

RESOLUTION 19 - 11

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMMERCE APPROVING AN AGREEMENT FOR THE TEMPORARY CLOSURE OF STATE RIGHT OF WAY; AND SETTING AN EFFECTIVE DATE.

A regular meeting of the City Council of the City of Commerce, Texas was held in Commerce, Texas at City Hall, on the 19th of March, 2019 at 6:00 p.m., a majority of council members being present and constituting a quorum, the following resolution was adopted”

WHEREAS, the Commerce Independent School District and Commerce – Community Action Program will be hosting a joint event on April 13, 2019 in downtown Commerce; and

WHEREAS, City Staff requests approval of the temporary closure of the following segments of State Right of Way for the April 13, 2019 Event as follows:

Business 224, through downtown, along Main Street from Park Street to Washington, ending at Caddo Street for the purpose of a Commerce ISD Bike Rodeo, “Drive for Your School” and “Taste of Commerce” events.

WHEREAS, the agreement is valid for April 13, 2019.

WHEREAS, the City Council believes temporary closure of the aforementioned streets is in the best interest of the citizens of Commerce.

NOW, THEREFORE, BE IT RESOLVE BY THE CITY COUNCIL OF THE CITY OF COMMERCE, TEXAS:

SECTION 1. The City Council of the City of Commerce, Texas, hereby authorizes the City Manager to enter into an agreement with the Texas Department of Transportation for the temporary street closure for a segment of the State Highway system as more fully described above.

SECTION 2. That is any section, provision, subsection, paragraph, sentence, clause, phrase or word in this Resolution thereof to any person or circumstances is held invalid by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Resolution, and the City Council of the City of Commerce, hereby declares it would have enacted such remaining portions, despite such invalidity.

SECTION 3. This resolution shall be in full force and effective immediately.

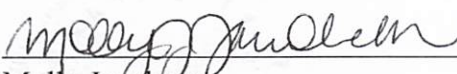
BE IT FURTHER RESOLVED that the Mayor of the City of Commerce, Texas, be authorized and he is hereby authorized to execute this Resolution; and that the City Manager be authorized to execute agreement and all instruments requisite in implementing this resolution.

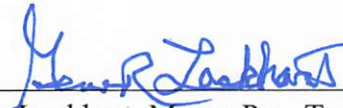
BE IT FURTHER RESOLVED that the City Secretary be authorized and she is hereby authorized to attest to the signature of the Mayor to this resolution, and to attest to the signature of the City Manager to any instruments requisite to implementing this Resolution.

PASSED BY THE GOVERNING BODY of the City Council of the City of Commerce, Texas on the 19th day of March, 2019.

ATTEST:

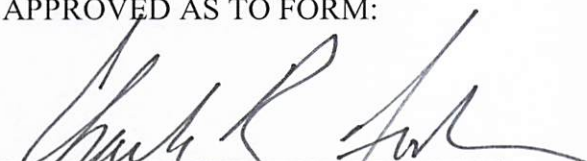
CITY OF COMMERCE, TEXAS


Molly Jacobsen,


Gene Lockhart, Mayor Pro- Tem

(seal)

APPROVED AS TO FORM:


Charles Anderson, City Attorney

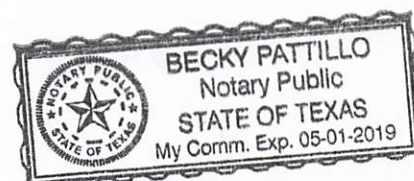
I, Molly Jacobsen, City Secretary of the City of Commerce, do hereby certify that the above is true and correct copy of a resolution and that the same has not been repealed and is in full force and effect.

(seal)


Molly Jacobsen
City Secretary

Sworn to and subscribed before me, on this the 21st day of March, 2019, to certify which witness by hand and seal of office.


Notary Public, State of Texas



(seal)

STATE OF TEXAS §

COUNTY OF HUNT §

**AGREEMENT FOR THE TEMPORARY CLOSURE
OF STATE RIGHT-OF-WAY**

THIS AGREEMENT is made by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the "State," and the City of **COMMERCE**, a municipal corporation, acting by and through its duly authorized officers, hereinafter called the "City."

