \$164,000 over the estimate.
- B. The electrical system was \$115,000 over the estimate.
- C. The temporary library was on average \$250,000 over the estimate.
- D. Other areas of overage were certain ceiling systems and finishes , stone tile and communications wiring.
- E. Possible reasons for overage were the cost of labor due to the complexity of the project, recent rising costs of materials and attempting to provide a level of service to the community and functioning staff areas during construction that is close to what is being provided currently.



# City of Commerce

## CENTRAL LIBRARY, CITY HALL & SENIOR PLAZA IMPROVEMENTS

### Alternative 1

#### Value Engineering to Meet Existing Budget

A. To rebid the project and expect it to come in under budget, we would need to Value Engineer the project by \$800,000 to \$1,000,000 (including added costs required to achieve the savings). Potential areas to reduce the scope on key components while not comprising quality or investment

- are:
- Furniture
  - Flag Pole Relocation.
  - Temporary Library
  - LEED
  - HVAC
  - Library Exterior
  - Electrical/ Lighting
  - Council Chambers Lobby
  - Staff work areas

Time Frame: 2-3 Months Before Rebid. Begin Construction in August 2012

	Estimated Total Construction Cost	Admin and Design Cost To Complete	Admin and Design Cost To Date	TOTAL PROJECT COST
Alt 1	\$5,362,206	\$500,000	\$1,237,794	\$7,100,000



# City of Commerce

## CENTRAL LIBRARY, CITY HALL & SENIOR PLAZA IMPROVEMENTS

### Alternative 2

#### Value Engineering to Reduce Budget by \$1,500,000 to \$2,000,000

A. The goal would be to scale down the project to the essentials required to bring the library into the 21<sup>st</sup> century within \$3,000,000. The program spaces would remain the same, the furniture and technology budgets will remain in tact. Structural Improvements would continue per design and the only the essential HVAC systems would be upgraded. Electrical upgrades would proceed but the entire electrical system would be streamlined. We would work towards a simplified version of the original intent.

Time Frame: 3-4 Months Before Rebid. Begin Construction in September 2012

	Estimated Total Construction Cost	Admin and Design Cost To Complete	Admin and Design Cost To Date	TOTAL PROJECT COST
Alt 2	\$3,000,000	\$600,000	\$1,237,794	\$4,837,794



# City of Commerce

## CENTRAL LIBRARY, CITY HALL & SENIOR PLAZA IMPROVEMENTS

### Alternative 3

#### Place Project On-Hold until Economy Improves

- A. Do not proceed with any additional work on the project plans and specifications and postpone project to a future fiscal year.

Time Frame: TBD

	Estimated Total Construction Cost	Admin and Design Cost To Complete	Admin and Design Cost To Date	TOTAL PROJECT COST
Alt 1	TBD	TBD	\$1,237,794	TBD





# City of Commerce

## CENTRAL LIBRARY, CITY HALL & SENIOR PLAZA IMPROVEMENTS

### Alternative 4

#### Terminate / Cancel Project Completely

- A. Do not proceed with any additional work on the project plans and specifications and cancel project in its entirety.

Time Frame: TBD

	Estimated Total Construction Cost	Admin and Design Cost To Complete	Admin and Design Cost To Date	TOTAL PROJECT COST
Alt 1	\$0	\$0	\$1,237,794	\$1,237,794

