ALL ITEMS FOR CONSIDERATION BY THE CITY COUNCIL/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 and Commissioners 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.

AGENDA FOR THE CONCURRENT REGULAR MEETINGS OF THE CITY COUNCIL OF THE CITY OF COMMERCE AND THE COMMERCE COMMUNITY DEVELOPMENT COMMISSION
COUNCIL CHAMBERS
5655 JILLSON STREET, COMMERCE, CALIFORNIA

TUESDAY, OCTOBER 18, 2011 – 6:30 P.M.

CALL TO ORDER	Mayor/Chairperson Aguilar
PLEDGE OF ALLEGIANCE	Scott Wasserman Interim Director of Parks and Recreation
INVOCATION	Councilmember/Commission Leon
ROLL CALL	City Clerk/Assistant Secretary Olivieri

APPEARANCES AND PRESENTATIONS

1. Presentation – Cable TV Graduates

   The **City Council** will present Certificates of Completion to the 2011 Cable TV Television Production, Video Digital Editing, Directing and Technical Directing class graduates.

PUBLIC COMMENT

Citizens wishing to address the City Council/Commission 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/Commission 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/Commission 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/Commission. Request to address City Council/Commission cards are provided by the City Clerk/ Assistant Secretary. If you wish to address the City Council/Commission at this time, please complete a speaker's card and give it to the City Clerk/ Assistant Secretary prior to commencement of the City Council/Commission meeting. 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.

CITY COUNCIL/COMMISSION 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/Commissioner desire to consider any item separately he/she should so indicate to the Mayor/ Chairperson. 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 Commission** will consider for approval, respectively, the minutes of the Concurrent Regular Meetings of Tuesday, October 4, 2011, held at 6:30 p.m. and Special Meeting of Tuesday, October 11, 2011, held at 5:00 p.m. [Council only].

3. Approval of Warrant Register No. 8

The **City Council and Commission** will consider for approval, respectively, the bills and claims set forth in Warrant Registers No. 8A, dated October 18, 2011, and No. 8B, for the period October 5, 2011, to October 13, 2011.

4. Financial Report Through September 30, 2011

The **City Council** will consider for receipt and filing the financial report through September 30, 2011.

5. Proclamation - "National Health Education Week"

The Society for Public Health Education (SOPHE) and the California Association of School Health Educators (CASHE) are requesting that cities support them in proclaiming the week of October 16-22, 2011, as National Health Education Week. The organizations believe that it is important to increase the health-related knowledge of individuals and their capacity to understand health information.

The **City Council** will consider proclaiming the week of October 16-22, 2011, as "National Health Education Week" in the City of Commerce.

6. Approval of City Plaque City of Aguascalientes' 436th Anniversary

At the request of Mayor Aguilar, the **City Council** will consider for approval a City plaque in recognition of the 436th Anniversary of the City's Sister City, Aguascalientes, Aguascalientes, Mexico.

7. Use of Commission-owned Properties by Craig Realty Group, et al./Citadel LLC for Special and Holiday Event Parking

The **Commission** will consider for approval the use of Commission-owned properties located at 5801, 5819 and 5823 Telegraph Road; 2309, 2320 and 2366 Travers Avenue and 2240 Gaspar Avenue for customer and/or employee parking purposes for The Citadel's special and holiday events on weekends from October 22, 2011, to January 1, 2012, inclusive, and on Friday, November 25, 2011, on a no-cost basis and authorizing Craig Realty Group, et al./Citadel, LLC to either pave or gravel the lot at 2240 Gaspar Avenue prior to use, if needed, with Craig Realty Group, et al./Citadel, LLC, to provide the requisite evidence of insurance for the use of said properties.

8. A Resolution of the City Council of the City of Commerce, California, Approving an Agreement with Municipal Revenue Advisors (MRA) for Revenue Enhancement Consulting Services and Designating Municipal Revenue Advisors as an Authorized City Representative to Examine Sales and Use Tax Records

On June 7, 2011, the City Council received information on the Business Cooperation Program and Business License Amnesty Program and directed staff to prepare the appropriate Resolution(s) and Agreement(s) for the City Council's later consideration after receiving a presentation from each consultant and discussion with the Commerce Industrial Council.

On October 4, 2011, the City Council received a presentation from Municipal Revenue Advisors (MRA) for revenue enhancement consulting services.

The **City Council** will consider for approval and adoption a proposed Resolution approving an Agreement with Municipal Revenue Advisors (MRA) for revenue enhancement consulting services and designating Municipal Revenue Advisors as an authorized City representative to examine sales and use tax records.

This item was continued from October 4, 2011.

9. A Resolution of the City Council of the City of Commerce, California, Approving the Execution of Program Supplement Agreement No. N011 to the Administrating Agency-State Agreement for Federal-Aid Projects No. 07-5362R for State Funded Projects Covering all Phases of Work for Washington Boulevard – 350' west of Indiana Street to I-5 Freeway at Telegraph Road (Project Number HPLUL-5362(019)) in the City of Commerce

The **City Council** will consider for approval and adoption a proposed Resolution approving the execution of the Program Supplement Agreement No. N011 to Administering Agency-State Agreement for Federal-Aid Projects No. 07-5362R for State Funded Projects covering all phases of work for Washington Boulevard – 350' west of Indiana Street to the I-5 Freeway at Telegraph Road (Project Number HPLUL-5362(019)) in the City of Commerce.

The execution of the Program Supplement Agreement is required to prevent the disencumberance and/or deobligation of the $13,362,000 approved for the project by the Los Angeles County Metropolitan Transportation Authority Board of Directors on September 27, 2007.

10. A Resolution of the City Council of the City of Commerce, California, Approving the Execution of the Second Amendment to Memorandum of Understanding – Washington Boulevard Widening and Reconstruction Project Between the City of Commerce and the Los Angeles County Metropolitan Transportation Authority

The **City Council** will consider for approval and adoption a proposed Resolution approving the execution of the Second Amendment to the Memorandum of Understanding – Washington Boulevard Widening and Reconstruction Project between the City of Commerce and the Los Angeles County Metropolitan Transportation Authority (LACMTA).

The amendment extends the lapse time of all funds programmed to June 30, 2012.

11. A Resolution of the City Council of the City of Commerce, California, Approving a Hold Harmless Letter Agreement with General Physics Corporation Relating to the Source Code for the LNG/LCNG Fueling Station

The warranty for the liquefied natural gas fuel station control panel at the City's LGN/LCNG fuel station, 5926 Sheila Street, Commerce, has expired and the City has requested that General Physics Corporation provide access to the source code, object code and software for the control panel.

The source code was developed by General Physics Corporation; therefore, it is requesting that the City endorse a Hold Harmless Letter Agreement prior to transferring the source code to Clean Energy Fuels, who now operates and maintains the station for the City. The source code is required by Clean Energy in order to integrate the station's software into Clean Energy's station monitoring software.

The **City Council** will consider for approval and adoption a proposed Resolution approving the Hold Harmless Letter Agreement with General Physics relating to the source code for the LNG/LCNG Fueling Station.

12. A Resolution of the Commerce Community Development Commission Approving a License Agreement with the Gatwick Group, LLC Regarding Property Located at 4957 Sheila Street, APN No. 5244-034-900, and 4800 Washington Boulevard, APN No. 5244-033-900, Commerce, California

The **Commission** will consider for approval and adoption a proposed Resolution approving a License Agreement with the Gatwick Group, LLC regarding property located at 4957 Sheila Street, APN No. 5244-034-900, and 4800 Washington Boulevard, APN No. 5244-033-900, Commerce, California.

The license agreement will provide Gatwick with the right to enter onto the subject property in order to determine whether or not it may be a suitable location for part of a potential retail development and provide for indemnification and the appropriate insurance to protect the Commission's interest.

13. Resolutions of the City Council of the City of Commerce, California,

A. Authorizing the Submittal of an Application to the California State Department of Housing and Community Development for Funding Under the CalHome General Program

B. Authorizing the Submittal of an Application to the California State Department of Housing and Community Development for Funding Under the CalHome Program for Homeownership Project Development

C. Authorizing the Submittal of an Application to the California State Department of Housing and Community Development for Funding Under the "BEGIN Program"

At the request of Mayor Pro Tempore Baca Del Rio and Councilmember Leon, it is recommended that the **City Council** approve and adopt the separate proposed Resolutions, identified above, authorizing the preparation and submittal of the CalHome General Program, CalHome Program for Homeownership Project Development and "BEGIN Program" grant applications for Affordable Housing Development and Down Payment Assistance Programs and the City Administrator or designee to execute all grant applications and documents, amendments and, if awarded, the applicable agreements and any related documents necessary to participate in said programs.

SCHEDULED MATTERS

14. Approval of Plans and Specifications for Cash Contract No. 1109 – Central Library, City Hall & Senior Center Plaza Improvement Project

The **City Council** will consider for approval the Plans and Specifications for Cash Contract No. 1109 – Central Library, City Hall and Senior Plaza Improvement Project, as prepared by Adrian-Gaus Architects, Inc., and authorizing the Community Development Department to advertise for bids and designate Thursday, December 8, 2011, at 1:00 p.m., as the bid opening date.

15. Commercial Recycling Mandate

The **City Council** will consider for receipt and filing a report on, providing direction as deemed appropriate with respect to and directing staff to prepare an Ordinance adopting a State-mandated Commercial Recycling Program.

16. Customer Service Employee Recognition Designated Parking Space

At the request of Councilmember Leon, the **City Council** will consider designating one parking space at the front of City Hall as the "Customer Service Employee of the Quarter" designated parking space.

17. Proposed Amendment to Personnel Classification and Compensation Plan Adding Position of Deputy City Administrator to At-will, Executive Class

The **City Council** will consider for approval a proposed amendment to the Personnel Classification and Compensation Plan establishing a new job classification and salary range for Deputy City Administrator and approving the position allocation change in the City Administration Department's budget.

ORDINANCES AND RESOLUTIONS

18. An Ordinance of the City Council of the City of Commerce, California, Amending Title 19 ("Zoning") of the Commerce Municipal Code, Table 19.11.030 (5. Transportation-related Uses, Notes and Exceptions) – Second Reading

The Commerce Municipal Code currently fails to provide the City with the ability to require a Conditional Use Permit (CUP) for most warehouse projects. The requirement of a CUP for large warehouse structure projects will provide the City with more oversight and enable it to be better prepared to identify, consider and assure the mitigation of adverse impacts that may be caused to the surrounding community.

The **City Council** will consider and take the appropriate action deemed necessary regarding a proposed Ordinance amending Title 19 ("Zoning") of the Commerce Municipal Code, Table 19.11.030 (5. Transportation-related Uses, Notes and Exceptions).

The proposed Ordinance was approved for first reading on August 16, 2011. The second reading of the proposed Ordinance was continued on September 6, 2011; September 20, 2011 and October 4, 2011.

Staff is recommending that the City Council take action to not approve the proposed Ordinance for second reading and direct staff to return with a new Ordinance after analyzing recommended changes suggested by the Commerce Industrial Council.

19. A Resolution of the City Council of the City of Commerce, California, Approving a Professional Services Agreement for Construction Management Services With Swinerton Management and Consulting

The **City Council** will consider for approval and adoption a proposed Resolution approving a Professional Services Agreement for Construction Management Services with Swinerton Management and Consulting.

Swinerton has been performing said services for the City since August 4, 2008.

PUBLIC HEARINGS

CIP PROGRESS REPORT

LEGISLATIVE UPDATE

20. Report on Pending Legislation

The **City Council** and **Commission** will receive an update on, and provide the appropriate direction as deemed necessary with respect to, legislative items of concern to the City and Commission.

I-710 LOCAL ADVISORY COMMITTEE UPDATE

RECESS TO CLOSED SESSION

21. Pursuant to Government Code §54956.8,

A. The **Commission** will confer with its real property negotiators, Jorge Rifá and Bob Zarrilli, with respect to real estate negotiations with Gatwick Group, LLC, aka Commerce VRG, LLC, including proposed price and other terms, concerning real property commonly referred to as the Cable property and/or Cable Trust property; real property owned separately by the Union Pacific Railroad, Burlington Northern Santa Fe Railway Company and Anne R. Klein Estate and Commission-owned real property located at 4957 Sheila Street and on the southeast corner of Washington Boulevard and Hepworth Avenue, APN 5244-033-900 (formerly known as 4800 Washington Boulevard), Commerce, California, with said properties bounded by Washington Boulevard on the north, Sheila Street on the south, Atlantic Boulevard on the east and the I-710 Freeway on the West.

22. Pursuant to Government Code §54956.9(a),

A. The City Council will confer with its legal counsel and take the appropriate action, with respect to the pending litigation of State of California Department of Finance, et al. v Commission on State Mandates, et al., Superior Court of the State of California, County of Los Angeles, Case No. BS 130730.

23. 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 two potential cases.

24. 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 Memorandum of Understanding between the City and the City of Commerce Employees

Association on behalf of the mid-management and non-management full-time employees.

25. Pursuant to Government Code §54957,

A. The **City Council** will consider personnel matters related to the appointment of an Interim Director of Library Services, Interim Director of Safety & Community Services, Interim Director of Parks & Recreation and Interim Assistant Director of Parks & Recreation.

B. The **City Council** will consider personnel matters related to the appointment of a Deputy City Administrator.

ADJOURNMENT

Adjourn to Monday, October 24, 2011, at 5:30 p.m. in the City Council Chambers in memory of Jose Gallo, father-in-law of City employee Heriberto Valdes.

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: October 18, 2011

TO: Honorable City Council

FROM: City Administrator

SUBJECT: Cable TV Television Production, Video Digital Editing, Directing, and Technical Directing Class Graduates

RECOMMENDATION

Present completion certificates to the graduating class.

MOTION:

Approve the recommendation.

BACKGROUND:

The Cable TV Division of the Public Information Office was established by the City of Commerce in 1988 to provide local programming and emergency public information as needed to the community. In 1991, the division began conducting classes for volunteers in television production.

The division offers three different workshops each taking 52-weeks, covering studio and field production, post production and directing and technical directing. The workshops include courses in video lighting, camera operations, audio recording, non-linear editing and graphic design.

The program volunteers must complete 11 written tests, four practical tests and contribute to a minimum of 32 city productions to complete the first of the three workshops. As part of the program the volunteers help the production staff televise city events and celebrations on Commerce Cable Channel 3, Channel 32, and the City's website.

The eleven volunteers receiving their certificates this evening have worked on numerous programs including: City Council meetings, the Miss Commerce Pageant, Cinco de Mayo celebration, Commerce Public Affairs show, City News Program, sports programming and the Community Tree Lighting Ceremony.

The Channel 3 Television Production graduates for 2011 are:

Scott Gurrola	Abel Madrid	Erik Ramirez
Caleb Ortiz	Jessica Wainwright	

The Channel 3 Video Digital Editing Graduates are:

Abel Madrid	Mark Gallegos	Justin Machuca
Brittney Maldonado	Erica Sanchez	Jessica Wainwright

The Channel 3 Director/Technical Director Graduates are:

David Hovik	Brittney Maldonado	Aldo Ortiz
Erica Sanchez	Jessica Wainwright	

AGENDA ITEM NO. 1

BUDGET 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 strategic goal #4:

"Ensure the City will have a Trained, Quality Workforce to Efficiently Provide Services to City of Commerce Residents for the Future" by enabling the City to train and utilize volunteers in video production.

Recommended by:

Fernando Mendoza
Interim Public Information Officer

Respectfully submitted,

City Administrator
Jorge Rifa

Reviewed by:

Vilko Domic
Director of Finance

Approved as to Form:

Eduardo Olivo
City Attorney

AGENDA REPORT

Meeting Date: October 18, 2011

TO: HONORABLE CITY COUNCIL

FROM: CITY ADMINISTRATOR

SUBJECT: CITY FINANCIAL REPORT THROUGH THE MONTH OF SEPTEMBER 30, 2011

RECOMMENDATION:

Receive and file.

MOTION:

Receive and file.

ANALYSIS:

The monthly progress report on the financial plan as approved by the City Council during the budget process is recapped and attached for your review. Details are on file in the Finance Department for any further review as necessary.

FISCAL IMPACT:

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

Respectfully submitted:

Jorge Rifa
City Administrator

Recommended by,

Vilko Domic
Director of Finance / City Treasurer

Approved As To Form:

Eddie Olivo/VD
Eduardo Olivo
City Attorney

AGENDA ITEM NO. 4

City of Commerce
Budget by Organization Report
General Fund Summary
Year-to-Date Thru September 30, 2011

Classification	Adopted Budget	Actual	Balance	% Used/ Rec'd
Revenue				
1200 - Rev - Taxes	$18,697,975	$1,344,416	$17,353,559	7.2%
2000 - Rev - Licenses & Permits	$2,509,580	$296,882	$2,212,698	11.8%
3000 - Rev - Fines & Penalties	$347,850	$68,020	$279,830	19.6%
4000 - Rev - Use of Money	$1,690,000	$321,504	$1,368,496	19.0%
5400 - Rev - Other Agencies	$754,101	$64,817	$689,284	8.6%
6100 - Rev - Current Charges	$1,477,370	$143,456	$1,333,914	9.7%
6200 - Rev - Activities Fees	$396,950	$150,092	$246,858	37.8%
7100 - Rev - Other Revenues	$1,169,560	$258,940	$910,620	22.1%
8000 - Rev - Transfer From Other Funds	$20,170,000	$4,883,760	$15,286,240	24.2%
REVENUE TOTALS	**$47,213,386**	**$7,531,889**	**$39,681,497**	**16.0%**
Expense				
1010 - City Council	148,275	31,917	116,358	21.5%
1020 - Administration	484,468	104,931	379,537	21.7%
1030 - City Clerk	214,951	42,990	171,962	20.0%
1050 - Legal Services	467,600	17,259	450,341	3.7%
1060 - Human Resources	869,918	262,364	607,554	30.2%
1070 - Public Information	347,037	72,147	274,890	20.8%
1080 - Graphics and Printing	319,620	55,665	263,955	17.4%
TOTAL PIO/GRAPHICS	**666,657**	**127,812**	**538,845**	**19.2%**
1100 - City Treasurer	18,102	2,761	15,341	15.3%
1110 - Finance Administration	356,789	87,121	269,668	24.4%
1120 - Accounting	378,054	67,221	310,833	17.8%
1130 - Purchasing	358,982	72,766	286,216	20.3%
1150 - Information Technology	484,272	62,661	421,611	12.9%
1160 - Business License	88,726	17,604	71,122	19.8%
TOTAL FINANCE	**1,684,925**	**310,133**	**1,374,792**	**18.4%**
1501 - Planning Commission	5,650	670	4,980	11.9%
1510 - Community Development - Admin	426,694	103,037	323,657	24.1%
1520 - Planning	179,403	33,251	146,152	18.5%
1530 - Building Department	546,417	33,791	512,626	6.2%
1560 - Code Enforcement	118,294	25,931	92,363	21.9%
1570 - Environmental Services	112,629	23,146	89,483	20.6%
TOTAL COMMUNITY DEVELOPMENT	**1,389,087**	**219,825**	**1,169,262**	**15.8%**
5101 - Traffic Commission	3,650	480	3,170	13.2%
5120 - Public Works Engineering	107,500	-	107,500	0.0%
5140 - Public Works Contracts	1,857,117	128,668	1,728,449	6.9%
5150 - Municipal Facilities Operation	2,137,585	462,853	1,674,732	21.7%
5160 - Street Maintenance	192,632	49,990	142,642	26.0%
5165 - Tree Maintenance	358,380	35,134	323,246	9.8%
5170 - Major Street Repairs	5,000	-	5,000	0.0%
5180 - Major Facility Repairs	50,000	-	50,000	0.0%
TOTAL PUBLIC SERVICES	**4,711,864**	**677,125**	**4,034,739**	**14.4%**

