



CITY OF COMMERCE AGENDA REPORT

TO: Honorable City Council **Item No. _____**

FROM: City Manager

SUBJECT: SECOND READING AND ADOPTION OF ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COMMERCE AMENDING TITLE 12 (STREETS AND SIDEWALKS) OF THE CITY OF COMMERCE MUNICIPAL CODE BY ADDING CHAPTER 12.05, "ESTABLISHING REGULATIONS OF STREET CUTS ON NEWLY PAVED STREETS"

MEETING DATE: MAY 5, 2020

RECOMMENDATION:

1. City Council waive full reading and by reading the title only undertake the second reading and adoption of the attached Ordinance, Amending Title 12 of the City Municipal Code by adding Chapter 12.05, "Establishing Regulations of Street Cuts on Newly Paved Streets."
2. Authorize the City Manager to execute attached side letter of agreement in order to address concerns raised by So Cal Gas.

ACTIONS TAKEN SINCE APRIL 7 FIRST READING OF ORDINANCE:

At the April 7, 2020 City Council meeting the City Council approved the introduction and first reading of the Ordinance, Amending Title 12 of the City Municipal Code by adding Chapter 12.05, "Establishing Regulations of Street Cuts on Newly Paved Streets", subject to certain oral amendments made by councilmembers at the conclusion of the Public Hearing. The attached proposed Ordinance reflects the oral amendments requested by City Council. The amendments made to the subject Ordinance are highlighted in yellow in Attachment 1. The proposed changes have been reviewed and approved by City Attorney's office.

During the April 21, 2020 City Council meeting, a letter submitted by So Cal Gas was read during public comment indicating the City's proposed ordinance would infringe upon certain rights negotiated and contained in So Cal Gas' Franchise Agreement with the City. As a result, at the request of the City Council, this item was continued and

direction was provided to bring this item back to the regularly scheduled City Council meeting on May 5, 2020.

Based on the City Council's direction, staff has worked closely with So Cal Gas representatives to address their concerns. In addition, staff has reviewed numerous street cut ordinances and corresponding franchise agreements to ensure the City's proposed ordinance is in concert with the industry standard.

Staff's research indicates many cities with street cut regulations have either franchise or license agreements which provide rights for their use of the public right of way based on encroachment permits and other conditions. City of Los Angeles, Huntington Park, Montebello, Whittier, Cerritos, Covina, South Pasadena etc. are examples of cities with street cut regulations. A summary table of cities is provided as Attachment 3. The table summarizes each of the city's exemptions and pavement restoration requirements in comparison to the City of Commerce.

In effort to develop and strengthen utility partnerships and to enhance utilities coordination and scheduling of their work in advance of any street improvements, staff will implement a quarterly or semiannual utility meeting to share our new street improvement projects and new developments. This notification will allow utilities to get their facilities repairs scheduled to meet street cut regulations.

City staff is also requesting as part of Recommendation 2, that the City Council authorize the City Manager to execute a side letter of agreement with So Cal Gas. The side letter is attached to this report as Attachment 2. The material term of the Side Letter was proposed by So Cal Gas and was not revised by the City. The City included a six-month term with the opportunity to execute unlimited six-month extensions. As of the posting of this agenda, So Cal Gas has not provided feedback regarding the City's proposed six-month term.

BACKGROUND AND ANALYSIS:

As presented to the City Council in the April 7, 2020 staff report the following information is provided again to provide rationale as to the purpose and justification for the recommendation made by staff. Below the previously provided information, staff provides additional information as it relates to the direction provided by the City Council.

PURPOSE AND JUSTIFICATION OF RECOMMENDED ACTION

Public Works staff is currently in the process of integrating the Pavement Management System (PMS) to properly evaluate the City's pavement network utilizing the Pavement Condition Index (PCI) as a numerical index between 0 and 100 that indicates the general condition of the City's roadways. Widely used in civil engineering, it is a statistical measure requiring the survey of the pavement condition.