W I T N E S S E T H

WHEREAS, the State owns and operates a system of highways for public use and benefit, including **BUSINESS 224 / MAIN STREET BETWEEN PARK AND WASHINGTON, AND WASHINGTON STREET BETWEEN MAIN STREET AND CADDO STREET** in **COMMERCE, HUNT** County; and

WHEREAS, the City has requested the temporary closure of **BUSINESS 224 / MAIN STREET, BETWEEN PARK STREET AND WASHINGTON STREET, AND WASHINGTON STREET BETWEEN MAIN STREET AND CADDO STREET** for the purpose of two organizations in Commerce having a joint event in downtown Commerce, as described in the attached "Exhibit A," hereinafter identified as the "Event;" and

WHEREAS, the Event will be located within the City's incorporated area; and

WHEREAS, the State, in recognition of the public purpose of the Event, wishes to cooperate with the City so long as the safety and convenience of the traveling public is ensured and that the closure of the State's right-of-way will be performed within the State's requirements; and

WHEREAS, on the **19th** day of **MARCH, 2019**, the **COMMERCE** City Council passed Resolution No. 19- 09 attached hereto and identified as "Exhibit B," establishing that the Event serves a public purpose and authorizing the City to enter into this agreement with the State; and

WHEREAS, 43 TAC, Section 22.12 establishes the rules and procedures for the temporary closure of a segment of the State highway system; and

WHEREAS, this agreement has been developed in accordance with the rules and procedures of 43 TAC, Section 22.12;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

AGREEMENT

Article 1. CONTRACT PERIOD

This agreement becomes effective upon final execution by the State and shall terminate upon completion of the Event or unless terminated or modified as hereinafter provided.

Article 2. EVENT DESCRIPTION

The description of the Event, including the proposed schedule of start and stop times, approximate number of people attending the Event, and equipment involved shall be attached hereto and identified as "Exhibit A."

Article 3. OPERATIONS OF THE EVENT

A. The City shall assume all costs for the operations associated with the Event, to include but not limited to, plan development, materials, labor, public notification, providing protective barriers and barricades, protection of highway traffic and highway facilities, and all traffic control and temporary signing.

B. The City shall submit to the State for review and approval the construction plans, if construction or modifications to the State's right-of-way is required, the traffic control and signing plans, traffic enforcement plans, and all other plans deemed necessary by the State.

C. The City will not initiate closure prior to 24 hours before the scheduled Event and all barriers and barricades will be removed and the highway reopened to traffic within 24 hours after the completion of the Event.

D. The City will provide adequate enforcement personnel to prevent vehicles from stopping and parking along the main lanes of highway right-of-way and otherwise prevent interference with the main lane traffic by both vehicles and pedestrians. The City will prepare a traffic enforcement plan, to be approved by the State in writing at least 48 hours prior to the scheduled Event. Additionally, the City shall provide to the State a letter of certification from the law enforcement agency that will be providing traffic control for the Event, certifying that they agree with the enforcement plan and will be able to meet its requirements.

E. The City hereby assures the State that there will be appropriate passage allowance for emergency vehicle travel and adequate access for abutting property owners during construction and closure of the highway facility. These allowances and accesses will be included in the City's traffic control plan.

F. The City will avoid or minimize damage, and will, at its own expense, restore or repair damage occurring outside the State's right-of-way and restore or repair the State's right-of-way, including roadway and drainage structures, signs, and pavement, etc. to a condition equal to that existing before the closure, and, to the extent practicable, restore the natural environment, including landscape features.

Article 4. OWNERSHIP OF DOCUMENTS

Upon completion or termination of this agreement, all documents prepared by the City will remain the property of the City. All data prepared under this agreement shall be made available to the State without restriction or limitation on their further use.

Article 5. TERMINATION

A. This agreement may be terminated by any of the following conditions:

- (1) By mutual written agreement and consent of both parties.
- (2) By the State upon determination that use of the State's right-of-way is not feasible or is not in the best interest of the State and the traveling public.
- (3) By either party, upon the failure of the other party to fulfill the obligations as set

forth herein.

(4) By satisfactory completion of all services and obligations as set forth herein.