City of Commerce
Budget by Organization Report
General Fund Summary
Year-to-Date Thru September 30, 2011

Classification	Adopted Budget	Actual	Balance	% Used/ Rec'd
3025 - Emergency Preparedness	132,567	25,183	107,384	19.0%
3035 - Law Enforcement	5,684,919	3,533	5,681,386	0.1%
3050 - Animal Control	186,934	28,380	158,554	15.2%
3055 - Community Safety Specialists	746,061	128,344	617,717	17.2%
3060 - Crossing Guards	191,088	13,323	177,765	7.0%
3070 - Fire Protection	8,732,946	2,964,966	5,767,980	34.0%
3100 - Community Services Commission	2,850	293	2,557	10.3%
3110 - Community Services Administratio	999,015	193,205	805,810	19.3%
3120 - Employment & Bus Development Ce	223,154	41,770	181,384	18.7%
TOTAL COMMUNITY SERVICES	**16,899,534**	**3,398,997**	**13,500,537**	**20.1%**
7600 - Library Commission	3,550	360	3,190	10.1%
7605 - Education Commission	12,300	551	11,749	4.5%
7610 - Library Administration	346,987	61,992	284,995	17.9%
7620 - Central Library	400,097	115,901	284,196	29.0%
7621 - Childrens Services	311,560	64,088	247,472	20.6%
7625 - Atlantic Branch Library	300,828	57,840	242,988	19.2%
7626 - Bristow Park Branch Library	307,843	65,658	242,185	21.3%
7627 - Greenwood Branch Library	311,015	65,716	245,299	21.1%
7630 - Support Services	778,569	159,831	618,738	20.5%
7640 - Adult Literacy Program	249,935	55,483	194,452	22.2%
TOTAL LIBRARY SERVICES	**3,022,684**	**647,419**	**2,375,265**	**21.4%**
8700 - Parks and Recreation Commission	2,700	240	2,460	8.9%
8710 - Parks and Recreation Administrat	1,023,688	234,081	789,607	22.9%
8715 - Pre-School	86,929	1,266	85,663	1.5%
8716 - Kids Club Program	99,343	7,912	91,431	8.0%
8717 - Day Camps	64,802	71,739	(6,937)	110.7%
8720 - Recreation Operations	319,375	47,087	272,288	14.7%
8721 - Bandini Park	324,119	71,004	253,115	21.9%
8722 - Bristow Park	333,914	93,404	240,510	28.0%
8723 - Rosewood Park	430,940	87,790	343,150	20.4%
8724 - Veterans Park	438,021	90,652	347,369	20.7%
8725 - Special Events	133,379	18,749	114,630	14.1%
8730 - Parks and Recreation Activity	390,765	52,149	338,616	13.3%
8735 - Sports Program	294,625	46,225	248,400	15.7%
8740 - Senior Citizens Center	341,732	79,268	262,464	23.2%
8745 - Senior Citizens Commission	2,850	479	2,371	16.8%
8750 - Aquatorium	1,449,215	397,533	1,051,682	27.4%
8755 - Community Teen Center	305,075	67,541	237,534	22.1%
8756 - Youth Advisory Commission	3,894	-	3,894	0.0%
8760 - Park Maintenance	1,425,275	273,607	1,151,668	19.2%
8770 - Snack Bar	276,496	61,064	215,432	22.1%
8785 - Camp Commerce	594,148	203,468	390,680	34.2%
TOTAL PARKS & RECREATION	**8,341,285**	**1,905,258**	**6,436,027**	**22.8%**
8800 - Employee Benefits	2,475,545	1,456,870	1,018,675	58.9%
8804 - General Services	4,940,879	1,131,533	3,809,346	22.9%
8805 - Community Promotions	80,650	2,999	77,651	3.7%
8900 - Transfers to Other Funds	1,261,853	704,353	557,500	55.8%
9000 - Debt Service	148,014	37,380	110,635	25.3%
EXPENDITURE TOTALS	**47,808,189**	**11,079,163**	**36,729,026**	**23.2%**

AGENDA REPORT

DATE: October 18, 2011

TO: HONORABLE CITY COUNCIL

FROM: CITY ADMINISTRATOR

SUBJECT: A PROCLAMATION DESIGNATING THE WEEK OF OCTOBER 16-22, 2011 AS "NATIONAL HEALTH EDUCATION WEEK"

RECOMMENDATION:

Approve a Proclamation to proclaim the week of October 16-22, 2011 as "National Health Education Week."

MOTION:

Approve the recommendation.

BACKGROUND:

The Society for Public Health Education (SOPHE) and the California Association of School Health Educators (CASHE) have designated the week of October 16-22, 2011 as National Health Education Week. They feel that health literacy is very important, because it affects people's ability to search for and use health information. Increasing their knowledge of health-related information will help people to understand it and be able to seek the services available to them. Adopting healthy behaviors and being able to act on important public health alerts is one of the goals established by SOPHE and CASHE.

Both organizations have asked cities, including the City of Commerce, to support them by proclaiming the week of October 16-22, 2011 as National Health Education Week.

ANALYSIS:

The City of Commerce encourages the community to increase their knowledge and skills on health related information and services available. It is important for community members to understand health information so that they can effectively seek the services that are beneficial to them. AltaMed Health Services Corporation will continue to provide literature and health education for interested members of the community.

FISCAL IMPACT:

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

RELATIONSHIP TO 2009 STRATEGIC GOALS:

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

Recommended by:
Loretta Gutierrez
Interim Director of Safety and Community Services

Respectfully submitted,
Jorge J. Rifa
City Administrator

Approved As To Form:
Eduardo Olivo
City Attorney

A Proclamation of the City Council
of the
City of Commerce
Designating the Week of October 16-22, 2011
as
NATIONAL HEALTH EDUCATION WEEK

WHEREAS, the City of Commerce has a vital interest in a health literate nation in collaboration with the Society for Public Health Education (SOPHE) and the California Association of School Health Educators (CASHE); and

WHEREAS, hea lth literacy has been defined as the ability to "obtain, process and understanding basic health information and services needed to make appropriate health decisions; and

WHEREAS, nearly 9 out of 10 adults have problems finding and using health information and the cost of poor health literacy to our nation is estimated to be between $100 and $200 billion U.S. dollars (USD) annually; and

WHEREAS, health literacy affects all people's ability to search for and use health information, adopt healthy behaviors, and act on important public health alerts; and

WHEREAS, improving health literacy skills includes an integrated approach that involves enhancing the usability of health information and services; and increasing the health-related knowledge of individuals and their capacity to understand health information; and

WHEREAS, community health educators and school health educators are uniquely positioned to bridge the gap between the information disseminated by the healthcare and public health systems and the knowledge and skills of consumers who use them; and

WHEREAS, ALTAMED Health Services Corporation will continue to provide literature and health education to interested members of the community; and

WHEREAS, SOPHE and CASHE are committed to addressing health literacy issues and reducing the incidence of poor health literacy among Americans by bringing health education and its principles into the legislative and public arenas; and

WHEREAS, in celebration of National Health Education Week, national, state and local collaboration is essential to support the 2011 National Health Education Week focus on health literacy through the theme, "Health Literacy: Gateway to Improving the Public's Health";

THEREFORE BE IT RESOLVED that the City of Council of the City of Commerce, hereby proclaims October 16-22, 2011 as National Health Education Week in the City of Commerce.

PASSED AND ADOPTED this 18th day of October 2011.

_____
Joe Aguilar, Mayor

ATTEST:

_____
Linda Kay Olivieri, MMC
City Clerk

NATIONAL HEALTH EDUCATION WEEK

HEALTH LITERACY

October 1, 2011

Dear Colleague:

About this time the California Association of School Health Educators (CASHE) contacted a number of cities in California asking for proclamations supporting National Health Education Week and CASHE did receive support from over 40 cities. This year National Health Education Week is October 16-22, 2011. The theme this year is "Health Literacy: Gateway to Improving the Public's Health."

A few cities last year turned down the request because it is getting a bit costly to process more than a hundred proclamations that City Councils are inundated with during a year. CASHE agrees and has come up with an easier plan this year – just sign on to the attached proclamation. This can be done just by sending us an e-mail indicating your City support for the proclamation. This saves paper, fancy proclamation covers and plaques and the postage to mail it all.

We do hope your city will join with others in supporting this important effort.

Sincerely,

Councilmember Elba Guerrero
City of Huntington Park

Councilmember Nestor Valencia
City of Bell

Councilmember Felipe Aguirre
City of Maywood

President Marty Axelson
CASHE

Vice President Ric Loya
CASHE
former Mayor & Councilmember City of Huntington Park

AGENDA REPORT

MEETING DATE: October 18, 2011

TO: Honorable City Council

FROM: City Administrator

SUBJECT: CITY PLAQUE—CITY OF AGUASCALIENTES 436TH ANNIVERSARY

RECOMMENDATION:

Council discretion.

MOTION:

Council discretion.

BACKGROUND:

The City of Aguascalientes will celebrate its 436th anniversary this month. The City of Aguascalientes and the City of Commerce have shared a warm, dynamic relationship as sister cities for over 40 years. Over the course of our relationship with our Sister City, we have collaborated on various social projects that have contributed and improved the quality of life for the people of Aguascalientes.

The City of Commerce, the Commerce Sister City Association, along with our sister city— Aguascalientes, are committed to continue to foster and build upon our international relationship well into the future.

ANALYSIS:

At the request of Mayor Aguilar, the City Council will consider for approval a City plaque in recognition of the City of Aguascalientes' 436th Anniversary.

BUDGET IMPACT:

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

Respectfully submitted,

Jorge J. Rifa
City Administrator

Fiscal Impact Review by:

Vilko Domic
Director of Finance

Approved As To Form:

Eduardo Olivo
City Attorney

AGENDA ITEM NO. 6

The City of Commerce is delighted to wish our illustrious

Sister City continued prosperity and good health.

Happy 436th Anniversary, City of Aguascalientes!

The Commerce City Council

October 22, 2011

COMMERCE
COMMUNITY
DEVELOPMENT
COMMISSION

AGENDA REPORT Meeting Date: 10/18/2011

TO: Honorable Community Development Commission

FROM: Executive Director

SUBJECT: Use of Commission-owned Properties by Craig Realty Group, et al./Citadel LLC for Special and Holiday Event Parking

RECOMMENDATION:

Approve the use of Commission-owned properties located at 5801, 5819 and 5823 Telegraph Road; 2309, 2320 and 2366 Travers Avenue and 2240 Gaspar Avenue for customer and/or employee parking purposes for The Citadel's special and holiday events on weekends from October 22, 2011, to January 1, 2012, inclusive, and on Friday, November 25, 2011, on a no-cost basis and authorize Craig Realty Group, et al./ Citadel, LLC to either pave or gravel the lot at 2240 Gaspar Avenue prior to use, if needed, with Craig Realty Group, et al./Citadel, LLC, to provide the requisite evidence of insurance for the use of said properties.

MOTION:

Move to approve the recommendation.

BACKGROUND:

Craig Realty Group, et al./Citadel LLC, owner of The Citadel, holds various special and holiday events at The Citadel during the last three months of each year. These events include the Shopping Extravaganza, Moonlight Madness and Tree Lighting.

ANALYSIS:

Craig Reality Group, et al./Citadel LLC is requesting the use of Commission-owned property located at 5801, 5819 and 5823 Telegraph Road; 2309, 2320 and 2366 Travers Avenue and 2240 Gaspar Avenue for customer and/or employee parking purposes for its special and holiday events. These events will be held on the weekends from October 22, 2011, to January 1, 2012, inclusive, and on Friday, November 22, 2011, following Thanksgiving.

Craig Reality Group, et al./Citadel LLC will provide the requisite insurance coverage for the use of these properties and has requested that, if the property located at 2240 Gaspar Avenue is needed, it be allowed to either pave or gravel the lot prior to use at no cost to the Commission.

For the past several years, the Commission has permitted the use of some, or all, of its properties in the vicinity of The Citadel to be used for parking purposes for these special and holiday events on a no-cost basis.

FISCAL IMPACT:

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

AGENDA ITEM # 7

RELATIONSHIP TO 2009 STRATEGIC GOALS:

This item is not specifically related to any of the 2009 Strategic Goals.

Respectfully submitted,

Jorge J. Rifá
Executive Director

Recommended by:

Linda Kay Olivieri
City Clerk

Reviewed as to form:

Eduardo Olivo by LKO
Commission Counsel

Fiscal impact reviewed by:

Vilko Domic
Director of Finance

SUM (CDC – USE OF CDC-OWNED PROP BY CITADEL) – 10-18-2011.DOC

AGENDA REPORT

MEETING DATE: October 18, 2011

TO: HONORABLE CITY COUNCIL

FROM: CITY ADMINISTRATOR

SUBJECT: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMMERCE, CALIFORNIA, APPROVING AN AGREEMENT WITH MUNICIPAL REVENUE ADVISORS (MRA) FOR REVENUE ENHANCEMENT CONSULTING SERVICES AND DESIGNATING MUNICIPAL REVENUE ADVISORS AS AN AUTHORIZED CITY REPRESENTATIVE TO EXAMINE SALES AND USE TAX RECORDS

RECOMMENDATION:

Approve and adopt the proposed resolution and assign the next number in order.

MOTION:

Move to approve the recommendations.

BACKGROUND:

On June 7, 2011, the City Council received information on two programs: 1) Business Cooperation Program and 2) Business License Amnesty Program.

Council then directed staff to prepare the appropriate resolution(s) and agreement(s) for Council's consideration at a future meeting, after receiving a formal presentation from each Consultant and discussion with the Industrial Council.

A formal presentation and discussions with the Industrial Council took place. From these discussions, staff determined that launching both programs at the same time would create confusion and could hinder the City's ability to achieve maximum results. For this reason staff will hold off on presenting the Business License Amnesty Program for consideration until sometime next year.

On October 4, Municipal Revenue Advisors (MRA) provided a formal presentation to the City Council regarding the proposed agreement and the Business Cooperation Program. City staff advised that a few revisions needed to be made to the proposed agreement in order to satisfy the requirements of Section 7056 of the Revenue and Taxation Code. The City Council requested that the agreement and resolution be brought back at the next City Council meeting for approval.

ANALYSIS:

The Business Cooperation Program structure is outlined below.

MRA and the City would work together to promote the program and to show businesses how they can make a difference in their City by changing the way they file their sales and use tax return with the State Board of Equalization including the use of a "Direct Pay Permit".

When businesses pay their use taxes under a "Direct Pay Permit", the 1% use tax is diverted from the Los Angeles County pool and allocated to the City of Commerce. The result is a higher percentage of revenue for the City which translates into continued quality services to the community.

MRA and the City would approach identified businesses to solicit voluntary participation in the program. MRA would then work with these businesses on how to pay their sales and use taxes, including the "Direct Pay Permit", with the State Board of Equalization. The City will also participate in the program.

AGENDA ITEM NO. 8

Revenue projections are difficult to make because the results depend on how many businesses participate in the program and how many are eligible to apply for a "Direct Pay Permit". Nevertheless, the result translates into increased revenue for the City. MRA would work on a contingency basis (revenue off-set); therefore, the City Council will not need to appropriate any funding for the implementation of this program.

MRA has worked with the cities of Newport Beach, Santa Maria, and Milpitas, to name a few. All cities gave positive reviews with the quality of service provided by MRA and all have benefited from additional revenue generated by the program.

FISCAL IMPACT:

The implementation of the program could potentially result in the following:

Fiscal Impact of hiring MRA:

- Cost(s) to the City: 25% contingent fee of use tax revenue paid to the City for a maximum 11 quarters for each program participant
- 20% contingent fee, on the City's purchases, for 8 quarters for each vendor and contractor
- Risks to the City: None. Business Cooperation Program is a voluntary program and there is no cost if there is no new revenue

RELATIONSHIP TO 2009 STRATEGIC GOALS:

This item is associated with Council's goal of making financially and economically sound decisions consistent with economic conditions.

Respectfully submitted,

Jorge Rifa
City Administrator

Recommended by:

Vilko Domic
Director of Finance

Prepared by:

Maria E. Ibarra Villaseñor

Maria E. Ibarra Villaseñor
Business License Officer

Approved as to Form:

Eduardo Olivo
City Attorney

lw/staff reports, city council/RevenueEnhancementProposal-BCP-MRA SR 10-18-11 MI

RESOLUTION NO._____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMMERCE, CALIFORNIA, APPROVING AN AGREEMENT WITH MUNICIPAL REVENUE ADVISORS (MRA) FOR REVENUE ENHANCEMENT CONSULTING SERVICES AND DESIGNATING MUNICIPAL REVENUE ADVISORS AS AN AUTHORIZED CITY REPRESENTATIVE TO EXAMINE SALES AND USE TAX RECORDS

WHEREAS, pursuant to California Revenue and Taxation Code Section 7200, et seq., the City of Commerce has adopted a sales and use tax ordinance which imposes a tax and provides a measure that can be administered and collected by the State Board of Equalization along the same and existing statutory and administrative procedures followed by the State Board of Equalization (the "Board) in administering and collecting the California State Sales and Use Taxes; and

WHEREAS, the City desires to enter into an agreement with Municipal Revenue Advisors (MRA) in connection with a Business Cooperation Program proposed by MRA; and

WHEREAS, the Business Cooperation Plan will require MRA to review Board sales and use tax information related to the City, and

WHEREAS, pursuant to California Revenue and Taxation Code Section 7056, the City of Commerce, by resolution, may designate any officer, employee or any other person to examine all of the sales and use tax records of the Board pertaining to sales and use taxes collected for the City.

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

Section 1. The Agreement for Revenue Enhancement Services between the City of Commerce and Municipal Revenue Advisors is hereby approved. The Mayor is hereby authorized to execute the Agreement for and on behalf of the City.

Section 2. The City of Commerce hereby certifies to the State Board of Equalization that Municipal Revenue Advisors is a designated representative of the City to examine all of the sales and use tax records collected by the Board on behalf of the City.

Section 3. Pursuant to California and Revenue and Taxation Section 7056 (b), the City of Commerce hereby certifies that Municipal Revenue Advisors ("Consultant") meets all of the following conditions:

a) Consultant has an existing contract with the City to examine sales tax records;
b) Consultant is required by that contract to disclose information contained in, or derived from, those sales tax records only to an officer or employee of the City who is authorized by resolution to examine the information;
c) Consultant is prohibited by the contract from performing consulting services for a retailer during the term of the contract; and
d) Consultant is prohibited by the contract from retaining the information contained in, or derived from, those sales or transactions and use tax records, after the contracts have expired.

Section 4. The City Clerk shall certify to the adoption of this Resolution.

PASSSED, APPROVED and ADOPTED this _____ day of October 2011.

