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AGENDA FOR THE CONCURRENT ADJOURNED REGULAR MEETINGS OF THE CITY COUNCIL OF THE CITY OF COMMERCE AND THE GOVERNING BODY OF THE SUCCESSOR AGENCY TO THE COMMERCE COMMUNITY DEVELOPMENT COMMISSION (HEREINAFTER "SUCCESSOR AGENCY")

**COUNCIL CHAMBERS
5655 JILLSON STREET, COMMERCE, CALIFORNIA**

TUESDAY, APRIL 23, 2013 – 4:00 P.M.

CALL TO ORDER

Mayor/Chairperson Aguilar

ROLL CALL

City Clerk/Secretary Olivieri

PUBLIC COMMENT

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

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

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

SCHEDULED MATTERS

1. Measure AA Implementation Framework

The **City Council** will review, and provide appropriate direction as deemed necessary with respect to, the development of the Measure AA implementation framework.

2. Scheduling of Upcoming Adjourned Council Meetings

The **City Council** will review its collective and individual schedules for the months of May and June 2013 to establish a schedule of future meeting dates to consider priority matters, including, but not limited to, the 2013-2014 fiscal year budget, strategic planning and Measure AA implementation.

RECESS TO CLOSED SESSION

3. 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 City of Alhambra et al., v. County of Los Angeles et al., Supreme Court of the State of California (PTAF Case), Case No. S185347 (Appellate Court Case No. B218347, Superior Court Case No. BS116375).

B. The **Successor Agency** will confer with its legal counsel, and take the appropriate action, with respect to the pending litigation of Mayans Development, Inc. and Los Jardines, LLC v City of Commerce Community Development Commission, et al., Superior Court of the State of California, County of Los Angeles, Case No. BC505679.

4. Pursuant to Government Code §54956.9(b),

A. The **Successor Agency** will confer with its legal counsel, and take the appropriate action, with respect to significant exposure to litigation in one potential case.

5. Pursuant to Government Code §54957.6,

A. The **City Council** will confer with its labor negotiator, Jorge Rifá, with respect to labor negotiations pertaining to the Memoranda of Understanding between the City and the City of Commerce Employees Association on behalf of the mid-management and non-management full-time employees and part-time employees.

ADJOURNMENT

Adjourn to Tuesday April 30, 2013 at 4:00 p.m. in the City Council Chambers.

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: APRIL 23, 2013

TO: HONORABLE CITY COUNCIL

FROM: CITY ADMINISTRATOR

SUBJECT: MEASURE AA IMPLEMENTATION FRAMEWORK

RECOMMENDATION:

Council discretion.

BACKGROUND:

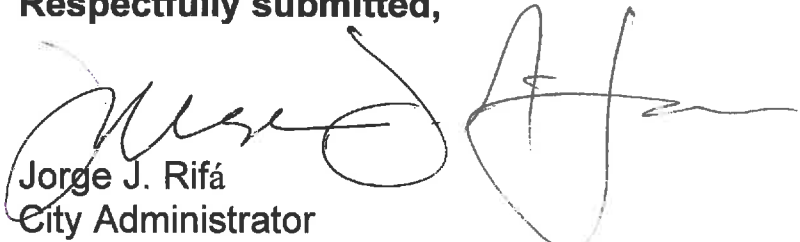
This report presents before the Mayor and Council a recommendation to hold a discussion on developing the framework to implement Measure AA. For your review and consideration, staff has prepared an outline of key elements to consider in putting together a Measure AA implementation framework.

At the workshop, the Council will receive recommendations on all the items identified in this outline. For your reference, please find attached the Measure AA Ordinance No. 649.

RELATIONSHIP TO STRATEGIC GOALS:

Implementation of Measure AA is connected to the council goals of financial viability and infrastructure investment.

Respectfully submitted,


Jorge J. Rifá
City Administrator

Reviewed and Approved As To Form:

Eduardo Olivo, City Attorney

Attached: Measure AA Outline
Measure AA Ordinance

**Elements to Consider in Organizing & Implementing
the ½ cent Transaction and Use Tax Process**

City Council Meeting of April 23, 2013

Council Actions:

Certify election results of Measure AA

Paperwork & Administration related to Council/Board of Equalization Approvals

Eligibility Procedures & Guidelines for the consideration/prioritization of Projects (the use of funds) by the Council and the Advisory Board

Criteria for the appointment/removal of the Advisory Board and criteria for the deliberations of the Advisory Board

Advisory Board Term

Representation/Composition

Number of Members

Advisory Meeting Schedule

Frequency of meetings with Council

Council workshop(s) to determine process

Kickoff Council meeting with Advisory Board

Financial:

Implementation of a separate financial administration track for the expenditure of Measure AA including departmental requests (parallel to the General Fund).

Set up budgeting process

Quarterly financial reports to the Council and Advisory Board

Fiscal year end independent audit

Projections and Forecasting of AA Revenues

Advisory Board:

Elect a Chair and Vice Chair

Adopt rules for the conduct of the meeting

Set meeting schedule

Review Council direction re project eligibility criteria

Initial kick off meeting with Council

Review, prioritize, and recommend candidate

projects

Department Directors:

Prepare Measure AA project requests and make presentations to the Advisory Board

Calendar & schedule:

To be determined in April and May 2013.