B. The termination of this agreement shall extinguish all rights, duties, obligations and liabilities of the State and City under this agreement. If the potential termination of this agreement is due to the failure of the City to fulfill its contractual obligations as set forth herein, the State will notify the City that possible breach of contract has occurred. The City must remedy the breach as outlined by the State within ten (10) days from receipt of the State's notification. In the event the City does not remedy the breach to the satisfaction of the State, the City shall be liable to the State for the costs of remedying the breach and any additional costs occasioned by the State.

Article 6. DISPUTES

Should disputes arise as to the parties' responsibilities or additional work under this agreement, the State's decision shall be final and binding.

Article 7. RESPONSIBILITIES OF THE PARTIES

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

Article 8. INSURANCE

A. Prior to beginning any work upon the State's right-of-way, the City and/or its contractors shall furnish to the State a completed "Certificate of Insurance" (TxDOT Form 1560, latest edition) and shall maintain the insurance in full force and effect during the period that the City and/or its contractors are encroaching upon the State right-of-way.

B. In the event the City is a self-insured entity, the City shall provide the State proof of its self-insurance. The City agrees to pay any and all claims and damages that may occur during the period of this closing of the highway in accordance with the terms of this agreement.

Article 9. AMENDMENTS

Any changes in the time frame, character, agreement provisions or obligations of the parties hereto shall be enacted by written amendment executed by both the City and the State.

Article 10. COMPLIANCE WITH LAWS

The City shall comply with all applicable federal, state and local environmental laws, regulations, ordinances and any conditions or restrictions required by the State to protect the natural environment and cultural resources of the State's right-of-way.

Article 11. LEGAL CONSTRUCTION

In case one or more of the provisions contained in this agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof and this agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

Article 12. NOTICES

All notices to either party by the other required under this agreement shall be delivered personally or sent by certified U.S. mail, postage prepaid, addressed to such party at the

following respective addresses:

City:	State:
J. Darrek Ferrell, City Manager City of Commerce, Texas 1119 Alamo Street, Commerce, Texas 75428 903.886.1130	Texas Department of Transportation _____ _____ _____

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either party hereto may change the above address by sending written notice of such change to the other in the manner provided herein.

Article 13. SOLE AGREEMENT

This agreement constitutes the sole and only agreement between the parties hereto and supersedes any prior understandings or written or oral agreements respecting the within subject matter.

IN TESTIMONY WHEREOF, the parties hereto have caused these presents to be executed in duplicate counterparts.

THE CITY OF COMMERCE

Executed on behalf of the City by:

By J. Darrek Ferrell Date 3/19/19
City Official

Typed or Printed Name and Title: J. Darrek Ferrell, City Manager
City of Commerce, Texas

THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By _____ Date _____
District Engineer

Exhibit A

EVENT

Commerce ISD (CISD) is planning a joint event in downtown Commerce on April 13, 2019.

CISD is having a "Drive for your School" and a Bike Safety Rodeo. CISD's event will occur in the downtown parking area between Main Street, Washington Street and Alamo Street as well as the green space across from City Hall. Main Street and Washington Street are both State Right of Way.

CISD's event is expected to bring 200 children plus adults to the Downtown Commerce area. CISD plans to have their Bike Safety Rodeo to use Alamo Street, Washington Street and Main Street, thus creating a safety hazard for children on those roadways. Pedestrians will also be walking from the Bike Safety Rodeo, Farmers Market and the green space across from City Hall. CISD will have tents, obstacle courses and different teaching stations during their event. Safety of our children and other pedestrians are paramount.

In order for downtown guests to remain safe as they attend both events, we are asking for a permit to close the roadways that are State Right of Ways to prevent vehicular traffic from using this pathway during the event.

Commerce Police and Fire Departments will be on sight and will have prior knowledge of the event and will prepare to allow emergency vehicles access in case of an emergency.

The event times are as follows:

April 13, 2019 – Close State Right of Way around 0800am to prepare for the event and re-open the ROW at approximately 1800pm to allow for clean-up.

The City of Commerce Public Works Department will utilize State approved barricades and signage to properly alert motorists of the area that will be closed as well as detour routes for safe travels around the closed area.