_____
Joe Aguilar
Mayor

Attest:

_____
Linda K. Olivieri, MMC
City Clerk

CITY OF COMMERCE
Agreement for Revenue Enhancement Consulting Services

This Agreement is made and entered into by and between Municipal Revenue Advisors Inc. ("Consultant") and the City of Commerce ("City") a municipal corporation as of this _____ day of October, 2011. The City wishes to engage Consultant to assist the City with revenue enhancement consulting services. Consultant shall provide the service(s) listed below at the compensation rates listed:

1. Refunds on City Purchases and Unrealized Revenue
2. Business Cooperation Program

For each service selected, Consultant shall meet with City Staff to define the desired results for each service prior to commencing the service, review applicable City ordinances and establish appropriate reporting relationships.

For each service, the City shall provide Consultant the necessary information, maps, and data bases related to the service, such as business license files, sales tax registration files, etc.

SCOPE AND DELIVERABLES

1. REFUNDS ON CITY PURCHASES AND UNREALIZED REVENUE

Consultant shall conduct a review of the City's purchases annually, to determine which purchases may be over billed, over taxed or improperly reported. Consultant shall document, prepare and process refund claims, or assist the City to report and pay the tax to the City's advantage, including the legal basis for the refunds.

A. Utilizing City's chart of accounts and/or vendor files, Consultant shall work with City staff to identify those purchases which may be incorrect.

B. Consultant shall process overpayment refund claims for each vendor.

C. Consultant shall work with the appropriate government agency's Refund Section to process the tax refund claims.

For the above services, Consultant shall prepare and provide Quarterly Reports to City on the status of each service document and verify the additional revenue received by City.

2. BUSINESS COOPERATION PROGRAM (BCP)

A. Partnering with City staff, Consultant will work with businesses to gain/retain the use tax on their purchases and or the sales tax on their sales in and to the City.

B. Consultant will meet with City staff to establish a list of high priority businesses which generate significant amounts of sales and use tax to the City, or have the potential of generating significant amounts of sales/use tax to the City.

C. Consultant will develop individualized revenue enhancing strategies for each prioritized business designed to enhance sales and use tax revenue received by the City.

D. Consultant in coordination with City staff will attend meetings with these businesses as part of the City's Economic Development Program. Consultant's role is to incorporate additional individualized sales and use tax revenue strategies as part of the relationship building process.

3. EXAMINATION OF AND ACCESS TO SALES AND USE TAX INFORMATION

A. Consultant shall examine State Board of Equalization sales tax records and use tax records in connection with its performance under this Agreement;

B. Consultant is required to disclose information contained in, or derived from, such sales tax or transactions and use tax records to the City Finance Director, who is hereby authorized to examine such information;

C. Consultant is prohibited from performing consulting services for a retailer during the term of this Agreement; and

D. Consultant is prohibited from retaining the information contained in, or derived from, the sales or transactions and use tax records, after this Agreement has expired.

COMPENSATION

1. REFUNDS ON THE CITY'S PURCHASES AND UNREALIZED REVENUE

City Purchases and Contracts - 20% Contingent Fee for 8 quarters for each vendor and contractor.

2. BUSINESS COOPERATION PROGRAM

Business Cooperation Program (BCP) - 25% Contingent Fee for 11 quarters maximum for each program participant.

All normal and reasonable expenses are included in Consultant's compensation schedule as listed above.

All Invoices are due and payable when received by the City.

IN WITNESS WHEREOF, the parties hereto have each executed or caused to be executed this Agreement as of the Effective Date.

CITY OF COMMERCE

DATED:_____ By:_____
Joe Aguilar
Mayor

ATTEST:

_____
Linda Kay Olivieri, MMC
City Clerk

Municipal Revenue Advisors

DATED: 10/7/11 By: _____
Nick O'Hare, President

APPROVED AS TO FORM:

_____
Eduardo Olivo
City Attorney

EXHIBIT A

CERTIFICATE OF CONFIDENTIALITY

The following conditions specified in Section 7056 (b), (l) of the State of California Revenue and Taxation Code are hereby made part of this Agreement entered into by and between City of Commerce (City) and Municipal Revenue Advisors (Consultant):

a) Consultant has an existing contract with the City to examine sales tax records;
b) Consultant is required by that contract to disclose information contained in, or derived from, those sales tax records only to an officer or employee of the City who is authorized by resolution to examine the information;
c) Consultant is prohibited by the contract from performing consulting services for a retailer during the term of the contract; and
d) Consultant is prohibited by the contract from retaining the information contained in, or derived from, those sales or transactions and use tax records, after the contracts have expired.

Information obtained by examination of SBE records shall be used only for purposes related to collection of local sales and use taxes or for other governmental functions of City as set forth by resolution adopted pursuant to Section 7056 (b) of the California Revenue and Taxation Code.

The resolution shall designate Consultant as a person authorized to examine sales and use tax records and shall certify that this Agreement meets the requirements set forth above in Section 7056 (b) (l) of the California Revenue and Taxation Code.

Consultant hereby certifies that any and all information utilized in the conduct of work performed is to be utilized only for these purposes authorized by City and by the Bradley-Burns Uniform Local Sales and Use Tax Law.

AGENDA REPORT

MEETING DATE: October 18, 2011

TO: HONORABLE CITY COUNCIL

FROM: CITY ADMINISTRATOR

SUBJECT: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMMERCE, CALIFORNIA, APPROVING THE EXECUTION OF THE PROGRAM SUPPLEMENT AGREEMENT NO. N011 TO THE ADMINISTERING AGENCY-STATE AGREEMENT FOR FEDERAL-AID PROJECTS NO. 07-5362R FOR STATE FUNDED PROJECTS COVERING ALL PHASES OF WORK FOR WASHINGTON BOULEVARD – 350' WEST OF INDIANA STREET TO I-5 FREEWAY AT TELEGRAPH ROAD (PROJECT NUMBER HPLUL-5362(019) IN THE CITY OF COMMERCE

RECOMMENDATION:

Approve the Resolution and assign the number next in order.

MOTION:

Move to approve recommendation.

BACKGROUND:

On July 29, 2005, as part of a special appropriation from Congresswoman Lucille Roybal-Allard, the City of Commerce received $2,400,000 for the Washington Boulevard Widening and Reconstruction Project under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).

On January 25, 2007, the City of Commerce submitted an application with the Los Angeles County Metropolitan Transportation Authority (LACMTA) for their 2007 Call for Projects. The application asked for $17.8 million of the estimated $32.0 million required to perform all the improvements associated with widening and reconstructing Washington Boulevard.

On September 27, 2007, the LACMTA Board of Directors approved a one-time grant funds in the amount of $13,362,000 for Washington Boulevard. The project boundaries are Washington Boulevard from westerly City limits (with Vernon) to the I-5 Freeway.

At its meeting of February 19, 2008, the City Council approved the execution of the Memorandum of Understanding (MOU) between the City of Commerce and the Los Angeles County Metropolitan Transportation Authority (LACMTA) for said project.

At its meeting of July 1, 2008, the City Council approved the execution of the Trade Corridors Improvement Fund (TCFI) Project Baseline Agreement between the City of Commerce and the California Department of Transportation, which secured $5.8 million from the State of California to complete this project.

On May 4, 2010, the City Council approved the Environmental Impact Report (EIR) for the Project.

ANALYSIS:

The California Department of Transportation transmitted their cover letter dated September 30, 2011, requesting a resolution of the City Council to authorize the execution of two originals of the Program Supplement Agreement No. N011 to the Administering Agency-State Agreement for Federal-Aid Projects No. 07-5362R for State Funded Projects for the subject project.

AGENDA ITEM NO. 9

The City is to return the two signed original Program Supplement Agreements within 60 days or else funds will be disencumbered and/or deobligated. A fully executed copy of the agreement, along with a copy of the State approved Finance Letter, will be returned to us upon ratification by Caltrans. No invoices for reimbursement can be processed until the agreement is fully executed.

FISCAL IMPACT:

At this time, this activity can be carried out without additional impact on the current operating budget. The approved budget and funding sources for this project are as follows:

WASHINGTON BLVD RECONSTRUCTION PROJECT	
Preliminary Design & Scope of Work (MTA Prop C 25%)	**$77,000**
Preliminary Design & Scope of Work (City Match 35% - 2007 Bonds Funds)	**$46,000**
Design Specification 60% RDA	**$180,000**
City Match 40% - 2004 Bond Funds	**$120,000**
Construction Management 50% RDA	**$200,000**
City Match 50% - 2004 Bond Funds	**$200,000**
Construction (Phase I) Prop C 25% (MTA Funds)	**$13,285,000**
Construction Fed. Highway Funds (SAFETEA-LU HPP 3085)	**$2,220,000**
SAFETEA-LU Match	**$220,000**
California Transportation Commission (CTC Grant)	**$5,800,000**
California Transportation Commission (City ROW Match)	**$3,198,000**
Construction (Phase I) City Remaining Match (35%) - $3 million (General Fund Reserves; $3453,460 RDA)	**$6,454,000**
	$32,000,000

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 the maintenance and improvement of the infrastructure.

Recommended by:

Robert Zarrilli
Director of Community Development

Respectfully submitted,

Jorge Rita
City Administrator

Prepared by:

Danilo Batson
Assistant Director of Public Services

Reviewed by:

Vilko Domic
Director of Finance

Approved As To Form:

Eduardo Olivo
City Attorney

File: 2011 City Council Agenda Reports
Resolution Approving Execution of Program Supplement Agreement No N011 Washington Boulevard Widening & Reconstruction Project – Agenda Reports File

\\Sdept\pubserv$\PS Council Agendas\2011 Council Agenda Items\101811\CI-3 Resolution Approving Execution of Program Supplement No N011 Washington Blvd Widening and Reconstruction Project.doc

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMMERCE, CALIFORNIA, APPROVING THE EXECUTION OF PROGRAM SUPPLEMENT AGREEMENT NO. N011 TO THE ADMINISTRATING AGENCY-STATE AGREEMENT FOR FEDERAL-AID PROJECTS NO. 07-5362R FOR STATE FUNDED PROJECTS COVERING ALL PHASES OF WORK FOR WASHINGTON BOULEVARD – 350' WEST OF INDIANA STREET TO I-5 FREEWAY AT TELEGRAPH ROAD (PROJECT NUMBER HPLUL 5362(019)) IN THE CITY OF COMMERCE

WHEREAS, as part of the Capital Improvement Project Budget, the City Council appropriated $32,000,000 for the Washington Boulevard Widening and Reconstruction Project; and

WHEREAS, the California Department of Transportation (Caltrans) is requesting that the City authorized the execution of two originals of the Program Supplement Agreement to Administrating Agency-State Agreement for State Funded Projects No. 07-5362R; and

WHEREAS, the California Department of Transportation has obligated funds for the completion of this project (Federal - $1,260,000 and Local - $315,000); and

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

Section 1. Authorize the approval of Program Supplement Agreement No. N011 to Administering Agency-State Agreement for Federal-Aid Projects No. 07-5362R for State Funded Projects Covering All Phases of Work for Washington Boulevard – 350' West of Indiana Street to I-5 Freeway at Telegraph Road (Project Number HPLUL-5362(019)) in the City of Commerce; and

Section 2. That the Mayor is hereby authorized and directed on behalf of the City of Commerce to execute said Agreement.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2011.

_____
Joe Aguilar, Mayor

ATTEST:

_____
Linda Kay Olivieri, MMC
City Clerk

DEPARTMENT OF TRANSPORTATION
Division of Local Assistance
1120 N STREET
P.O. BOX 942874, MS# 1
Sacramento, CA 94274-0001
TTY 711
(916) 654-3151
Fax (916) 653-7621

2011 SEP 33 PM 2:54

File : 07-LA-0-CMRC
HPLUL-5362(019)
Washington Blvd: 350' West of Indiana St. to I-5 Freeway at Telegraph Rd

September 30, 2011

Mr. Robert Zarrilli
Director of Community Development
City of Commerce
2535 Commerce Way
Commerce, CA 90040

Attn: Mr. Danilo Batson

Dear Mr. Zarrilli:

Enclosed are two copies of Program Supplement Agreement No. 011-N to Administering Agency-State Agreement No.07-5362R. The original and one copy of Program Supplement Agreement No. 011-N to Administering Agency-State Agreement No.07-5362R were sent to the agency on October 27, 2010. Since the agency indicates it has not received them, we are re-sending two copies of the Program Supplement for the subject project.

Please note that federal funding will be lost if you proceed with future phase(s) of the project prior to getting the "Authorization to Proceed" with that phase.

Please review the covenants and sign both copies of this Agreement and return both to this office, Office of Project Implementation - MS1 within 60 days from the date of this letter. If the signed Agreements are not received back in this office within 60 days, funds will be disencumbered and/or deobligated. Alterations should not be made to the agreement language or funding. Attach your local agency's certified authorizing resolution that clearly identifies the project and the official authorized to execute the agreement. A fully executed copy of the agreement will be returned to you upon ratification by Caltrans. No invoices for reimbursement can be processed until the agreement is fully executed.

A copy of the State approved finance letter containing the fund encumbrance and reversion date information will be mailed to you with your copy of the executed agreement.

Your prompt action is requested. If you have questions, please contact your District Local Assistance Engineer.

Sincerely,

RAY ZHANG, Chief
Office of Project Implementation - South
Division of Local Assistance

Enclosure

c: DLA AE Project Files
(07) DLAE - Kirk Cessna

PROGRAM SUPPLEMENT NO. N011
to
ADMINISTERING AGENCY-STATE AGREEMENT
FOR FEDERAL-AID PROJECTS NO 07-5362R

Date: October 4, 2010
Location: 07-LA-0-CMRC
Project Number: HPLUL-5362(019)
E.A. Number: 07-933819
Locode: 5362

This Program Supplement hereby adopts and incorporates the Administering Agency-State Agreement for Federal Aid which was entered into between the Administering Agency and the State on 04/28/09 and is subject to all the terms and conditions thereof. This Program Supplement is executed in accordance with Article I of the aforementioned Master Agreement under authority of Resolution No. approved by the Administering Agency on (See copy attached).

The Administering Agency further stipulates that as a condition to the payment by the State of any funds derived from sources noted below obligated to this PROJECT, the Administering Agency accepts and will comply with the special covenants or remarks set forth on the following pages.

PROJECT LOCATION:

Washington Blvd: 350' West of Indiana St. to I-5 Freeway at Telegraph Rd

TYPE OF WORK: Road Rehab, widening, signals and other improvements. LENGTH: 0.0(MILES)

Estimated Cost	Federal Funds		Matching Funds		
	HY10	$410,627.00	LOCAL		OTHER
$1,575,000.00	LY10	$849,373.00	$238,000.00		$77,000.00

CITY OF COMMERCE

By

Title

Date

Attest

STATE OF CALIFORNIA
Department of Transportation

By
Chief, Office of Project Implementation
Division of Local Assistance

Date

I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance:

Accounting Officer Rua Stone Date 10/14/10 $1,260,000.00

Chapter	Statutes	Item	Year	Program	BC	Category	Fund Source	AMOUNT

STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION

PROGRAM SUPPLMENT AND CERTIFICATION FORM

PSCF (REV. 01/2010)

TO: STATE CONTROLLER'S OFFICE
Claims Audits
3301 "C" Street, Rm 404
Sacramento, CA 95816

DATE PREPARED: 10/5/2010

PROJECT NUMBER: 700020324

REQUISITION NUMBER / CONTRACT NUMBER: RQS 070000000150

FROM: Department of Transportation

SUBJECT: Encumbrance Document

VENDOR / LOCAL AGENCY: CITY OF COMMERCE

CONTRACT AMOUNT: 1,260,000.00

PROCUREMENT TYPE: Local Assistance

I HEREBY CERTIFY UPON MY OWN PERSONAL KNOWLEDGE THAT BUDGETED FUNDS ARE AVAILABLE FOR THIS EMCUMBRANCE AND PURPOSE OF THE EXPEDNITURE STATED ABOVE.

CHAPTER	STATUTES	ITEM	YEAR	PEC / PECT	TASK / SUBTASK	AMOUNT
1	2009	2660-102-890	2010	20.30.010.680	2620/0420	1,260,000.00

ADA Notic For individuals with sensory disabilities, this document is available in alternate formats. For information, call (916) 654-6410 of TDD (916) -3880 or write Records and Forms Management, 1120 N. Street, MS-89, Sacramento, CA 95814.

SPECIAL COVENANTS OR REMARKS

1. The ADMINISTERING AGENCY will advertise, award and administer this project in accordance with the current published Local Assistance Procedures Manual.

2. ADMINISTERING AGENCY agrees that it will only proceed with work authorized for specific phase(s) with an "Authorization to Proceed" and will not proceed with future phase(s) of this project prior to receiving an "Authorization to Proceed" from the STATE for that phase(s) unless no further State or Federal funds are needed for those future phase(s).

3. ADMINISTERING AGENCY agrees, as a minimum, to submit invoices at least once every six months commencing after the funds are encumbered for each phase by the execution of this Project Program Supplement Agreement, or by STATE's approval of an applicable Finance Letter. STATE reserves the right to suspend future authorizations/obligations for Federal aid projects, or encumberances for State funded projects, as well as to suspend invoice payments for any on-going or future project by ADMINISTERING AGENCY if PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six-month period.

   If no costs have been invoiced for a six-month period, ADMINISTERING AGENCY agrees to submit for each phase a written explanation of the absence of PROJECT activity along with target billing date and target billing amount..

   ADMINISTERING AGENCY agrees to submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure of ADMINISTERING AGENCY to submit a "Final Report of Expenditures" within 180 days of PROJECT completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current Local Assistance Procedures Manual.

4. The Administering Agency shall not discriminate on the basis of race, religion, age, disability, color, national origin, or sex in the award and performance of any Federal-assisted contract or in the administration of its DBE Program Implementation Agreement. The Administering Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of Federal-assisted contracts. The Administering Agency's DBE Implementation Agreement is incorporated by reference in this Agreement. Implementation of the DBE Implementation Agreement, including but not limited to timely reporting of DBE commitments and utilization, is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Administering Agency of its failure to carry out its DBE Implementation Agreement, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

5. As a condition for receiving federal-aid highway funds for the PROJECT, the

SPECIAL COVENANTS OR REMARKS

Administering Agency certifies that NO members of the elected board, council, or other key decision makers are on the Federal Government Excluded Parties List System (EPLS).

6. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer within 60 days of project contract award or with the submittal of the ADMINISTERING AGENCY's first invoice for the construction contract, whichever is earlier.

   Failure to do so will cause a delay in the State processing invoices for the construction phase.
   Please refer to Section 15.7 "Award Package" of the Local Assistance Procedures Manual.

7. Any State and Federal funds that may have been encumbered for this project are available for disbursement for limited periods of time. For each fund encumbrance the limited period is from the start of the fiscal year that the specific fund was appropriated within the State Budget Act to the applicable fund Reversion Date shown on the State approved project finance letter. Per Government Code Section 16304, all project funds not liquidated within these periods will revert unless an executed Cooperative Work Agreement extending these dates is requested by the ADMINISTERING AGENCY and approved by the California Department of Finance.