MEASURE AA

ORDINANCE NO. 649

AN ORDINANCE OF THE PEOPLE OF THE CITY OF COMMERCE, STATE OF CALIFORNIA, ENACTING A ONE-HALF OF ONE PERCENT (½%) TRANSACTIONS AND USE (SALES) TAX TO FUND GENERAL MUNICIPAL SERVICES

THE PEOPLE OF THE CITY OF COMMERCE, STATE OF CALIFORNIA DO ORDAIN AS FOLLOWS:

Section 1. The following new Chapter 3.09 is hereby added to the Commerce Municipal Code:

"CHAPTER 3.09

TRANSACTIONS AND USE TAX

Sections:

- 3.09.010. Title.
- 3.09.020. Operative date.
- 3.09.030. Purpose.
- 3.09.040. Contract with state.
- 3.09.050. Transactions tax rate.
- 3.09.060. Place of sale.
- 3.09.070. Use tax rate.
- 3.09.080. Adoption of provisions of state law.
- 3.09.090. Limitations on adoption of state law and collection of use taxes.
- 3.09.100. Permit not required.
- 3.09.110. Exemptions and exclusions.
- 3.09.120. Amendments.
- 3.09.130. Enjoining collection forbidden.
- 3.09.140. Oversight, auditing and reporting.
- 3.09.150. Severability.
- 3.09.160. Effective date.

3.09.010. TITLE.

This chapter shall be known as the "Transactions and Use Tax Ordinance of the City of Commerce." The City of Commerce hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

3.09.020. OPERATIVE DATE.

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

3.09.030. PURPOSE.

This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose. The tax is a

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TRANSACTIONS AND USE (SALES) TAX

general tax whose proceeds shall be deposited in the City's general fund and expended for any lawful purposes of the City.

B. To adopt a retail transactions and use tax law ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

3.09.040. CONTRACT WITH STATE.

Prior to the operative date, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

3.09.050. TRANSACTIONS TAX RATE.

For the privilege of selling tangible personal property at retail, an increased tax is hereby imposed upon all retailers in the incorporated territory of the City of Commerce at the rate of one-half of one percent ($\frac{1}{2}\%$) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

3.09.060. PLACE OF SALE.

For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-stat destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

3.09.070. USE TAX RATE.

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of one-half of one percent ($\frac{1}{2}\%$) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

3.09.080. ADOPTION OF PROVISIONS OF STATE LAW.

Except as otherwise provided in this chapter or except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the

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provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth therein.

3.09.090. LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE TAXES.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of the City shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California.

2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this ordinance.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provisions of the code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

3.09.100. PERMIT NOT REQUIRED.

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this chapter.

3.09.110. EXEMPTIONS AND EXCLUSIONS.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or count pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administrated transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

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2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purpose of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconstitutional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this city of tangible personal property.

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issues pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Section 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

5. For the purpose of subparagraph (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within

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the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

3.09.120. AMENDMENTS.

All amendments subsequent to the effective date of this chapter to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter.

3.09.130. ENJOINING COLLECTION FORBIDDEN.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

3.09.140. OVERSIGHT, AUDITING AND REPORTING.

By no later than six months after the end of each fiscal year after the operative date, the City's independent auditors shall complete a report reviewing the collection, management and expenditure of revenue from the tax levied by this chapter. Additionally, there shall be an advisory committee to the City Council consisting of no fewer than five seats to review and report on the receipt of revenue and expenditure of funds from the tax authorized by this chapter. The committee members shall be either City residents or representatives of City businesses. Within 90 days of the operative date of this chapter, the City Council shall adopt a resolution establishing the composition of the committee, appointing the committee members, setting the terms of office of the committee members, and defining the scope of the committee's responsibilities, which at a minimum shall include reviewing the annual auditor's report and making recommendations to the City Council for use of the tax revenue. The committee members shall serve at the pleasure of the City Council. The committee's report and recommendations shall be completed by a date to allow for it to be considered as part of each annual budget process. The committee's report and recommendation shall be a matter of public record and shall be considered and reported by the City Council at a public meeting.

Section 2. This ordinance shall be submitted to the electorate of the City of Commerce for approval at the November 6, 2012, Special Municipal Election.

Section 3. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The people of the City of Commerce, State of California hereby declare that they would

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have approved each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid or ineffective.

Section 4. This ordinance requires the majority vote of the electorate voting in its favor in order to become a valid and binding ordinance of the City of Commerce. This ordinance shall be considered adopted upon the date that the vote is declared by the legislative body and shall become effective on April 1, 2013.

ENACTED BY THE PEOPLE OF THE CITY OF COMMERCE, STATE OF CALIFORNIA AT THE SPECIAL MUNICIPAL ELECTION HELD ON TUESDAY, NOVEMBER 6, 2012.



Mayor

ATTEST:



Linda Kay Olivieri, MMC
City Clerk



AGENDA REPORT

MEETING DATE: APRIL 23, 2013

TO: HONORABLE CITY COUNCIL

FROM: CITY ADMINISTRATOR

SUBJECT: SCHEDULING OF UPCOMING ADJOURNED CITY COUNCIL MEETINGS

RECOMMENDATION:

Council discretion.

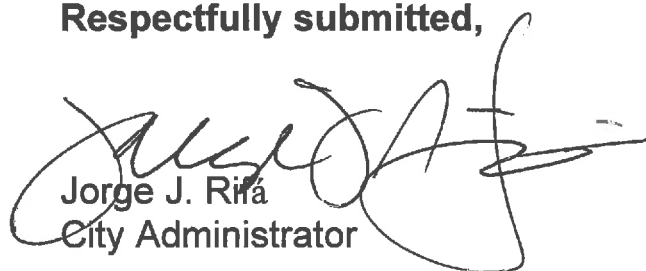
MOTION:

Council discretion.

BACKGROUND:

Based on the need to hold upcoming meetings, the City Council will review its collective and individual schedules for the months of May and June 2013. Meeting dates are related to the need to address several priority matters related to Budget, Strategic Planning, Measure AA implementation. The City Council will have their personal calendars, staff will provide printed city council calendars, and council will select dates as appropriate.

Respectfully submitted,


Jorge J. Rifa
City Administrator