Exhibit B

Attached as exhibit B is the resolution from the City of Commerce approving the event listed in Exhibit A.

Exhibit C

“Event Map – Closure on April 13, 2019

TIME: 0800am – 1800pm

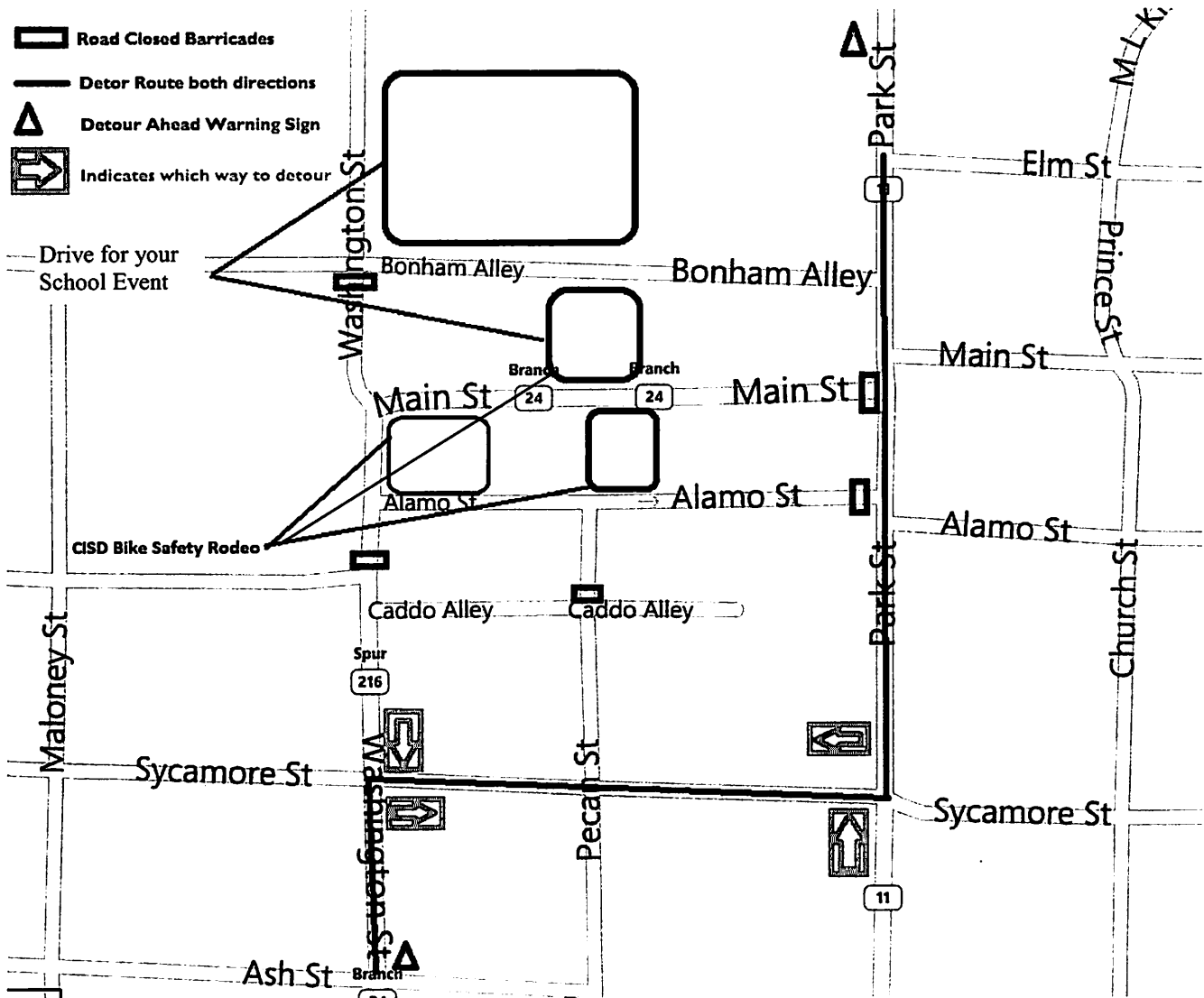


Exhibit C

“Event Aerial Map – Closure on April 14, 2018

TIME: 0800am – 1800pm