   ADMINISTERING AGENCY should ensure that invoices are submitted to the District Local Assistance Engineer at least 75 days prior to the applicable fund Reversion Date to avoid the lapse of applicable funds. Pursuant to a directive from the State Controller's Office and the Department of Finance; in order for payment to be made, the last date the District Local Assistance Engineer can forward an invoice for payment to the Department's Local Programs Accounting Office for reimbursable work for funds that are going to revert at the end of a particular fiscal year is May 15th of the particular fiscal year. Notwithstanding the unliquidated sums of project specific State and Federal funding remaining and available to fund project work, any invoice for reimbursement involving applicable funds that is not received by the Department's Local Programs Accounting Office at least 45 days prior to the applicable fixed fund Reversion Date will not be paid. These unexpended funds will be irrevocably reverted by the Department's Division of Accounting on the applicable fund Reversion Date.

AGENDA REPORT

MEETING DATE: October 18, 2011

TO: HONORABLE CITY COUNCIL

FROM: CITY ADMINISTRATOR

SUBJECT: RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMMERCE, CALIFORNIA, APPROVING THE EXECUTION OF THE SECOND AMENDMENT TO MEMORANDUM OF UNDERSTANDING – WASHINGTON BOULEVARD WIDENING AND RECONSTRUCTION PROJECT BETWEEN THE CITY OF COMMERCE AND THE LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

RECOMMENDATION:

The City Council will consider for approval and adoption a proposed Resolution and assign the number next in order.

MOTION:

Move to approve the recommendation.

BACKGROUND:

On January 25, 2007, the City of Commerce submitted an application with the Los Angeles County Metropolitan Transportation Authority (LACMTA) for their 2007 Call for Projects. The application asked for $17.8 million of the estimated $32.0 million required to perform all the improvements associated with widening and reconstructing Washington Boulevard.

On September 27, 2007, the LACMTA Board of Directors approved a one-time grant funds in the amount of $13,362,000 for Washington Boulevard. The project boundaries are Washington Boulevard from westerly City limits (with Vernon) to the I-5 Freeway.

At its meeting of February 19, 2008, the City Council approved the execution of the Memorandum of Understanding (MOU) between the City of Commerce and the Los Angeles County Metropolitan Transportation Authority (LACMTA) for the Washington Boulevard.

LACMTA programmed the funds for this project over a 5-year period, as follows:

Fiscal Year	Programmed Funds (Prop. C 25%)
FY 2007/08	$77,000
FY 2008/09	$0
FY 2009/10	$5,916,000
FY 2010/11	$6,094,000
FY 2011/12	$1,275,000
TOTAL	**$13,362,000**

On August 13, 2010, the LACMTA transmitted a request for approval of the First Amendment to the MOU. The amendment extends only the lapse date of funds programmed in FY 2007/08 from June 30, 2009 to June 30, 2011.

At its meeting of September 7, 2010, the City Council approved the execution of the First Amendment to this Memorandum of Understanding.

AGENDA ITEM NO. 10

On August 31, 2011, the LACMTA transmitted a request for approval of the Second Amendment to the MOU. The amendment extends the lapse date of all programmed funds programmed to June 30, 2012.

ANALYSIS:

Since the amendment extends the lapse date of all programmed funds to June 30, 2012, which is beneficial to both parties, staff is recommending City Council's consideration and approval of the Second Amendment.

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 2008/09, FY 2009/10, FY 2010/11 and FY 2011/12 Capital Improvement Project Budgets.

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."*

There are no specific objectives connected to this issue. The City's ability and responsibility to maintain its infrastructure in an effective and efficient manner directly/indirectly impact quality of life issues of the community. Further, undertaking and completing this project within the context of the FY 2009/2010 approved budget and available resources is in keeping with the identified 2009 Strategic Goals.

Respectfully submitted,

Jorge Rifa
City Administrator

Recommended by:

Bob Zarrilli
Director of Community Development

Prepared by:

Danilo Batson
Assistant Director of Public Services

Reviewed by:

Vilko Domic
Director of Finance

Approved As To Form:

Eduardo Olivo
City Attorney

File: 2011 City Council Agenda Reports
Second Amendment MOU Washington Boulevard Widening and Reconstruction LACMTA – Agenda Report File

\\Sdept\pubserv$\PS Council Agendas\2011 Council Agenda Items\101811\C1-2 Second Amendment MOU Wasington Boulevard Widening and Reconstruction - LACMTA.doc

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMMERCE, CALIFORNIA, APPROVING THE EXECUTION OF THE SECOND AMENDMENT TO MEMORANDUM OF UNDERSTANDING – WASHINGTON BOULEVARD WIDENING AND RECONSTRUCTION PROJECT BETWEEN THE CITY OF COMMERCE AND THE LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

WHEREAS, the City of Commerce and Los Angeles County Metropolitan Transportation Authority (LACMTA) entered into that certain Memorandum of Understanding No. MOU.P00F1107, dated December 31, 2007, which was amended on July 15, 2010 (as amended, the "Existing MOU"), which Existing MOU provides for the Washington Boulevard Widening and Reconstruction; and

WHEREAS, LACMTA Board on August 4, 2011, desires to extend the lapsing date of Funds programmed for ALL programmed Fiscal Years to June 30, 2012; and

WHEREAS, the City of Commerce and LACMTA desire to amend the existing MOU as provided herein.

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

Section 1. The Second Amendment to the Memorandum of Understanding is hereby approved.

Section 2. That the Mayor is hereby authorized and directed on behalf of the City of Commerce to execute the Second Amendment to the MOU.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2011.

_____
Joe Aguilar, Mayor

ATTEST:

_____
Linda Kay Olivieri, MMC
City Clerk

AMENDMENT NO. 2
MEMORANDUM OF UNDERSTANDING
BETWEEN
CITY OF COMMERCE
AND
THE LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

This Amendment No. 2 to Memorandum of Understanding (this "Amendment"), is dated as of August 12, 2011 by and between the City of Commerce ("Grantee"), and the Los Angeles County Metropolitan Transportation Authority ("LACMTA").

RECITALS:

A. Grantee and LACMTA entered into that certain Memorandum of Understanding No. MOU.P00F1107, dated December 31, 2007, which was amended on July 15, 2010 (as amended, the "Existing MOU"), which Existing MOU provides for the Washington Boulevard Widening and Reconstruction; and

B. Whereas, LACMTA Board on August 4, 2011, desires to extend the lapsing date of Funds programmed for ALL programmed Fiscal years to June 30, 2012; and

C. Grantee and LACMTA desire to amend the Existing MOU as provided herein.

AGREEMENT:

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. Part 2, Paragraph 8.1(iv) of the Existing MOU is hereby amended by deleting it in its entirety and replacing it with the following: "Funds programmed for FY 2007-08 are subject to lapse on June 30, 2012. Grantee shall expend these Funds by the lapsing date."

2. Except as expressly amended hereby, the Existing MOU remains in full force and effect as originally executed. All rights and obligations of the parties under the Existing MOU that are not expressly amended by this Amendment shall remain unchanged.

IN WITNESS WHEREOF, the parties have caused this Amendment No. 2 to be duly executed and delivered as of the above date.

LOS ANGELES COUNTY
METROPOLITAN TRANSPORTATION AUTHORITY

By: _____ Date: _____
Arthur T. Leahy
Chief Executive Officer

Approved as to form:

ANDREA SHERIDAN ORDIN
County Counsel

By: _____ Date: 8/29/11
Deputy

CITY OF COMMERCE

By: _____ Date: _____
Joe Aguilar
Mayor

Approved as to form:

By: _____ Date: _____
Eduardo Olivo
City Attorney

AGENDA REPORT

Meeting Date: October 18, 2011

TO: Honorable City Council

FROM: City Administrator

SUBJECT: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMMERCE, CALIFORNIA, APPROVING A HOLD HARMLESS LETTER AGREEMENT WITH GENERAL PHYSICS CORPORATION RELATING TO THE SOURCE CODE FOR THE LNG/LCNG FUELING STATION

RECOMMENDATION:

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

MOTION:

Move to approve recommendation.

BACKGROUND:

The LNG/LCNG Station located on 5940 Sheila Street was constructed by General Physics Corporation, and the City accepted the completed project in September 2010. The warranty has now run for a 12 month period and we now are transferring the source code info to operate the station to Clean Energy Fuels. General Physics Corporation is requesting a hold harmless agreement before they transfer the source code.

The source code for the LNG/LCNG fuel station control panel was developed by General Physics Corporation; therefore they are requesting the City to sign a Hold Harmless Letter Agreement (attached) prior to transferring the source code to Clean Energy Fuels. The source code is required by Clean Energy in order to integrate the station's software into Clean Energy's station monitoring software.

FISCAL IMPACT:

All work has been completed in a satisfactory manner in accordance with the project plans and specifications; and all Grant funds reimbursements for this project have been received by the City and reconciled accordingly.

STRATEGIC GOALS:

The proposed recommendation relates to City Council's 2009 Strategic Goals by utilizing vehicles powered by alternative fuel, resulting in lower emissions.

Recommended by:

Claude McFerguson
Director of Transportation

Respectfully submitted,

Jorge Rifá
City Administrator

Fiscal Impact Review by:

Vilko Domic
Director of Finance

Approved as to Form:

Eduardo Olivo
City Attorney

AGENDA ITEM NO. 11

RESOLUTION NO._____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMMERCE, CALIFORNIA, APPROVING A HOLD HARMLESS LETTER AGREEMENT WITH GENERAL PHYSICS CORPORATION RELATING TO THE SOURCE CODE FOR THE LNG/LCNG FUELING STATION

WHEREAS, the City of Commerce accepted the work performed by General Physics Corporation on February 1, 2011, under the City of Commerce Contract Agreement, LNG/LCNG Station Design Build; and

WHEREAS, the current operator of the LNG/LCNG Station, Clean Energy Fuels, requires use of the source code developed by General Physics to operate the LNG/LCNG station; and

WHEREAS, General Physics Corporation requires a Hold Harmless Letter Agreement prior to supplying the source code so that it is not responsible for changes to the source code, that are made without their consultation or approval.

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

Section 1: The October 18, 2011, Hold Harmless Letter Agreement presented by General Physics Corporation is hereby approved. The City Administrator is authorized to execute the Letter Agreement for and on behalf of the City of Commerce.

PASSED APPROVED AND ADOPTED this _____ day of _____, 2011:

_____

Joe Aguilar, Mayor

ATTEST:

_____

Linda Kay Olivieri, MMC
City Clerk

October 5, 2011
GP-L-SD-135356

Leading the World to Better Performance

Mr. Claude Ferguson
Director of Transportation
City of Commerce
5555 Jillson Street
Commerce, CA 90040

Dear Mr. Ferguson,

The City of Commerce has requested General Physics Corporation to provide access to the source code, object code and software (collectively, "code") for the liquefied natural gas fuel station control panel at 5926 Sheila Street, Commerce, California 90040. General Physics Corporation provided this particular control panel for the City of Commerce LNG/LCNG fuel station project.

Should the City of Commerce, or any City employees, consultants or agents of the City make any changes, modifications or alterations (collectively "changes") to the code without prior agreement from General Physics Corporation, then the City of Commerce shall indemnify, defend and hold General Physics Corporation and its affiliates, related companies, representatives, consultants and any employees thereof harmless with respect to any damages, liabilities, losses, judgments, lawsuits, claims, costs and expenses, including reasonable attorney fees, incurred by General Physics Corporation arising from any claim or lawsuit or other proceeding of any nature based upon any theory of law made or brought by any third party resulting from such changes made by City of Commerce or their employees, consultants or agents. In addition, you acknowledge and agree that any such changes shall void any warranties, whether express or implied that you may have for this project.

If General Physics Corporation agrees to supply the code to the City of Commerce on the terms described above, please signify your agreement of the above stated terms by signing below and returning an original, signed counterpart of this letter to me. Once the signed letter is received, General Physics Corporation will provide the "code" for the City of Commerce liquefied natural gas control panel.

Regards,

Ken Gillette
General Physics Corporation

ACCEPTED AND AGREED BY CITY OF COMMERCE

By: _____

Name: _____

Title: _____

Date: _____

Approved As To Form:

Eduardo Olivo
City Attorney

AGENDA REPORT

DATE: October 18, 2011

TO: HONORABLE COMMUNITY DEVELOPMENT COMMISSION

FROM: EXECUTIVE DIRECTOR

SUBJECT: A RESOLUTION OF THE COMMERCE COMMUNITY DEVELOPMENT COMMISSION APPROVING A LICENSE AGREEMENT WITH THE GATWICK GROUP, LLC REGARDING PROPERTY LOCATED AT 4957 SHEILA STREET, APN NO. 5244-034-900, AND 4800 WASHINGTON BOULEVARD, APN NO. 5244-033-900, COMMERCE, CALIFORNIA

RECOMMENDATION:

Approve and adopt the Resolution and assign the number next in order.

MOTION:

Move to approve the recommendation.

ANALYSIS:

Gatwick Group, LLC ("Gatwick") has requested the opportunity to assess property owned by the Commerce Community Development Commission (the "Commission") commonly known as 4957 Sheila Street, APN No. 5244-034-900 and 4800 Washington Boulevard, APN No. 5244-033-900, which is located on the southeast corner of Washington Boulevard and Hepworth Avenue, Commerce, California (the "Property") in order to determine whether it may be suitable location for part of a potential retail development. Gatwick must gain access to the Property in order to conduct such an assessment. Commission staff recommends that Gatwick be provided access to the Property in order to proceed with such an assessment.

The proposed License Agreement will provide Gatwick with the right to enter onto the Property and provide for indemnification and the provision of insurance in order to protect the Commission's interests.

FISCAL IMPACT:

The License Agreement does not bind the Commission to any course of action and will have no fiscal impact.

RELATIONSHIP TO 2009 STRATEGIC GOALS:

This item is related to the 2009 Strategic Goal of maintaining and diversifying the local economy by evaluating potential land use and analyzing a prospective redevelopment project.

Reviewed by:

Robert Zarrilli
Director of Community Development

Respectfully submitted,

Jorge J. Rifa
Executive Director

Approved as to form:

Eduardo Olivo by AMO

Eduardo Olivo
Commission Counsel

SUM (RESO – GATWICK LICENSE AGREEMENT) – 10-18-2011.DOC

AGENDA ITEM NO. 12

RESOLUTION NO. _____

A RESOLUTION OF THE COMMERCE COMMUNITY DEVELOPMENT COMMISSION APPROVING A LICENSE AGREEMENT WITH THE GATWICK GROUP, LLC REGARDING PROPERTY LOCATED AT 4957 SHEILA STREET, APN NO. 5244-034-900 AND 4800 WASHINGTON BOULEVARD, APN NO. 5244-033-900, COMMERCE, CALIFORNIA

WHEREAS, Gatwick Group, LLC("Gatwick") has requested the opportunity to assess property owned by the Commission which is located at Licensor owns certain real property commonly known as 4957 Sheila Street, APN No. 5244-034-900 and 4800 Washington Boulevard, APN No. 5244-033-900, which is located on the southeast corner of Washington Boulevard and Hepworth Avenue, Commerce, California (the "Premises"), in order to determine whether it may be suitable as a site potential retail development; and

WHEREAS, Gatwick must gain access to the Premises in order to conduct such an assessment; and

WHEREAS, the Commission desires to license the Premises for access by Gatwick and its employees, its contractor, subcontractors and their employees in connection with the due diligence investigations.

NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE AND DETERMINE AS FOLLOWS:

SECTION 1. The License Agreement between the Commerce Community Development Commission and Gatwick Group, LLC is hereby approved. The Commission Chairperson is hereby authorized to execute the Agreement or and on behalf of the Commission.

PASSED, APPROVED AND ADOPTED this _____day of _____, 2011.

_____
Joe Aguilar
Chairperson

ATTEST:

_____
Jorge Rifa
Secretary

LICENSE AND HOLD HARMLESS AGREEMENT

This License and Hold Harmless Agreement ("Agreement") is entered into this 18th day of October, by and between the Commerce Community Development Commission ("Licensor"), and Gatwick Group, LLC ("Licensee").

RECITALS

WHEREAS, Licensor owns certain real property commonly known as 4957 Sheila Street, APN No. 5244-034-900 and 4800 Washington Boulevard, APN No. 5244-033-900, which is located on the southeast corner of Washington Boulevard and Hepworth Avenue, Commerce, California (the "Premises"); and

WHEREAS, Licensee has requested permission from Licensor to access the Premises in order to study and determine if the Premises are suitable for a potential location site for a retail development; and

WHEREAS, Licensee must gain access to the Premises in order to conduct such an assessment; and

WHEREAS, Licensor desires to license the Premises for access by Licensee and its employees, its contractor, subcontractors and their employees in connection with such a due diligence investigation; and

NOW, THEREFORE, in consideration of the foregoing recitals, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Licensor and Licensee hereby agree as follows:

AGREEMENT

SECTION 1. LICENSE OF THE LICENSED AREA

Licensor grants to Licensee, for the sole benefit of Licensee, an exclusive, non-assignable license to enter upon the Premises for the sole purpose of completing a preliminary due diligence investigation to determine the suitability of the Premises for Licensee's desired use(s), or portion thereof, which preliminary due diligence efforts shall include, but not be limited to, an environmental assessment that include borings or excavation (with the prior written consent of Licensor) that the Licensee may conduct at its sole discretion to satisfy itself as to the suitability of the Premises for Licensee's proposed uses(s) and for no other purpose (the "Permitted Use"). The Licensed Area is described as follows: the real property commonly known as 4957 Sheila Street, APN No. 5244-034-900 and 4800 Washington Boulevard, APN No. 5244-033-900, which is located on the southeast corner of Washington Boulevard and Hepworth Avenue, Commerce, California and which is depicted in the map attached hereto as Exhibit A.

SECTION 2. TERM

The term ("Term") of this License to use the Licensed Area shall commence on October 18, 2011("Commencement Date") and, unless earlier terminated by Licensor for Licensee's default hereunder, shall automatically terminate on January 1, 2012 ("Expiration Date").

SECTION 3. INDEMNIFICATION

Licensee agrees and acknowledges that its use of the Licensed Area is at its sole risk, and Licensee hereby waives, releases and absolves Licensor, its officers, agents and employees (the "Licensor Parties") from any and all cost, loss, damage, expense, and liability, whether foreseeable or not, from any cause whatsoever, that Licensee may suffer to its personal property located anywhere in the Licensed Area or that it or its agents, employees, principals, and invitees may suffer as a direct or indirect consequence of Licensee's use of the Licensed Area or access areas to the Licensed Area or for any other reason arising from or related to this Agreement. In addition, Licensee hereby agrees to

indemnify, defend, protect, and hold Licensor and the Licensor Parties harmless from and against any loss, cost (including, but not limited to, attorneys' fees), damage, liability, expense, claim, or action or cause of action of any third party (including, but not limited to, employees, agents, contractors, invitees and licensees of Licensee), whether foreseeable or not, resulting as a direct or indirect consequence of or use of the Licensed Area or access areas to the Licensed Area or for any other reason arising from or related to the Agreement. Licensee's indemnification obligations hereunder shall survive the expiration or earlier termination of this Agreement.

SECTION 4. INSURANCE

Licensee shall maintain insurance and provide evidence thereof as required by Exhibit B hereto (the "Required Insurance") which is attached hereto and incorporated herein by this reference, for the term provided herein.

SECTION 5. MISCELLANEOUS

(a) Time is of the essence of this Agreement and each of its provisions.