To minimize and mitigate pavement degradation from the consequences of utility cuts to newly reconstructed or resurfaced streets, staff recommends adoption of the proposed Ordinance regulating the establishment of time periods to prohibit pavement excavations and utility cuts of newly paved streets in the public rights-of-way. This prohibition will include and apply to street overlays, resurfacing, reconstruction, slurry seal and new construction qualified under the Capital Improvement and maintenance projects. The proposed regulation will apply to newly reconstructed or resurfaced streets with Asphalt-Concrete (A.C.) or Portland Cement Concrete (P.C.C.). The proposed Ordinance will establish regulations prohibiting cuts for five (5) years on the newly paved streets, and two (2) years for slurry sealed streets.

The City's Public Works Department has concluded that street cuts and excavations, including utility cuts, significantly alter and degrade pavement surfaces impacting the structural integrity of the street. It is the City's responsibility to ensure that the public's interest with respect to the integrity, appearance, ride-ability, and structural integrity of all newly paved surfaces, as well as slurry sealed streets, stay intact. State law permits municipalities to regulate utilities that operate under the California Public Utilities Commission (PUC) authority with respect to the use and repair of public streets. In this regard, cities will have the ability to plan maintenance programs, protect public safety, minimize public inconvenience and ensure adherence to sound construction practices. Indicators of street degradation point to streets with multiple cuts caused by uncoordinated construction, shortening the life of the streets and therefore causing increased taxpayer costs.

The proposed Ordinance provides the Public Works Director, in consultation with the City Engineer or the City's contract engineer, or City Engineer, the discretion to grant exemptions to the proposed regulations based on limited circumstance. When granting exemptions, the Public Works Director, in consultation with the City Engineer or the City's contract engineer, or City Engineer, may impose conditions determined appropriate to ensure the rapid and complete restoration of the street and the surface paving to protect the City's investment. Emergency street cuts of the city streets are an example of exemptions to the proposed regulations and are usually granted where there is some condition that places the public's health and safety at risk. In the event of an emergency repair of subsurface facilities, for example, a gas or water main leak, it will occasionally be necessary to cut or trench into a newly paved street that has been paved within the past five (5) years or slurry sealed within the past two (2) years. In summary, exemptions to the proposed street cut regulations as delineated in the proposed Ordinance as follows:

1. Emergency that threatens life or serious property damage.
2. Work that is mandated by a federal, state, or local law.
3. No other reasonable means of providing service exists.
4. For any public utility possessing a franchise from the City and acting in accordance with the said franchise.
5. Other situation deemed to be in the public interest.

In terms of street cut repair standards, when trench cuts do take place, the extent of the pavement restoration length and width will depend on the location of the trench and its placement (horizontal or vertical) in relation to the parking, bike and travel lanes. A single lane that is impacted will have full pavement restoration for the width of the lane to the edge of the curb. If multiple lanes are impacted, the full width of those lanes to the nearest curb is required. Given the location and the extent of the trench repair, consideration may be given for restoration only to the center of a lane(s). Impacted bike lanes will be restored in their entirety. Work in the public right of way will be by permit pursuant to requirements of Ordinance No. 3597 of the County of Los Angeles, as adopted by reference by the City of Commerce Municipal Code.

ENVIRONMENTAL IMPACT:

None. The proposed Ordinance is exempt from the requirement of CEQA.

FISCAL IMPACT:

Approval of the recommended action will have no adverse fiscal impact to the General Fund. Some cost savings may be realized from this Ordinance as street integrity will be maintained and preserved.

RELATIONSHIP TO STRATEGIC GOALS:

This item relates to Council's 2016 Strategic Action Plan's:

Community Quality of Life

- Guiding Principle 4 to "support and evaluate community services, programs and events that promote healthy and quality lifestyles for our residents. Enhance public safety and social services through innovative programs that meet the needs of the residential and business communities."

Recommended by:	Daniel Hernandez, Director of Public Works
Prepared by:	Belgin Cuhadaroglu, Associate Civil Engineer
Reviewed by:	Daniel Hernandez, Director of Public Works
Approved as to form by:	Noel Tapia, City Attorney
Respectfully submitted:	Edgar P. Cisneros, City Manager

ATTACHMENTS:

1. Ordinance
2. Side Letter of Agreement with So Cal Gas
3. City Ordinance Summary Table