



CITY OF COMMERCE AGENDA REPORT

TO: Honorable City Council

Item No. _____

FROM: City Manager

SUBJECT: A Resolution Approving and Adopting a Memorandum of Understanding (MOU) between the City of Commerce and the County of Los Angeles for Lead-Based Paint Hazard Mitigation Program Management Services

MEETING DATE: July 7, 2020 (Item tabled during June 16, 2020 meeting)

RECOMMENDATION:

Approval and adoption of a resolution authorizing the City Manager to sign the Memorandum of Understanding (MOU) between the City of Commerce and the County of Los Angeles for Lead-Based Paint Hazard Mitigation Program Management Services with the requested indemnification provisions included.

BACKGROUND AND ANALYSIS:

The Exide Technologies Inc. recycling plant located at 2700 South Indiana Avenue in the City of Vernon was in operation for numerous years. It was a lead-acid battery recycling facility that specialized in the melting and processing of battery cores. In April 2013, the Department of Toxic Substances (DTSC) suspended Exide's operations in the City of Vernon and revoked operation permits after receiving concerning reports regarding airborne emissions from Exide's operations and ongoing subsurface releases from degraded underground pipes. DTSC concluded that Exide was releasing hazardous waste into the soil, including the soil of surrounding communities. As a result, the Exide plant permanently closed in 2015.

As part of its settlement of a lawsuit related to the Aliso Canyon natural gas leak, Southern California Gas Company will make various payments to the County of Los Angeles. One of those payments is for the mitigation of lead-based paint hazards from the interior and exterior of residential structures in the communities surrounding the now closed Exide Technologies, Inc. Through the use of said funds, the Los Angeles County Development Authority (LACDA) has established the Lead-Paint Safe Program for assistance with lead mitigation services for homes within the cities of Commerce, Bell, Maywood, Huntington Park, Los Angeles, Vernon, and unincorporated areas of East Los Angeles. The program includes activities such as, repairing and painting damaged areas inside and/or the outside of residences, replacing windows and doors, and other related repairs. The activities performed for this program will be coordinated with DTSC to ensure properties are

targeted for enrollment after completion of the soil removal and mitigation activities conducted by DTSC.

As part of the proposed MOU, LACDA staff will be responsible for the program administration, implementation, oversight and final inspections/clearances of the mitigated properties. The City would authorize LACDA staff to transact all business related to the Lead-Paint Safe Program within the City's jurisdiction. Some of the program services to be undertaken by LACDA will include outreach to ensure enrollment of residential properties into the program and testing and mitigation, as required, of any lead-based paint hazards. In addition, individuals and families may be relocated and receive case management services while the mitigation activities are underway.

During the June 16, 2020 City Council meeting, Council tabled this item due to concerns regarding the indemnification provision in the MOU not being in a form acceptable to the City Attorney, specifically the language stating that the City shall be responsible for and shall defend and hold harmless and indemnify the County of Los Angeles. The City's legal counsel initially requested a revision that would allow the indemnification of both parties, however, the County rejected the proposed revision. During the meeting, City Council directed staff to reach out to the LACDA executive team to request that the County reconsider the indemnification provisions and incorporate language that would allow the indemnification of both parties. In a favorable response to the City's request, the County agreed to revise the MOU to include the indemnification clause that addresses the request made by the City Attorney's Office.

In addition, during the meeting City Council also requested a list of participating cities that have already executed the Lead-Paint Safe Program MOU. LACDA staff informed us that to date, the cities of Maywood, Bell, Huntington Park, and unincorporated East Los Angeles have executed MOUs.

ALTERNATIVES:

1. Approve staff recommendation
2. Decline staff recommendation
3. Provide further direction

FISCAL IMPACT:

Approval of the MOU has no immediate fiscal impact. Financial obligations arising from the MOU will be presented to the City Council for review and consideration at a future date.

RELATIONSHIP TO STRATEGIC GOALS:

The proposed action supports the *Community Quality of Life* focus area under the following Guiding Principle:

Guiding Principle 5: Foster environmentally conscious initiatives and continue to identify and develop city codes that support a clean, well-maintained, sustainable community.

Reviewed by: Josh Brooks, Acting Finance Director

Approved as to form: Noel Tapia, City Attorney
Respectfully submitted: Edgar P. Cisneros, City Manager

ATTACHMENTS:

1. Resolution
2. Memorandum of Understanding