(b) This Agreement shall be construed and enforced in accordance with the laws of the State of California.

(c) In the event of any litigation between the parties respecting this Agreement, the prevailing party shall be entitled to recover from the unsuccessful party its reasonable attorneys' fees and costs as part of the judgment.

(d) This License is not to be construed as in any way granting to Licensee any leasehold or other real property interest in the Licensed Area, it being intended that this Agreement merely grants to Licensee this License to enter upon and use the Licensed Area during the Term in accordance with the terms and conditions hereof and shall not be deemed to grant to Licensee a leasehold or other real property interest in the Licensed Area.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by duly authorized individuals effective as of the date first written above.

LICENSOR:

COMMERCE COMMUNITY DEVELOPMENT COMMISSION

By: _____
Joe Aguilar, Chairperson

APPROVED AS TO FORM:

By: _____
Eduardo Olivo, Commission Counsel

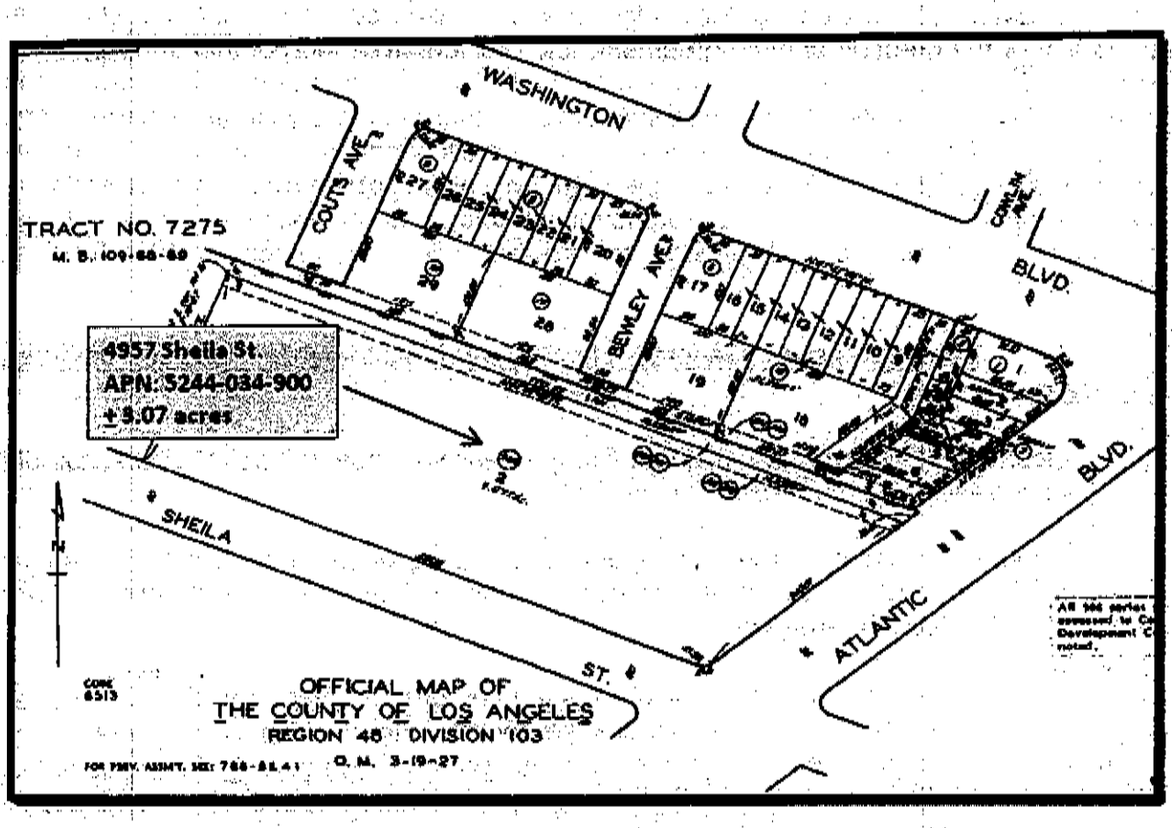
LICENSEE:

GATWICK GROUP, LLC

By: _____
Wendell Hindley, Manager

EXHIBIT A

The real property commonly known as 4957 Sheila Street, APN No. 5244-034-900 and 4800 Washington Boulevard, APN No. 5244-033-900, is depicted below:



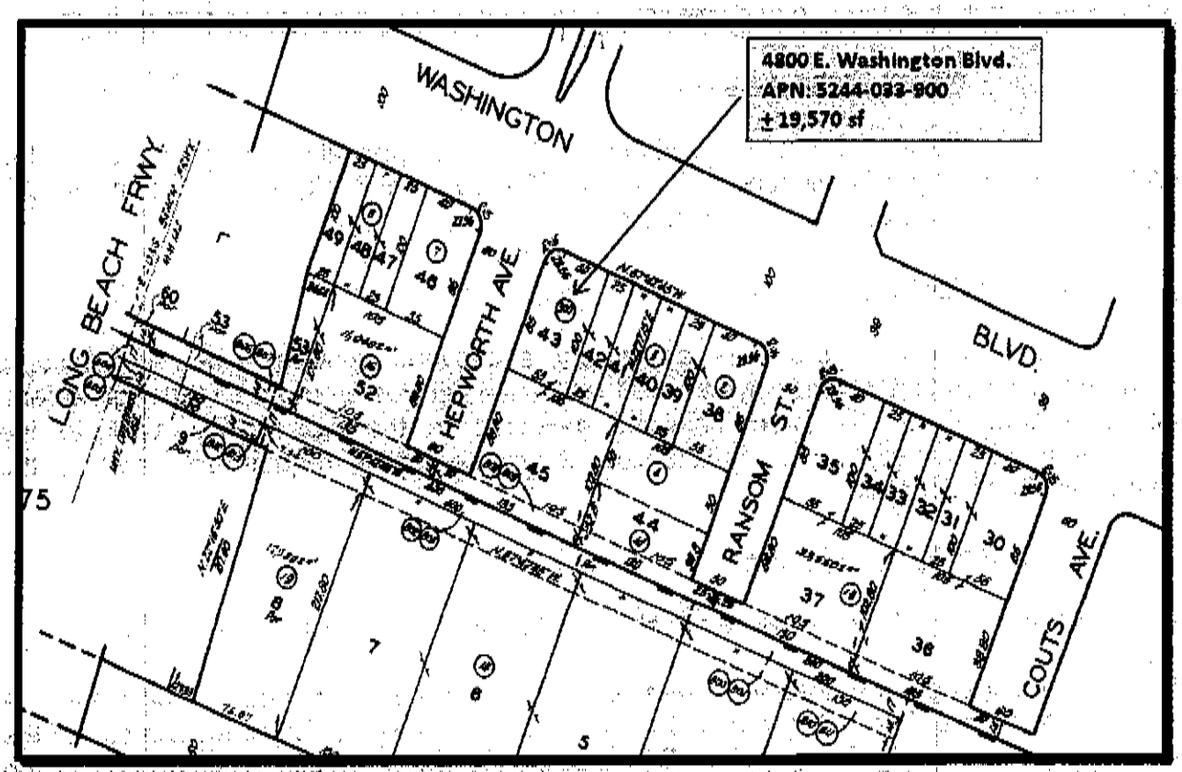


EXHIBIT B

REQUIRED INSURANCE

On or before beginning accessing the Licensed Area and conducting any inspection or investigation of the License Area, Licensee, at its own cost and expense, shall carry, maintain for the duration of this Agreement, and provide proof thereof that is acceptable to the Commerce Community Development Commission ("Commission") of its procurement of the insurance specified below from insurers and under forms of insurance satisfactory in all respects to the Commission. Licensee shall not allow any subcontractor to commence work on any subcontract under this Agreement until all insurance required of Licensee has also been obtained for the or by the subcontractor. Such insurance shall not be in derogation of Licensee's obligations to provide indemnity under Section 3 of this Agreement.

1. Comprehensive General Liability and Automobile Liability Insurance Coverage.

Licensee shall carry and maintain Comprehensive General Liability and Automobile Liability Insurance which provides the following:

Minimum coverage: Bodily injury limits of $2,000,000 for each person and $2,000,000 for each occurrence; property damage limits of $1,000,000 for each occurrence, $2,000,000 aggregate.

If a Commercial General Liability Insurance form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned real property and automobiles.

2. Worker's Compensation.

Licensee shall carry and maintain worker's compensation as required by the California Labor Code for all persons employed directly or indirectly in connection with this Agreement by Licensee or any subcontractor.

3. Additional Insureds.

The Commission, its officers, agents and employees must be named as additional insureds or as additional loss payees in all insurance policies required by this Agreement. An endorsement to this effect shall be delivered to the Commission prior to the commencement of any work. Satisfaction of any deductible requirement shall be the responsibility of Licensee.

4. Cancellation Clause.

Each of the policies of insurance shall contain a clause substantially as follows:

It is hereby understood and agreed that this policy may not be canceled nor the amount of the coverage thereof be reduced until 30 days after receipt by the Executive Director of the Commerce Community Development Commission the written notice of such cancellation or reduction of coverage, as evidenced by receipt of a certified letter.

5. Severability Clause.

Each of the policies of insurance shall contain a clause substantially as follows:

The insurance afforded by this policy applies separately to each insured against whom a claim or suit is made or suit is brought, except with respect to the limit of the insurer's liability.

6. Qualifications of Insurer.

All policies of insurance shall be issued by an insurance company acceptable to the Commission and authorized to issue said policy in the State of California.

7. Approval of Insurer.

The insurance carrier providing the insurance shall be chosen by Licensee subject to approval by the Commission, provided that such approval shall not be unreasonably withheld.

8. Payment of Premiums.

All premiums on insurance policies shall be paid by Licensee making payment, when due, directly to the insurance carrier, or in a manner agreed to by the Commission.

9. Evidence of Insurance and Claims.

The Commission shall have the right to hold the policies and policy renewals, and Licensee shall promptly furnish to the Commission all renewal notices and all receipts of paid premiums. In the event of loss, Licensee shall give prompt notice to the insurance carrier and the Commission. The Commission may make proof of loss if not made promptly by Licensee.

AGENDA REPORT

DATE: October 18, 2011

TO: HONORABLE CITY COUNCIL

FROM: CITY ADMINISTRATOR

SUBJECT: Resolutions of the City Council of the City of Commerce, California,

1) Authorizing the Submittal of An Application to the California State Department of Housing and Community Development for Funding Under the CalHome General Program

2) Authorizing the Submittal of An Application to the California State Department of Housing and Community Development for Funding Under the CalHome Program for Homeownership Project Development

3) Authorizing the Submittal of An Application to the California State Department of Housing and Community Development for Funding under the "BEGIN Program"

RECOMMENDATION:

At the request of Mayor Pro Tempore Baca Del Rio and Councilmember Leon, it is recommended that the City Council approve and adopt the separate Resolutions authorizing the preparation and submittal of the CalHome General Program, CalHome Program for Homeownership Project Development and "BEGIN Program" grant applications for Affordable Housing Development and Down Payment Assistance Programs and the City Administrator or designee to execute all grant applications and documents, amendments and, if awarded, the applicable agreements and any related documents necessary to participate in said programs.

MOTION:

Move to approve the recommendation.

BACKGROUND/ANALYSIS:

The California Department Housing and Community Development (the "HCD") released a Notice of Funding Availability (the "NOFA") for three (3) Affordable Housing Grant Applications specifically to encourage and promote the development of affordable housing. The City of Commerce desires to prepare and submit for all three (3) applications and it determines it would be a benefit to the City and Community. Approving these resolutions does not bind the City to any obligations until the grant funds are awarded and the City executes a Standard Agreement with the State. The following is a summary of three grant applications:

<u>CalHome Program – Homeownership Project Development</u>

- The grant is funded by Proposition 1-C-Housing Trust Fund Act of 2006
- The purpose of the program is to increase homeownership, encourage neighborhood revitalization and support home ownership programs for low income households.
- The total application request amount is $1,500,000.00
- The grant is project specific to a development
- The funds will be for Mayans Development Scattered Sites Project.

- The funds will provide up to $60,000 in down payment assistance to qualified home buyers not earning more than 80% of Los Angeles Area median of Income adjusted for household size.

CalHome Program – General

- The grant is funded by Proposition 1-C-Housing Trust Fund Act of 2006.
- The purpose of the program is to increase homeownership, encourage neighborhood revitalization and support home ownership programs for low income households.
- The total application request amount is $1,000,000.00
- The funds will be used for City-wide down payment assistance
- The funds will provide up to $60,000 in down payment assistance to qualified home buyers not earning more than 80% of Los Angeles Area median of Income adjusted for household size.

BEGIN Program

- The Grant is funded by the passage of Proposition 46, the Housing and Emergency Shelter Trust Fund Act of 2002.
- The application amount is $1,500,000.
- The program provides incentives to reduce or remove regulatory barriers for housing developments
- The funds will be used for the Mayans Development Scattered Sites Project.
- The program provide a maximum of 20% in down payment assistance to home buyers that don't exceed 120% of median income adjusted for household size for Los Angeles County.

FISCAL IMPACT:

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

RELATIONSHIP TO 2009 STRATEGIC GOALS:

The issue before the Council is applicable to the following Council strategic goal to *"Protect and Enhance Quality of Life in the City of Commerce"*. The recommendations contained in this report are intended to insure that Commerce residents are afforded the most efficient and effective opportunity to engage in meaningful public participation on matters concerning their quality of life.

Respectfully submitted,

Jorge J. Rifá
City Administrator

Prepared by:

Alex Hamilton
Assistant Director of Community Development

Recommended by:

Bob Zarrilli
Director of Community Development

Approved as to form:

Eduardo Olivo by AHO

Eduardo Olivo
City Attorney

Fiscal impact reviewed by:

Vilko Domic
Director of Finance

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMMERCE, CALIFORNIA, AUTHORIZING THE SUBMITTAL OF AN APPLICATION TO THE CALIFORNIA STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT FOR FUNDING UNDER THE CALHOME GENERAL PROGRAM

WHEREAS, the legislature of the State of California has enacted Sections 50650 et. seq. of the Health and Safety Code, which created the CalHome Program; and

WHEREAS, the CalHome Program authorizes the California Department of Housing and Community Development ("HCD") to approve funding allocations for certain housing development projects; and

WHEREAS, the HCD has issued a Notice of Funding Availability ("NOFA") for the CalHome Program; and

WHEREAS, the City of Commerce desires to apply for and receive an allocation of funds through the CalHome General Program in the amount of One Million Dollars ($1,000,000)

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

Section 1. City staff is hereby authorized to prepare and submit an application to the California Department of Housing and Community Development to participate in the CalHome Program in the amount of One Million Dollars ($1,000,000) in connection with housing projects in the City of Commerce.

Section 2. The City Administrator is hereby authorized to execute all documents necessary for the processing of the City's application under the CalHome Program.

Section 3. The City Clerk shall attest and certify to the passage of this Resolution and in shall thereupon take effect in full force.

PASSED, APPROVED AND ADOPTED, this _____ day of _____, 2011.

_____
Joe Aguilar,
Mayor

ATTEST:

_____
Linda K. Olivieri, MMC
City Clerk

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMMERCE, CALIFORNIA, AUTHORIZING THE SUBMITTAL OF AN APPLICATION TO THE CALIFORNIA STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT FOR FUNDING UNDER THE CALHOME PROGRAM FOR HOMEOWNERSHIP PROJECT DEVELOPMENT

WHEREAS, the legislature of the State of California has enacted Section 50650 *et. seq*. Health and Safety Code, which created the CalHome Program; and

WHEREAS, the CalHome Program authorized the California Department of Housing and Community Development ("HCD") to approve funding allocations for certain housing projects; and

WHEREAS, City of Commerce desires to apply for and receive an allocation of One Million Five Hundred Thousand Dollars ($1,500,000) in funds through the CalHome Program Homeownership Project Development in connection with certain housing projects in the City.

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

Section 1. City staff is hereby authorized to prepare and submit an application to the California Department of Housing and Community Development for the City's participation in the CalHome Homeownership Project Development Program in connection with housing development projects in the City of Commerce.

Section 2. If the application for funding is approved, the City of Commerce hereby agrees to use the CalHome funds for eligible activities in the manner presented in the application as approved by HCD and in accordance with applicable program regulations.

Section 3. The City Administrator is hereby authorized to execute all documents necessary for the processing of the City's application under the CalHome Program for Homeownership Project Development.

Section 4. The City Clerk shall attest and certify to the passage of this Resolution and in shall thereupon take effect in full force.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2011.

_____
Joe Aguilar,
Mayor

ATTEST:

_____
Linda K. Olivieri, MMC
City Clerk

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMMERCE, CALIFORNIA, AUTHORIZING THE SUBMITTAL OF AN APPLICATION TO THE CALIFORNIA STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT FOR FUNDING UNDER THE "BEGIN" PROGRAM

WHEREAS, the legislature of the State of California enacted Chapter 14.5, Sections 50860 through 50866 of the Health and Safety Code, which established the "BEGIN" Program; and

WHEREAS, the BEGIN Program authorizes the California Department of Housing and Community Development ("HCD") to approve funding allocations utilizing monies made available for the "BEGIN" program; and

WHEREAS, the HCD has issued a Notice of Funding Availability ("NOFA") for the "BEGIN" Program; and

WHEREAS, the City of Commerce desires to apply for an allocation of funds under the BEGIN Program in the amount of One Million Five Hundred Thousand Dollars ($1,500,000).

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

SECTION 1. City staff is hereby authorized to submit an application to the California Department of Housing and Community Development under the BEGIN Program for a funding allocation in the amount of One Million Dollars in connection with housing projects in the City of Commerce.

Section 2. The City Administrator is hereby authorized to execute all documents necessary for the processing of the City's application under the "BEGIN" Program.

Section 3. The City Clerk shall attest and certify to the passage of this Resolution and in shall thereupon take effect in full force.

PASSED, APPROVED AND ADOPTED, this _____ day of _____, 2011.

_____
Joe Aguilar,
Mayor

ATTEST:

_____
Linda Kay Olivieri, MMC
City Clerk

AGENDA REPORT

PLANS & SPECS ARE AVAILABLE FOR
VIEWING IN THE CITY CLERK'S OFFICE

MEETING DATE: October 18, 2011

TO: HONORABLE CITY COUNCIL

FROM: CITY ADMINISTRATOR

SUBJECT: APPROVE PLANS AND SPECIFICATIONS FOR CASH CONTRACT NO. 1109 – THE CENTRAL LIBRARY, CITY HALL AND SENIOR PLAZA IMPROVEMENTS PROJECT

RECOMMENDATION:

That the City Council:

1. Approve the project plans and specifications, as prepared by Adrian-Gaus Architects, Inc.; and

2. Authorize the Community Development Department to advertise for bids and designate Thursday, December 8, 2011, at 1:00 p.m., as the bid opening date.

MOTION:

Move to approve recommendation.

BACKGROUND:

On September 19, 2011, the City Council received a detail presentation on the project scope, schedule and estimated cost. At the meeting, the City Council directed staff to research the following items:

1. Potential grant funding sources
2. Possibility of relocating the temporary library to the Citadel
3. Cost-benefit of adding solar panels for energy conservation

ANALYSIS:

As directed by the City Council, staff investigated the following items and is providing this information:

1. <u>Potential grant funding sources</u>
   Unfortunately, grants that were available at one time are either no longer open to new applicants or not awarded for construction projects in general. Library staff looked to the following sources to gather this information:

   - The Annenberg Foundation only grants funds by invitation. The Foundation does not take open or new applications.
   - The Gates Foundation no longer awards grants for computers. Their focus is on education collaboration projects to raise education levels and you must partner with a school.
   - LSTA Grant (Library Science and Technology Act) has expended the grant monies available for library construction and are not taking any applications at this time.

   Staff also consulted with colleagues and grant writers in other California libraries that write grants and they have not come across any grants that are awarded for construction, equipment or library furnishings.

AGENDA ITEM NO. 14

2. Possibility of relocating the temporary library to the Citadel

On Monday September 26, 2011, Beatriz Sarmiento, Danilo Batson, Jesse Guerrero and Michael Halsey visited the Citadel to look at an available space. The space we saw was approximately 5,000 square feet on the ground floor. It had a reception area and ample space for library materials and computers for the public as well as office space for library staff. This is the only space available at the Citadel.

There are a few concerns with the location of the space and the accessibility to the public and the safety of library patrons, especially children and teens, who use the Central Library:

- The building is located in the middle of the big parking lot area in front of the east entrance to the Citadel. Patrons would have to walk across the parking lot to get to the library.
- Children and teens who come to the library afterschool to do homework, attend story time or come for tutoring, would have a difficult time getting to the library at the Citadel.
- The Commerce bus stop is located behind the Citadel on Smithway and patrons who use the bus to come to the library would have to cross the Citadel parking lot with moving cars to reach the library.
- The parking for patrons is 3 to 4 rows behind the reserved parking for Smart & Final employees. Library patrons would have to park beyond these rows to use the library.

While the space is ample and could accommodate many of the resources our patrons use, it may limit the patrons who would use the library to adults and make it difficult for families and teens who come to the library daily for programs and services.

Additionally, the City would have to enter into a sub-lease agreement with Smart & Final, who currently leases the space and most of the building. The cost of this sub-lease is yet undetermined.

3. Cost-benefit of adding solar panels for energy conservation

The cost to install solar panels on this project, where practical, as part of a 130 kilowatts system, producing 180,000 kilowatts per year would be roughly $700,000. Furthermore, the alterations to the structural system would be in addition to that and would dramatically affect the schedule and budget by adding roughly another $300,000. How much of City Hall's power could be provided by the panels depends on the yearly kilowatt usage. The lifespan of solar panels are roughly 20 years. Even though, at that point the panels do not stop working they just work at a reduce capacity or efficiency.

Using the integrated 'flat' rolled system is approximately ½ the cost ($350,000), the City would not need the structural upgrades; however, the kilowatt output power is also about ½ (90,000 kilowatts).

Based on last month's SCE invoice, City Hall used 298,826 kWh at a cost of $48,867; which means that even an investment of $1,000,000 would only generate a small fraction of the electricity necessary to power City Hall.

The project plans and specifications are ready and available in the Community Development Department. The proposed improvements are consistent with inputs gathered from City Council, Library and Education Commissions, residents (at public outreach meetings) and library staff. The existing project plans and specifications do not include either relocating the temporary library to the Citadel or incorporating solar panels to the project.

FISCAL IMPACT:

The proposed improvements are estimated as follows (a detailed cost breakdown is attached):

Estimated Cost Summary	
Central Library	$ 5,284,444
Senior Plaza	$ 455,883
Other	$ 1,359,798
TOTAL	**$ 7,100,125**

At this time, the proposed project can be carried out without additional impact on the current operating budget. Funding for this project is 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.....	**$7,100,000**

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:

Robert Zarrilli
Director of Community Development

Recommended by:

Beatriz Sarmiento
Interim Director of Library Services

Prepared by:

Danilo Batson
Assistant Director of Public Services

Reviewed by:

Vilko Domic
Director of Finance

Approved As To Form:

Eduardo Olivo
City Attorney

File: 2011 City Council Agenda Reports
Review Draft Plans and Specifications Central Library, City Hall and Senior Plaza Improvements Project (Adrian-Gaus Architects/Swinerton Management & Consulting)

AGENDA REPORT

DATE: October 18, 2011

TO: HONORABLE CITY COUNCIL

FROM: CITY ADMINISTRATOR

SUBJECT: COMMERCIAL RECYCLING MANDATE

RECOMMENDATION:

Receive and file this report, provide appropriate direction to staff and authorize the preparation of an Ordinance for first reading to adopt a State Mandated Commercial Recycling Program.

MOTION:

Move to approve the recommendation.

BACKGROUND/ ANALYSIS:

In 2006, the State of California adopted the California Global Warming Solutions Act of 2006, Assembly Bill 32 (AB 32). The goal of this Act is to reduce Greenhouse Gas (GHG) emissions in California to 1990 levels by 2020, an 11% reduction with a targeted end goal of an 80% reduction by 2050. Further, Governor Brown signed into law AB 341 on October 6, 2011 enforcing a Statewide Commercial Recycling Program. The Air Resources Board (ARB) is the lead regulatory agency for the implementation plan and the California Department of Resource Recovery and Recycling (CalRecycle) is the lead agency for monitoring compliance with new refuse management requirements.

The State-Mandated Commercial Recycling Program highlights are as follows:

1. Effective July 1, 2012;
2. Requires the City to adopt a Commercial Recycling Program by way of a policy or ordinance and suggest implementing it through the use of a refuse hauler franchise agreement;
3. Effects all businesses generating more than four cubic yards of waste per week and multifamily residential units with at least five units;
4. 75% source reduction, recycled or composted per year by 2020.
5. Requires education, outreach, and monitoring of businesses for participation in a Commercial Recycling Program;
6. Allows for the selling or donating of recyclables prior to participating in the State-mandated Commercial Recycling Program;
7. Requires annual reporting to the State beginning May 1, 2012, and
8. Failure of the City to make a "good faith effort" may lead to a State-issued compliance order and administrative civil penalties of up to $10,000 per day until the City implements the program.

The mandate does allow for *exemptions* such as due to zoning requirements, lack of storage space, and lack of markets or non-generation of recyclable materials. In addition, the mandate does not specify the types of materials to recycle. However, the State does recognize construction and demolition waste as a priority for commercial recycling with the least amount of costs.

A provision of the new mandate allows for waste to be delivered to a transformation facility such as the Commerce Refuse-to-Energy Authority (CREA) as long as the recyclables are removed from the waste to the maximum extent feasible. In some cases, a small number of businesses may also utilize CREA without removal of recyclables if the loads contain minimal recyclables or would contaminate recyclables in other loads. Each business must

AGENDA ITEM NO. 15

demonstrate compliance. The most effective method to monitor this compliance is through a reporting system from each of the exclusive franchise haulers.

Businesses will need to be identified and monitored for compliance, notified when not in compliance of the regulations, and their progress reported in an annual report to the State. The mandate *does not* require jurisdictions to enforce the program through fines or penalties, but the City could be subject to penalties as noted above. The City could make some or all of these compliance measures the responsibility of a franchised hauler. Ultimately however, the City will need to submit the annual report to CalRecycle and demonstrate a "good faith effort." The State will consider the City's budgetary constraints in determining its good faith effort.

Due to the State's proposed recycling regulation, the City may want to re-evaluate its existing commercial collection system and consider its options for improved service and increased revenue potential. Among the options for City Council consideration could be to:

1. Replace the existing non-exclusive refuse licensing policy for commercial waste haulers adopted in 1988 with an exclusive franchise system;
2. Authorize staff to solicit proposals for an exclusive franchise service that would establish rates and service levels;
3. Limit the number of exclusive franchise haulers to no more than five;
4. Create commercial collection zones assigned to a certain hauler;
5. Replace the existing 11% hauler license fee with an exclusive franchise agreement fee and increase the fee;
6. Require all commercial non-recyclable waste to be disposed at the Commerce Refuse-to-Energy Authority (CREA) first and allow disposal of the waste at another facility only once CREA meets its capacity;
7. Require the haulers to report business participation and recycling data to the City for State reporting purposes; and
8. Enforce the use of clean-air alternative fueled refuse vehicles through an exclusive franchise agreement.

Currently, Chapter 6.06 of the Commerce Municipal Code prohibits the addition of new commercial haulers and provides conditions for transferring existing licenses. Those companies who were licensed in 1988 were allowed to continue operating under their existing license. There are currently 23 licensed commercial haulers operating in the City of Commerce under an "open competitive system" in which businesses may choose any licensed hauler from the list of 23 to service their business for waste collection. The intent of the licensing limitations in section 6.06.040 of the Municipal Code was to reduce the amount of licensed commercial haulers to 12 as licenses lapsed. However, to date, no commercial hauler licenses have lapsed.

Staff recommends sending a notice to businesses with their annual business license renewal in November 2011 informing them of the new law which will require them to recycle beginning in July 2012 and will work with the Industrial Council to ensure adequate notification.

Staff also seeks direction from Council regarding items #1 - #7 listed above and recommends returning with an Ordinance for first reading.

FISCAL IMPACT:

A 2% increase to the hauler fee is estimated to produce approximately $55,000 in additional revenues per year.

RELATIONSHIP TO 2009 STRATEGIC GOALS:

This agenda report item complies with:

- Goal #1 – *Maintain and Diversify Local Economy;*

- Goal #2 – *Protect and Enhance Quality of Life in the City of Commerce; and*
- Goal #3 – *Make Financial and Economically Sound Decisions Consistent with Economic Conditions.*

Recommended by:

Bob Zarrilli
Director of Community Development

Respectfully submitted,

Jorge Rifa
City Administrator

Reviewed by:

Alex Hamilton
Assistant Director of Community Development

Prepared by:

Gina Nila
Environmental Services Manager

Reviewed by:

Vilko Domic
Director of Finance

Approved as to Form:

Eduardo Olivo
City Attorney

AGENDA REPORT

MEETING DATE: October 18, 2011

TO: HONORABLE CITY COUNCIL

FROM: CITY ADMINISTRATOR

SUBJECT: CUSTOMER SERVICE EMPLOYEE RECOGNITION DESIGNATED PARKING SPACE

RECOMMENDATION:

City Council will consider designating one parking space at the front of City Hall as a Customer Service Employee of the Quarter designated parking space.

MOTION:

Move to approve the recommendation.

BACKGROUND:

Excellent customer service is essential to our employees' success and is the foundation to provide quality services to our patrons. Organizations with good Customer Service Programs are dedicated to offering high quality service and are creative in finding better ways to serve and please customers.

On June 17, 2008, City Council adopted a Citywide Customer Service Employee Recognition Program. The Program provides one of the most important elements in thanking city staff for their assistance and contributions in making the City of Commerce a true Model City where "Quality Service is Our Tradition". Employees are recognized at their regular staff meetings, Quarterly Information Meetings, City Council meetings and are highlighted in the Report to the People newsletter. Additionally, employees also receive a certificate, plaque, their pictures posted in the employee lunchroom, and are invited to the annual Employee Service Awards Dinner/Luncheon.

ANALYSIS:

At the request of Councilmember Leon, the City Council will consider, as part of the Customer Service Employee Recognition Program, designating a parking space as "Customer Service Employee of the Quarter" parking space. The parking space would be located at the front entrance of City Hall and appropriately designated to ensure conformance with ADA and other applicable regulations.

City staff members who consistently display the highest levels in their interactions with internal and external customers should be recognized for their outstanding performance. The implementation of a parking space is a cost effective way to provide gratitude to city staff for their assistance and contributions in making the City of Commerce a Model City.

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FISCAL IMPACT:

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

Recommended by,

Teresa McAllister
Director of Human Resources

Respectfully submitted,

Jorge Rifa
City Administrator

Budget Impact Reviewed by:

Vilko Domic
Director of Finance

Approved as to Form:

Eduardo Olivo
City Attorney

AGENDA REPORT

MEETING DATE: October 18, 2011

TO: HONORABLE MAYOR & CITY COUNCIL

FROM: CITY ADMINISTRATOR

SUBJECT: PROPOSED AMENDMENT TO THE PERSONNEL CLASSIFICATION AND COMPENSATION PLAN ADDING THE POSITION OF DEPUTY CITY ADMINISTRATOR TO THE AT-WILL, EXECUTIVE CLASS

RECOMMENDATION:

It is recommended that City Council amend the Classification and Compensation Plan to establish a new job classification and salary range for Deputy City Administrator; and approve the position allocation change in the City Administration Department's budget.

MOTION:

Move to approve the recommendation.

BACKGROUND & ANALYSIS:

Inclusive of the current year, FY2011/2012, the City Council has focused on a three year plan to address the City's cyclical and structural budget problems brought about by the historic financial crisis gripping the national and global economies. The Council's plan has been to preserve the overall stability of the City and assure its emergence from the financial crisis in a resilient manner. The specific objectives over the last three years have been to protect the services provided to the community, protect the employee workforce that delivers these services, and protect the City's overall financial position which in turn safeguards the services and the workforce.

Over the last three fiscal years, the Council has taken action to implement a number of strategies to achieve these objectives. Among these strategies, the City Council over two consecutive fiscal years (FY2010/2011 and the current year FY2011/2012), has successfully implemented an early retirement incentive program through Public Agency Retirement Services (PARS).

Over the last two years, twenty seven (27) full time employees out of a full time 150 member work force have voluntarily taken advantage of the program. In other words, nearly one in five of the City's full time personnel (or 5.5 to be more exact) has participated. The early retirement program has been a net positive impact for the participants. The City has also achieved budget savings and has averted the layoff of full time personnel.

As the Council is aware, from the onset of the first year of the PARS program and now the program's second year impact, there are significant challenges to the City that relate to life after PARS. The first is that with the departure of the 27 participants, the City has lost a wealth of experience and institutional knowledge in the community and in the City's organization. This loss of experience is certainly expected during "normal" times with again a normal rate of turnover; as the most experienced people reach retirement eligibility and leave the workforce. However when the experience is based on a 1 to 5.5 ratio over two years it becomes critical and transformational for any organization.

The second challenge is based on the impact to the City's organizational structure. For Commerce the City's organizational structure and delivery of services are determined by a personnel complement of 150 full time personnel. In order to maximize the personnel

cost savings offered by the PARS program (in excess of $1.1 million dollars) and protect the delivery of services and the workforce from the potential of future budget reductions, the City must be both careful and innovative on how it shepherds these savings and addresses the organizational impacts of 27 early retirements and 5 full time frozen positions.

As an example if the City were to have removed 27 positions from the City organization through a "lay off" process, the impacts of such an action to the affected individuals would have been personally devastating; but the impact to the organization would not have been as severe because the layoff would have been designed around the prioritization and preservation of specific services to ensure organizational continuity and minimize unintended consequences.

In contrast, a voluntary early retirement program is an at random individually initiated "lay off" event predicated on a self assessment of the relative personal value of the early retirement incentive. It has no bearing or relationship to organizational stability, continuity, or service impacts. It is definitely a humanistic approach to a budget crisis. Nonetheless, on the organizational end, because it is a self initiated voluntary decision it has no relationship to organizational logic or continuity. It then becomes a more difficult challenge in restructuring the organization to address departmental needs while recognizing budget savings.

As such, an unexpected vacancy has taken place in the Office of the City Administrator with the PARS retirement of the Public Information Officer (PIO). This position is a direct report to the City Administrator. The PIO is a represented (classified) mid management Division Head who supervises three work units in the Office of the City Administrator: Media Specialists, Cable Television, and Reprographics.

Rather than directly fill the vacant position, it is recommended that the Council approve the establishment of an "at will" position in the City's Executive Group: "Deputy City Administrator". A reorganization of the City Administrator's Office is then proposed which would consolidate the duties of the Senior Management Analyst position (classified) in the City Administrator's Office with the PIO position. The consolidation of the essential duties of the two positions into one create a higher level of complexity and responsibility than either of the two existing classifications and necessitates the proposed position at an at will status (see attached job description). The position of Deputy City Administrator will assume the essential functions of both lower level positions. These are the direct supervision and leadership of the three Division work units in addition to the significant and diverse nature of the special projects and responsibilities assigned to the position of Senior Management Analyst. Similar to the other executive positions in the at will executive group, the Deputy City Administrator will require a certain degree of autonomy, discipline, and accountability in defining, prioritizing, and achieving results.

In creating the recommended position, it is proposed that the positions of Public Information Officer and Senior Management Analyst remain in the classified service, frozen, but not eliminated.

The Commerce Employees Association is aware of this recommendation. The City has begun a consultation process with the Association. We have met twice this month and a third October meeting has already been scheduled on the impact of PARS related vacancies. We will continue to schedule these meetings and there will be future opportunities to meet on PARS related organizational matters in advance of Council consideration.

As the Council is aware, the "new normal" for local government throughout the country requires a critical look at how cities function. Commerce is not different in that regard. In order to move forward with the delivery of quality services to the community, the City Council will continue to reconcile its resources (its budget and work force) with

community needs and then prioritize. Departmental reorganizations and the consolidation of duties are one part of this reconciliation given the Council's direction to protect the work force.

FISCAL IMPACT:

Creating the position of Deputy City Administrator facilitates a reorganization in the City Administration Department, as discussed above. The reorganization will result in an annual budget savings in excess of $53,000. The City's Personnel Policy and Procedure's *Classification Plan Administration* provides the procedure for implementing or revising the City of Commerce Classification Plan within the City's workforce.

In analyzing the City of Commerce's current Classification Plan for an internal alignment applied to the proposed Deputy City Administrator classification, the salary range for the Deputy City Administrator classification was primarily based on internal compaction considerations, which also considered internal salary relationships within job families, among related job families, and recommended classification differentials. The analysis resulted in the classification's assignment to existing pay grade 35, ($8,138 - $9,910 per month).

Establishing this new classification would restructure and develop a revitalized organization that is positioned for the future and staffed with the best qualified people.

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,

Jorge J Rifa
City Administrator

Attachments:
Deputy City Administrator Job Description

City of Commerce

DEPUTY CITY ADMINISTRATOR

Department:	**Administration**	Class Code:	**1010**
Revised Date:		FLSA Status:	**Exempt**

GENERAL PURPOSE: Under general administrative direction oversees and manages assigned departments, divisions, specific work units and special projects. Assists in the development, dissemination and evaluation of organizational procedures; assists the City Administrator in coordinating the development, analyses and implementation of City Council goals.

PRIMARY DUTIES AND RESPONSIBILITIES:

*The following duties **ARE NOT** intended to serve as a comprehensive list of all duties performed by all employees in this classification, only a representative summary of the primary duties and responsibilities. Incumbent(s) may not be required to perform all duties listed and may be required to perform additional, position-specific duties.*

- On a day-to-day basis, relieves the City Administrator of routine administrative tasks.
- Assist the City Administrator in developing policy recommendations and long range programs for Council consideration; may be assigned to carry out or place in effect such recommendations and programs.
- Has direct management responsibilities and control over assigned work units and personnel.
- Represent the City Administrator at a variety of community and official events and meetings.
- Provide direction, establish objectives and oversee the operation of assigned departments/divisions and subordinate staff.
- Organize, lead and attend meetings with assigned staff, vendors and other agencies for the planning, coordination, direction and completion of tasks assigned in overseeing departments/divisions.
- Assist Department Directors in the analysis and resolution of problems and the development of service delivery strategies and policies.
- Researches and responds to constituent inquiries and complaints in cooperation with operational department staff.
- Completes special and ongoing projects and tasks as assigned by City Administrator and elected officials
- Assists City Administrator with specific City Council items, special projects and requests.
- Participates in the revision or formulation of City policies and procedures.
- Assist City Administrator in the development and strategies to meet City Council goals and objectives; interprets concerns, and provide solutions to assure the efficient delivery of high quality public services.
- Monitors and reviews trends in municipal government issues, including legislation and recommends operational and policy improvements; manages public relations and official communications.
- Maintains the integrity, professionalism, values and goals of the City by assuring that all rules and regulations are followed, and that accountability and public trust are preserved.
- As designated, acts in the absence of the City Administrator.

MINIMUM QUALIFICATIONS:

Education and Experience:

Bachelor's Degree in Public or Business Administration, or related field; AND five years of progressively responsible local government management experience. A Master's Degree is highly desirable.

Required Licenses or Certifications:

- Must possess a valid California Driver's License.

Required Knowledge of:

- City organization, operations, policies and procedures.
- Principles and practices of administrative management, including personnel rules, cost accounting, budgeting, contract management, and employee supervision.
- Applicable state and Federal statutes, rules, codes and regulations.
- Legal, ethical and professional rules of conduct for public sector employees.
- City and Department policies and procedures
- Techniques and methods for long-range strategic and financial planning.

Required Skill in:

- Creating a harmonious work environment that fosters teamwork, creativity, a spirit of service, and a high standard of ethics.
- Analyzing complex administrative and operational data and issues, interpreting laws and regulations, evaluating alternatives, and implementing changes based on findings.
- Assuming executive-level responsibilities and making appropriate decisions, while assuring compliance with City goals and objectives.
- Investigating, analyzing and resolving complex and sensitive issues and complaints.
- Exercising controlled discretion and mediating difficult situations.
- Assuring the City's compliance with all laws, regulations, and rules.
- Managing staff, delegating tasks and authority, and coaching to improve staff performance.
- Assessing and prioritizing multiple tasks, projects and demands.
- Operating a personal computer utilizing standard and specialized software.
- Establishing and maintaining effective working relationships with other City employees, public officials, government agency representatives, and the public.
- Effective verbal and written communication.

Physical Demands / Work Environment:

- Work is performed in a standard office environment.

AGENDA REPORT

DATE: October 18, 2011

TO: HONORABLE CITY COUNCIL

FROM: CITY ADMINISTRATOR

SUBJECT: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COMMERCE, CALIFORNIA AMENDING TITLE 19 ("ZONING") OF THE COMMERCE MUNICIPAL CODE, TABLE 19.11.030 (5. TRANSPORTATION-RELATED USES, NOTES AND EXCEPTIONS) – SECOND READING

RECOMMENDATION:

Move to not approve the ordinance for second reading and direct staff to come back with a new ordinance after analyzing recommended changes suggested by the Commerce Industrial Council.

MOTION:

1. Move to not approve the ordinance for second reading and direct staff to come back with a new ordinance after analyzing recommended changes suggested by the Commerce Industrial Council.

ROLL CALL VOTE

BACKGROUND AND ANALYSIS:

On August 16, 2011, the City Council conducted the required public hearing and approved the subject Ordinance for first reading. At that meeting, members of the Industrial Council, including Mr. Eddie Tafoya were present to indicate their concerns with the newly proposed Conditional Use Permit (CUP) requirement. They believe such a requirement would impose another layer of "bureaucracy" on projects potentially exposing them to additional uncertainty and delays. In response to these concerns, staff attempted to meet with Mr. Tafoya and others on the Industrial Council to seek a potential solution, but due to scheduling conflicts said meeting did not occur. Staff continued to try to arrange a meeting however due to further scheduling conflicts both parties were unable to meet. At the Council's last meeting on October 4, 2011, staff recommended moving forward with the City Council action to consider the proposed ordinance as presented for second reading and adoption. Staff also recommended that if after adoption of this ordinance, and as a result of continued staff outreach to the Industrial Council, it is determined that changes to the adopted ordinance are feasible and practical, amendments could be brought back to the Planning Commission and City Council in the near future for consideration and adoption. The City Council chose to continue the matter until after staff had the opportunity to meet with members of the Industrial Council.

On October 6, 2011, staff and members of the Industrial Council were finally able to meet. Staff discussed the origin of the proposed ordinance, as well as the environmental concerns in the City. The Industrial Council believes the proposed ordinance would discourage new businesses from coming to the City, as they would view it as an additional hurdle to establishing residence in Commerce. It is the feeling of the Industrial Council that the current review process for warehouse projects, including the required CEQA analysis is adequate to ensure a project's impacts are fully identified and when necessary mitigated to the fullest extent possible. According to one member, there is approximately 2,997,130 square feet of vacant building space in the City and requiring a CUP would contribute to a continued increase in vacancies. Furthermore, the Industrial Council believes there is a difference between warehouse uses and truck terminals or "cross-docks", and this needs to

be fully analyzed before moving forward with an ordinance. They feel the City would be better served by focusing on these facilities as they are designed to move significant amounts of merchandise by multiple carriers on a daily basis. The Industrial Council will memorialize their concerns in a letter to the City Council that will be distributed accordingly upon receipt.

In the end, after discussing the points above and many others, the Industrial Council suggested the City implement a CUP process for those warehouse uses that have a ratio of dock doors to building square footage greater than 1 : 2,500. In essence, a warehouse could be built that has 1 dock door for every 2,500 square feet of building area, without requiring approval of a CUP. Using this formula, a 100,000 square foot warehouse would be able to have a maximum of 40 dock doors without requiring CUP approval. Furthermore, the Industrial Council suggested staff review the City's existing definition and standards for "truck terminals", as changes to them may be necessary in order to address the subject issue.

On October 13, 2011 staff once again met with Mr. Tafoya and a member of the Industrial Council to further discuss their recommendations. Some additional information was provided and their concerns and recommendations were heard. Both sides agreed to continue to work together on this matter and the representatives of the Industrial Council are in agreement with staff's current recommendation to the City Council.

Moving forward, the recommendations provided by the Industrial Council must be fully analyzed prior to staff proceeding with the drafting of an amended or new ordinance. A new or revised ordinance will once again go back before the Planning Commission for their review and recommendation. Any action taken must meet the basic goals and objectives of the City, as well as those contained in the General Plan. The General Plan is the document which lays out the roadmap for the City's future, and any action undertaken must be in compliance with it. Coupled with the work of the Environmental Justice Task Force and their desire to create "green zones", the City Council is going to be asked to make a number of significant decisions about the future of Commerce. Each of these decisions will impact the residents of Commerce as well as the business community. Therefore, at this time, staff is recommending that the City Council not approve the subject ordinance for second reading and direct staff to come back with a new ordinance after analyzing the recommended changes suggested by the Commerce Industrial Council.

FISCAL IMPACT:

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

RELATIONSHIP TO 2009 STRATEGIC GOALS:

- Goal #2 – *Protect and Enhance Quality of Life in the City of Commerce.*

Recommended by:

Bob Zarrilli
Director of Community Development

Respectfully submitted:

Jorge Rifa
City Administrator

Prepared by:

Matt Marquez
City Planner

Approved as to Form:

Eduardo Olivo
City Attorney

Fiscal impact reviewed by:

Vilko Domic
Director of Finance

ORDINANCE NO._____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COMMERCE, CALIFORNIA, AMENDING TITLE 19 ("ZONING") OF THE COMMERCE MUNICIPAL CODE, TABLE 19.11.030 (5. TRANSPORTATION-RELATED USES, NOTES AND EXCEPTIONS)

WHEREAS, the City Commerce Municipal Code contains existing standards which regulate development in the City; and

WHEREAS, the Commerce Municipal Code currently fails to provide the City with the ability to require a Conditional Use Permit for most warehouse projects; and

WHEREAS, the construction of large warehouse structures, or large expansions to existing structures, can cause a significant increase in truck traffic in the surrounding areas, including residential areas and in the proximity of exiting schools; and

WHEREAS, the requirement of a Conditional Use Permit for large warehouse structure projects will provide the City with more oversight and enable the City to be better able to identify, consider and assure the mitigation of adverse impacts that may be caused to the surrounding community; and

WHEREAS, on July 27, 2011 the Planning Commission held a public hearing for the purpose of considering an Ordinance to amend Title 19 ("Zoning") of the Commerce Municipal Code, Table 19.11.030 (5. Transportation-related uses, Notes and Exceptions); and

WHEREAS, the Planning Commission has recommended that the City Council adopt the Ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COMMERCE, CALIFORNIA, DOES ORDAIN AS FOLLOWS;

SECTION 1: Table 19.11.030 (5. Transportation-related uses, Notes and Exceptions) is hereby amended to read as follows:

Use	C/M-1	M-1	M-2	*Notes and Exceptions
5. Transportation-related uses	X	X	C	a. For SIC code 495, only one such facility is permitted in the city per 12,000 residents, as reported in the most recent U.S. Census.
5.1 SIC code 40 (Railroad Transportation)	P	P	P	b. Helipads require a conditional use permit in the C/M-1, M-1, and M-2 zones. Must be located a minimum of 500 feet from residential zones.
5.2 SIC codes 41, 43, 491, 494	X	X	P/C*	c. For trucking and warehousing uses, the distancing requirement set forth in Section 19.11.030(C) shall be 1,000 feet, meaning that any such use proposed to be located within 1,000 feet of the nearest residential district shall require conditional use permit review. The following exceptions shall apply:
5.2 SIC code 42 (Trucking and Warehousing)	X	X	X	
5.3 SIC code 45 (Air transportation, except helipads)	X	X	P/C	
5.5 SIC codes 492, 493, 496	X	X	C	
5.6 SIC codes 495*, 496				i. Any user proposing to occupy an existing warehouse facility containing less than

				35,000 square feet shall be exempt from the CUP requirement.
				ii. Where a major road separates the project site from the nearest residential district and such separation is equal to or greater than 300 feet, no CUP shall be required.
				iii. Where an active railroad right-of-way separates the project site from the nearest residential district and the director of community development determines that project truck traffic will not circulate through the residential district, no CUP shall be required. d. SIC code 4225 (General Warehousing and Storage), also known as mini-warehousing, self-storage or public storage warehousing, is permitted in the M-2 (Heavy Manufacturing) zone with a conditional use permit. e. A Conditional Use Permit shall be required for any new warehouse building or development and additions to existing warehouse buildings and developments, where the total square footage of all structures measures 100,000 square feet or greater.

SECTION 2: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remainder of the Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions may be declared invalid or unconstitutional.

SECTION 3: This Ordinance shall take effect on the thirty-first (31st) day after its adoption.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2011.

_____
Joe Aguilar
Mayor

ATTEST:

_____
Linda Kay Olivieri, MMC
City Clerk

AGENDA REPORT

MEETING DATE: October 18, 2011

TO: HONORABLE CITY COUNCIL

FROM: CITY ADMINISTRATOR

SUBJECT: RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMMERCE APPROVING A PROFESSIONAL SERVICES AGREEMENT FOR CONSTRUCTION MANAGEMENT SERVICES WITH SWINERTON MANAGEMENT AND CONSULTING

RECOMMENDATION:

Approve and assign the number next in order.

MOTION:

Move to approve recommendation.

BACKGROUND:

On August 4, 2008, the City Council awarded a Services Agreement for Construction Management and Support Services to Swinerton Management & Consulting ("Swinerton") in conjunction with the Central Library Renovation Project and in the amount of Two Hundred and Three Thousand Dollars ($203,000) (the "Agreement"). On June 16, 2009, the City Council approved the First Amendment to the Agreement, adding construction management services for various other capital improvement projects. The amount of amount to be paid under the Agreement was increased by Eighty Three Thousand Two Hundred and Twelve Dollars ($83,212), for a total of Two Hundred Eighty Six Thousand Two Hundred Twelve Dollars ($286,212).

As part of the FY 2010/11 Budget, the City Council appropriated Three Hundred Twenty Three Thousand Dollars ($323,000) for Construction Management Services, including a contingency to be used o at the City's discretion for additional services not covered in the Agreement.

On August 1, 2011, Swinerton submitted a revised proposal for construction management services to the City that includes a 10% reduction in the Agreement fee.

As part of the FY 2011/12 Budget, the City Council appropriated Two Hundred Ninety and Seven Hundred Dollars ($290,700) for Construction Management Services, including a contingency to be used at the City's discretion for additional services not covered in the Agreement.

On August 16, 2011, the City Council asked staff and legal counsel to review the agreement and explore various contract options.

ANALYSIS:

For the past couple of years, Swinerton has provided outstanding construction management and professional support services to the City of Commerce in connection with the City's Capital Improvement Project (CIP), including the Central Library Renovation.

AGENDA ITEM NO. 19

Swinerton has offered to provide the same level of services for the City's FY 2011/12 Capital Improvement Projects for a reduced contract fee of Two Hundred Fifty Seven Thousand Five Hundred Ninety One Dollars ($257,591).

After careful review of Swinerton's proposal and their performance over the last couple of years, staff is recommending that the City enter into a professional services agreement with Swinerton for Fiscal Year 2011/12. Swinerton will be responsible for providing complete and professional construction management services including: construction management and oversight, coordination, scheduling and tracking, administration, inspection and quality assurance, cost estimating, value engineering, and record keeping for the City's CIP projects.

Currently, Swinerton staff is currently assisting with the following twelve projects (there are several other projects waiting to start):

1.	Central Library, City Hall & Senior Plaza Project	$ 6,600,000
2.	Emergency Operation Center Construction Project	$ 1,333,333
3.	Aquatorium Locker Room Renovation	$ 1,200,000
4.	Safe Route to School Program	$ 572,210
5.	Bus Stops – Citywide (bus shelter project)	$ 500,000
6.	Replace Bus Washer	$ 284,000
7.	26th Street MetroLink Station Improvement Project	$ 250,000
8.	ADA Council Chambers Improvement Project	$ 155,000
9.	Replace Heavy-Lift at Transportation	$ 120,000
10.	Exterior Painting of Transportation Services Center	$ 90,000
11.	Energy Efficiency Upgrades	$ 74,956
12.	Security Camera Project (Bristow Park)	$ 21,000
	ESTIMATED TOTAL VALUE	**$11,200,499**

Based on the 12 projects listed above, the proposed fee for the construction management services is less than 2.5% of the estimated total value. Industry standard is 15 to 25 percent depending on the project size, scope and complexity.

The City Council desires to implement and adequately complete the above projects and the many others on the Capital Improvement Project Budget. In order to achieve this goal, it is essential that the City Council consider funding and continuing the Agreement with Swinerton at its current level services (5 days a week).

FISCAL IMPACT:

Swinerton has offered to provide the requested services for a contract fee of Two Hundred Fifty Seven Thousand Five Hundred Ninety One Dollars ($257,591), which is 10% lower than the fees charged for the same services during the previous fiscal year. Staff is recommending a contingency allocation of Thirty Three Thousand One Hundred and None Dollars ($33,109) (approximately 13% of the total fee) for unforeseen and additional services, for a total amount of Two Hundred Ninety Thousand Seven Hundred Dollars ($290,700). The contingency will only be utilized at the City's discretion for unexpected and necessary additional services.

The proposed activity can be carried out at this time without additional impact on the current operating budget. Funding will be provided as follows:

CIP Funds	$164,700
Central Library Project	$ 90,000
PTMISEA (Transportation)	$ 36,000
TOTAL	**$290,700**

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."*

There are no specific objectives connected to this issue. The City's ability to adequately maintain its infrastructure through the implement the Capital Improvement Project is of paramount importance to the community within the context of the FY 2010/2011 approved budget and available resources is in keeping with the identified 2009 Strategic Goals.

Respectfully submitted,

Jorge Rifa
City Administrator

Recommended by:

Bob Zarrilli
Director of Community Development

Prepared by:

Danilo Batson
Assistant Director of Public Services

Reviewed by:

Vilko Domic
Director of Finance

Approved As To Form:

Eduardo Olivo
City Attorney

File: 2011 City Council Agenda Reports
Resolution Approving Services Agreement for Construction Management Services – Agenda Reports (Swinerton)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMMERCE, CALIFORNIA, APPROVING A PROFESSIONAL SERVICES AGREEMENT FOR CONSTRUCTION MANAGEMENT SERVICES WITH SWINERTON MANAGEMENT AND CONSULTING

WHEREAS, as part of the Fiscal Year 2011/12 Capital Improvement Project (CIP) Budget, the City Council approved funds for construction management services; and

WHEREAS, Swinerton Management and Consulting is qualified to perform the requested services and has provided outstanding services to the City in the last couple of years;

WHEREAS, Swinerton Management and Consulting has offered to provide the requested services at a 10% reduced price of $21,465.92 per month or $257,591 per year.

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

Section 1. The City Council hereby approves the Services Agreement with Swinerton Management and Consulting in connection with the FY 2011/12 Capital Improvement Project in the City of Commerce.

Section 2. That a project contingency of thirteen (13%) or $33,109 be set aside for this project, for additional services at the City's discretion.

Section 3. That the Mayor is hereby authorized and directed on behalf of the City of Commerce to execute the Agreement.

PASSED, APPROVED AND ADOPTED this_____ day of _____, 2011.

_____
Joe Aguilar
Mayor

ATTEST:

_____
Linda Kay Olivieri, MMC
City Clerk

THIS AGREEMENT (the "Agreement") dated as of _____, 2011 (the "Effective Date") is made by and between Swinerton Management and Consulting ("Consultant") and the City of Commerce, a municipal corporation (the "City").

RECITALS

WHEREAS, Consultant represents that it is specially trained, experienced and competent to perform the special services that will be required by this Agreement; and

WHEREAS, Consultant is willing to render such Services, as hereinafter defined, on the terms and conditions below.

AGREEMENT

1. Scope of Services and Schedule of Performance.

Consultant shall perform the construction management services (the "Services") set forth in Exhibit A, which is attached hereto and incorporated herein by this reference, in accordance with the schedule set forth therein.

2. Term.

Except as otherwise provided by Section 20 hereof, the term of this Agreement shall be for a period commencing on the Effective Date until October 31, 2012.

3. Compensation.

So long as Consultant is discharging its obligations in conformance with the terms of this Agreement, Consultant shall be paid a fee by the City in accordance with the fee schedule set forth in Exhibit A and with the other terms of this Agreement. The fees payable hereunder shall be subject to any withholding required by law.

Such fees shall be payable following receipt of an itemized invoice for services rendered. Consultant shall send and address its bill for fees, expenses, and costs to the City to the attention of the City Administrator. The City shall pay the full amount of such invoice; provided, however, that if the City or its City Administrator object to any portion of an invoice, the City shall notify Consultant of the City's objection and the grounds therefore within thirty (30) days of the date of receipt of the invoice; the parties shall immediately make every effort to settle the disputed portion of the invoice.

4. Financial Records.

Consultant shall maintain complete and accurate records with respect to fees and costs incurred under this Agreement. All such records shall be maintained on a generally accepted accounting basis and be clearly identified and readily accessible. Consultant shall keep, maintain and provide free access to such books and records to examine and audit the same, and to make transcripts thereof as necessary, and to allow inspection of all work data, documents, proceedings

and activities related to this Agreement for a period of three years from the date of final payments under this Agreement. All accounting records shall readily provide a breakdown of fees and costs charged to this Agreement.

5. Independent Contractor.

Consultant is and shall perform its services under this Agreement as a wholly independent contractor. Consultant shall not act nor be deemed an agent, employee, officer or legal representative of the City. Consultant shall not at any time or in any manner represent that it or any of its agents, employees, officers or legal representatives are in any manner agents, employees, officers or legal representatives of the City. Consultant has no authority to assume or create any commitment or obligations on behalf of the City or bind the City in any respect. This Agreement is not intended to and does not create the relationship of partnership, joint venture or association between the City and Consultant. None of the foregoing shall affect any privilege or protection against disclosure which applies to the services Consultant undertakes under this Agreement.

6. Consultant to Provide Required Personnel; Subcontracting.

Consultant shall provide and direct the necessary qualified personnel to perform the Services required of, and from, it pursuant to the express and implied terms hereof, with the degree of skill and judgment normally exercised by recognized professional firms performing services of a similar nature at the time the Services are rendered, and to the reasonable satisfaction of the City.

Consultant may not have a subcontractor perform any Services except for the subcontractors identified in Exhibit A as such. Such identified subcontractors shall perform only those Services identified in Exhibit A as to be performed by such subcontractor. All labor, materials, fees and costs of such identified subcontractors shall be paid exclusively by Consultant. No subcontractors may be substituted for any of the identified subcontractors except with the prior written approval of the City Administrator.

7. Responsible Principal and Project Manager.

Consultant shall have a Responsible Principal and a Project Manager who shall be principally responsible for Consultant obligations under this Agreement and who shall serve as principal liaison between the City and Consultant. Designation of another Responsible Principal or Project Manager by Consultant shall not be made without the prior written consent of the City. The names of the Responsible Principal and the Project Manager are listed in Exhibit A.

8. City Liaison.

Consultant shall direct all communications to the City Administrator or his designee. All communications, instructions and directions on the part of the City shall be communicated exclusively through the City Administrator or his designee.

9. Licenses.

Consultant warrants that it and its employees have obtained all valid licenses and/or certifications generally required of professionals providing services such as the Services, by all applicable regulating governmental agencies, and are in good standing with such applicable regulating governmental agencies.

10. Compliance with Laws.

Consultant shall, and shall ensure that its employees and its subcontractors, if any, comply with all applicable city, county, state, and federal laws and regulations (including occupational safety and environmental laws and regulations) in performing the Services and shall comply with any directions of governmental agencies and the City relating to safety, security, and the like.

11. Insurance.

Consultant shall maintain insurance and provide evidence thereof as required by Exhibit B hereto (the "Required Insurance") which is attached hereto and incorporated herein by this reference, for the term provided herein.

12. Warranty and Liability.

Consultant warrants that the Services provided under this Agreement will be performed with the degree of skill and judgment normally exercised by recognized professionals performing services of a similar nature at the time the services were rendered. Consultant shall be liable for injury or loss caused by the negligence of, or breach of this warranty by Consultant, its employees, its subcontractors, if any, and/or its agents hereunder. This warranty survives the completion and/or termination of this Agreement.

13. Indemnification.

Consultant shall indemnify and hold the City and their respective officials, officers, agents and employees harmless from and against any and all liabilities, losses, damages, costs and expenses the City and their respective officials, officers, agents and employees hereafter may suffer in connection with any claim, action, or right or action (at law or in equity) because of any injury (including death) or damage to person or property proximately caused by any negligent acts, errors, or omissions by Consultant, its employees, its subcontractors or its agents in the performance of the Services hereunder. Consultant shall not be liable to the extent that any liability, loss, damage, cost, and expense is caused solely from an act of negligence or willful misconduct by the City or its respective officials, officers, employees or agents. Upon demand, Consultant shall promptly provide a defense to such claims, actions or right of action (at law or equity) and shall promptly pay for all associated and resulting costs, damages, settlements, penalties, judgments, fees and expenses, including attorneys' fees and costs.

14. Confidentiality.

Consultant shall maintain as confidential and not disclose to others, either before or after the termination of this Agreement, any data, documents, reports, or other information provided to Consultant by the City, or employees or agents of the City, or any data, documents, reports, or other information produced by Consultant during its performance hereunder, except as expressly authorized in writing by the City, or to the extent required for: (1) compliance with professional standards of conduct for the preservation of the public safety, health, and welfare, but only after Consultant notifies the City of such need for disclosure; and (2) compliance with any court order or other government directive or requirement, but only after Consultant notifies the City of such an order, directive, or requirement. Consultant shall keep all "Confidential" materials received or generated under this Agreement in separate files marked "Confidential." Any non-compliance by Consultant with this part of the Agreement shall be deemed a material breach of this Agreement. The obligations of this paragraph shall survive the termination of this Agreement.

15. Ownership of Documents.

All original documents, designs, drawings, methodological explanations, computer programs, reports, notes, data, materials, services and other products prepared in the course of providing the Services (collectively, "Products") shall become the sole property of the City and the City shall have authority to publish, disclose, distribute, use, reuse or disposed of the Products in whole or in part, without the permission of Consultant. In the event that this Agreement is terminated by the City, Consultant shall provide the City with any finished or unfinished Products. No documents, designs, drawings, methodological explanations, computer programs, reports, notes, data, materials, services and other products prepared in whole or in part under this Agreement shall be the subject of an application for copyright or submitted for publication by or on behalf of Consultant. Notwithstanding such ownership, Consultant shall be entitled to make and obtain copies or reproductions of such Products for its own files or internal reference.

16. Data and Services to be Furnished by the City.

All information, data, records, reports and maps as are in possession of the City, and necessary for the carrying out of this work, shall be made available to Consultant without charge. The City shall make available to Consultant, members of the City's staff for consultation with Consultant in the performance of this Agreement. The City does not warrant that the information data, records, reports and maps heretofore to be provided to Consultant are complete or accurate; Consultant shall satisfy itself as to such accuracy and completeness. The City and Consultant agree that the City shall have no liability should any of the information, data, records, reports, and maps be inaccurate, incomplete or misleading.

17. Covenant against Contingent Fees.

Consultant warrants that it has not employed or retained any company or person to solicit or secure this Agreement and that it has not paid or agreed to pay any company or person any fee, City or percentage from the award or making of this Agreement, except for subcontractors

listed in this Agreement. For breach or violation of this warranty, the City shall have the right, among other available legal remedies, to terminate this Agreement without liability, or in its discretion, to deduct from the consideration payable to Consultant, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

18. Conflict of Interest.

Consultant covenants that neither it nor any officer or principal of its firm have any interests, nor shall they acquire any interest, directly or indirectly which will conflict in any manner or degree with the performance under this Agreement. Consultant further warrants its compliance with the Political Reform Act (Government Code § 81000, *et seq.*) and all other laws, respecting this Agreement and that no Services shall be performed by either an employee, agent, or a subcontractor of Consultant, who has a conflict relating to the City or the performance of Services on behalf of the City.

19. Other Agreements.

Consultant warrants that it is not a party to any other existing agreement that would prevent Consultant from entering into this Agreement or that would adversely affect Consultant's ability to perform the Services under this Agreement. During the term of this Agreement, Consultant shall not, without City's prior written consent, perform services for any person, firm, or corporation other than City if such services could lead to a conflict with Consultant's obligations under this Agreement.

20. Termination.

This Agreement may be terminated, prior to the expiration of its term, only in the following manner:

a. by the written mutual agreement of the parties hereto; or

b. by the City, with or without cause, upon 5 days written notice to Consultant pursuant to Section 25 of this Agreement.

Upon receipt of a notice of termination, Consultant shall immediately cease all work and promptly deliver to the City the work product or other results obtained by Consultant up to that time. In the event of termination without cause by the City, the City shall pay Consultant for work completed prior to the date of such termination (based on the percentage of the overall work satisfactorily completed by Consultant in relation to the work required by the entire Agreement or the hours worked by Consultant, as applicable), provided such work is in a form usable by the City.

21. Waiver of Breach.

No waiver of any term, condition or covenant of this Agreement by the City shall occur unless signed by the City Administrator and such writing identifies the provision which is waived and the circumstances or period of time for which it is waived. Such waiver shall be for

the specified period of time only and shall not apply to any subsequent breach. In addition, such waiver shall not constitute a waiver of any other term, condition or covenant of this Agreement nor shall it eliminate any remedies available to the City for any breaches of this Agreement which are not excused by such waiver. A delay in communicating a failure of Consultant to satisfy a term, condition or covenant in no way waives that term or any remedies available for its breach.

22. Assignment.

Neither this Agreement nor any rights or obligations hereunder may be assigned or otherwise transferred by Consultant, nor shall this Agreement inure to the benefit of any trustee in bankruptcy, receiver, or creditor or Consultant, whether by operation of law or otherwise, without the prior written consent of the City which may be withheld in its sole discretion. Any attempt to so assign or transfer this Agreement or any rights or obligations hereunder without such consent shall be void and of no effect.

23. Arbitration.

If any dispute arises out of or relates to this Agreement, or the breach thereof, and if such a dispute cannot be settled through direct discussions, the parties agree to settle any disputes involving only monetary amounts less than $100,000 by binding arbitration pursuant to the rules of the American Arbitration Association by an arbitrator sitting in Los Angeles County.

24. Attorneys' Fees.

In the event an arbitration or a judicial proceeding is brought to enforce the terms of this Agreement, the prevailing party shall be entitled to recover from the other party its reasonable costs and attorneys' fees incurred in connection therewith.

25. Notices.

Notices provided hereunder shall be delivered by certified First Class U.S. Mail, postage prepaid, or by personal service as required in judicial proceedings, directed to the address provided below:

For the City:
City of Commerce
2535 Commerce Way
Commerce, California 90040
Attn: City Administrator

For Consultant:
Swinerton Management & Consulting
865 S. Figueroa Street, Suite 3000
Los Angeles, California 90017
Attn: Emery Molnar, Vice President/Division Manager

Notice shall be deemed received three days after its mailing to the above address or upon actual receipt as indicated by return receipt, whichever is earlier. Personal service shall be deemed received the same day personal delivery is effected.

26. Governing Law.

The validity, performance and construction of this Agreement shall be governed by and interpreted in accordance with the laws of the State of California applicable to contracts made to be performed therein. Any litigation commenced by either party to this Agreement shall be venued in Los Angeles County, California.

27. Severability.

Should any part of this Agreement be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect, provided that the remainder of this Agreement, absent the unexercised portion, can be reasonably interpreted to give effect to the intentions of the parties.

28. No Construction of Agreement against any Party.

Each party has cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made of this Agreement, it shall not be construed against any party on the basis such party drafted this Agreement or any provision thereof.

29. Entire Agreement and Amendments to Agreement.

This Agreement contains the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersedes all previous communications, negotiations, and agreements, whether oral or written, between the parties with respect to such subject matter, and no addition to or modification of this Agreement or waiver of any provisions of this Agreement shall be binding on either party unless made in writing and executed by Consultant and the City.

30. No Representations Except as Expressly Stated in this Agreement.

Except as expressly stated in this Agreement, no party, nor its employees, agents or attorneys have made any statement or representation to any other party or its employees, agents or attorneys regarding any fact relied upon in entering into this Agreement, and each party does not rely upon any statement, representation and/or promise of any other party, its respective employees, agents or attorneys in executing this Agreement.

31. Counterpart Signatures.

This Agreement may be executed in one or more counterparts. When this Agreement has been properly signed by an authorized representative of each of the parties hereto, it shall constitute a valid Agreement, though each of the signatories may have executed separate counterparts hereof.

IN WITNESS WHEREOF, the parties hereto have each executed or caused to be executed this Agreement as of the Effective Date.

CITY OF COMMERCE

DATED: _____, 2011

By: _____
Joe Aguilar, Mayor

ATTEST:

_____
Linda K. Olivieri, City Clerk

CONSULTANT

DATED: Oct 11, 2011

By: _____
Name: Emery Molnar
Title: Vice President/Division Manager

APPROVED AS TO FORM

_____
By: Eduardo Olivo
Title: City Attorney

EXHIBIT A

October 11, 2011

Mr. Danilo R. Batson
Assistant Director of Public Services
City of Commerce
2535 Commerce Way
City of Commerce, CA 90040

RE: Revised Proposal for Construction Management & Project Support Services

Dear Mr. Batson:

We are pleased to submit our proposal for ongoing Construction Management (CM) and Project Support Services for the City of Commerce. As you know, we have been providing project/construction management services to the City for the Central Library Renovation, the Aquatorium Locker Room Renovation, and various additional capital improvement projects, with Michael Halsey as the Swinerton Management & Consulting Project Manager for these projects.

Swinerton Management & Consulting's contract time expired at the end of March 2011; however, funding has been provided for continued services. The Library Renovation Project is anticipated to begin construction in early 2012. At the request of City staff, Swinerton is proposing to extend our services for a term of one year from November 2011 through October 2012 with Michael Halsey to remain as the onsite Project Manager for the foreseeable future. He will also be available to assist the City with various other capital improvement projects without overburdening the fee proportion of any one project.

During 2009 and at the request of the City of Commerce, Swinerton Management & Consulting reduced their fee for services by 10%.

Currently, Swinerton Management & Consulting is billing the City of Commerce at a discounted rate of $23,851 a month for construction management services. Swinerton would like to maintain a strong working relationship with the City of Commerce far into the future and would like to offer an additional discount for our services.

<u>2011/2012 SERVICE AGREEMENT</u>
12 Month - Full Time Project Management Services (including previous discounts).....$286,212
Additional 2011 10% Discount.....($28,621)

2011-2012 Total for Project/Construction Management Services.....<u>$257,591</u>

Monthly Billing Total.....<u>$21,465.92</u>

Swinerton Management & Consulting's services will be invoiced monthly and will only bill the City of Commerce for work completed to date. If the contract between the City of Commerce and Swinerton Management & Consulting is terminated prior to the expiration of the term of the contract, by mutual agreement or by the request of the City of Commerce, Swinerton Management & Consulting will honor the provisions as set forth in Section 20 of the agreement between Swinerton Management & Consulting and the City of Commerce regarding termination. In the event of termination, Swinerton Management & Consulting will only invoice the City of Commerce for work completed prior to the date of termination and not for the entire term of the contract.

This extension of services through October 2012 will allow Swinerton to continue providing uninterrupted services on the Library Renovation, Aquatorium Locker Room, ADA Upgrades, Council Chambers, 26th Street MetroLink Station Improvements, Bus Shelter Project, Energy Efficiency Upgrades, Painting of Transportation Services Center, and various other capital improvement projects for the City.

If additional services (document controls, detailed scheduling services, facilities assessments, feasibility studies, etc.) are required, Swinerton will submit a detailed fee proposal for the City of Commerce's consideration.

We are excited about the opportunity to continue to provide services for our trusted partner, The City of Commerce, and will be happy to provide any additional information that may be needed.

Sincerely,

Emery Molnar
Vice President/ Division Manager

EXHIBIT B

REQUIRED INSURANCE

On or before beginning any of the Services called for by any term of this Agreement, Consultant, at its own cost and expense, shall carry, maintain for the duration of this Agreement, and provide proof thereof that is acceptable to the City of its procurement of the insurance specified below from insurers and under forms of insurance satisfactory in all respects to the City. Consultant shall not allow any subcontractor to commence work on any subcontract under this Agreement until all insurance required of Consultant have also been obtained for the or by the subcontractor. Such insurance shall not be in derogation of Consultant's obligations to provide indemnity under Section 14 of this Agreement.

1. Comprehensive General Liability and Automobile Liability Insurance Coverage.

Consultant shall carry and maintain Comprehensive General Liability and Automobile Liability Insurance which provides the following:

Minimum coverage: Bodily injury limits of $1,000,000 for each person and $2,000,000 for each occurrence; property damage limits of $500,000 for each occurrence, $2,000,000 aggregate.

If a Commercial General Liability Insurance form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned real property and automobiles. Insurance coverage shall not be subject to any type of pollution exclusion or owned property exclusions.

2. Errors and Omissions Insurance Coverage.

Consultant shall carry and maintain Errors and Omissions Coverage Insurance which provides a minimum coverage of at least $1,000,000 for each occurrence, $2,000,000 aggregate, triggered by manifestation of injury.

3. Worker's Compensation.

Consultant shall carry and maintain worker's compensation as required by the California Labor Code for all persons employed directly or indirectly in connection with this Agreement by Consultant or any subcontractor.

4. Additional Insureds.

The City, its officers, agents and employees must be named as additional insureds or as additional loss payees in all insurance policies required by this Agreement. An endorsement to

this effect shall be delivered to the City prior to the commencement of any work. Satisfaction of any deductible requirement shall be the responsibility of Consultant.

5. Cancellation Clause.

Each of the policies of insurance shall contain a clause substantially as follows:

> It is hereby understood and agreed that this policy may not be canceled nor the amount of the coverage thereof be reduced until 30 days after receipt by the City Administrator of the City of Commerce of the written notice of such cancellation or reduction of coverage, as evidenced by receipt of a certified letter.

6. Severability Clause.

Each of the policies of insurance shall contain a clause substantially as follows:

> The insurance afforded by this policy applies separately to each insured against whom a claim or suit is made or suit is brought, except with respect to the limit of the insurer's liability.

7. Qualifications of Insurer.

All policies of insurance shall be issued by an insurance company acceptable to the City and authorized to issue said policy in the State of California.

8. Approval of Insurer.

The insurance carrier providing the insurance shall be chosen by Consultant subject to approval by the City, provided that such approval shall not be unreasonably withheld.

9. Payment of Premiums.

All premiums on insurance policies shall be paid by Consultant making payment, when due, directly to the insurance carrier, or in a manner agreed to by the City.

10. Evidence of Insurance and Claims.

The City shall have the right to hold the policies and policy renewals, and Consultant shall promptly furnish to the City all renewal notices and all receipts of paid premiums. In the event of loss, Consultant shall give prompt notice to the insurance carrier and the City. The City may make proof of loss if not made promptly by Consultant.

AGENDA REPORT

DATE: 10/18/2011

TO: Honorable City Council and Community Development Commission

FROM: City Administrator/Executive Director

SUBJECT: REPORT ON LEGISLATIVE ITEMS

RECOMMENDATION:

Council/Commission discretion.

MOTION:

Council/Commission discretion.

BACKGROUND

From time to time, legislation is considered by the State Legislature that affects local government and redevelopment agencies.

ANALYSIS:

The Council and Commission will receive an update on, and be requested to take the appropriate action with respect to, legislative items of concern to the City and Commission.

Staff recommends the Council and Commission direct staff to work with organizations such as the League of California Cities in reviewing proposed legislation and legislative issues and making recommendations concerning the City's position to the Council and Commission. The positions adopted by the Council and Commission will direct the City's lobbying efforts during the 2011 Legislative Session.

FISCAL IMPACT:

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

STRATEGIC GOALS:

The recommendation before the City Council is applicable to the following Council strategic goal:

"Protect and Enhance Quality of Life in the City of Commerce"

Though the item has no specific objective related to this recommendation, it is connected to the City's interest to protect and enhance the quality of life of the community.

Respectfully submitted,

Jorge J. Rifá
City Administrator/Executive Director

AGENDA ITEM NO. 20