

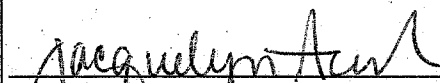


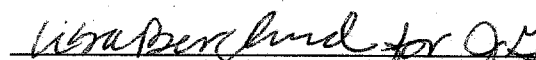
City of Carson

Report to Mayor and City Council

September 21, 2010
Unfinished Business

SUBJECT: CONSIDERATION OF ORDINANCE NO. 10-1458 ESTABLISHING A BUSINESS LICENSE TAX EXEMPTION FOR FARMERS SELLING AT THE FARMERS' MARKET


Submitted by Jacquelyn Acosta
Administrative Services General Manager


Approved by Jerome G. Groomes
City Manager

I. SUMMARY

At their meeting of June 15, 2010, the City Council directed the City Attorney to prepare an ordinance to establish a business license tax exemption for farmers selling at the weekly farmers' market at the SouthBay Pavilion.

The ordinance before Council establishes a definition of farmers and grants them an exemption from the business license tax (Exhibit No. 1).

II. RECOMMENDATION

WAIVE further reading and INTRODUCE Ordinance No. 10-1458, "AN ORDINANCE OF THE CITY OF CARSON, CALIFORNIA, AMENDING CHAPTER 1, SECTION 4118.4, AND CHAPTER 3, SECTIONS 6303, 63143.1 AND 6339 OF THE CARSON MUNICIPAL CODE EXEMPTING FARMERS AT CERTIFIED FARMERS' MARKETS FROM CITY LICENSE AND PERMIT REQUIREMENTS AND STATING THE SITE, OPERATIONAL AND OTHER REQUIREMENTS FOR SUCH EXEMPTION."

III. ALTERNATIVES

1. DO NOT ADOPT the ordinance.
2. TAKE another action that the City Council deems appropriate.

IV. BACKGROUND

The SouthBay Pavilion (SBP) has been operating the weekly farmers' market since September 2008, when they took over the Thursday morning tradition which was started by the city of Carson in 1996.

Since taking over the management of the program, SBP has endeavored to expand the event by investing in promotion and advertising, as well as hiring a market manager to run the event. SBP believes that their efforts are being thwarted and they are losing vendors because of the city's business license requirements, which they view as excessive and burdensome (Exhibit No. 3). They have approached the city to seek relief from the tax obligations on behalf of the farmers.

This issue was reviewed by the Economic Development Commission (EDC) on

17.

May 6, 2010 (Exhibit No. 2), and the commission determined that the amount of lost revenues for the license fees was insignificant and would be offset by increased sales tax generated at the mall. They further voted to recommend that the city not charge individual license fees for farmers.

The matter was then agendized for Council consideration on June 15, 2010, at which time, Council concurred with the EDC and directed the City Attorney to prepare an ordinance to establish a business license tax exemption for farmers selling at the SBP Certified Farmers' Market.

The ordinance before Council establishes the exemption as directed. The ordinance creates definitions for the terms *farmers* and *farmers' market*, and clarifies that the exemption applies only to farmers who sell fruits, vegetables, plants and other agricultural items that are produced by them. That means other vendors at the SBP Certified Farmers' Market who sell prepared food or knickknacks and other non-produce items are still required to maintain a city business license, just like any other vendor operating in the city of Carson.

The ordinance also eliminates the need for each farmer to apply to the city for their respective exemptions, which is required of other exempt activities, but does make the farmers' market operator responsible for maintaining records and reporting to the city periodically with the list of farmers selling at the market and maintaining copies of the Certified Producers' Certificates issued by the California Department of Food and Agriculture.

V. FISCAL IMPACT

Based on an estimate of 15 farmers, the city will lose approximately \$2,450.00 in annual general fund revenue.

VI. EXHIBITS

1. Ordinance No. 10-1458. (pgs. 4 - 8)
2. Excerpt of the minutes of the May 6, 2010, Economic Development Commission meeting. (pg. 9)
3. Presentation from South Bay Pavilion. (pgs. 10 -16)

Document2

Prepared by: Yuko M. Dunham, Revenue Manager

sf:Rev061902

Reviewed by:

September 21, 2010

City Clerk	<u>City Treasurer</u>
<u>Administrative Services</u>	<u>Development Services</u>
<u>Economic Development Services</u>	<u>Public Services</u>

Action taken by City Council

Date _____ Action _____

ORDINANCE NO. 10-1458

AN ORDINANCE OF THE CITY OF CARSON, CALIFORNIA, AMENDING CHAPTER 1, SECTION 4118.4, AND CHAPTER 3, SECTIONS 6303, 63143.1 AND 6339 OF THE CARSON MUNICIPAL CODE EXEMPTING FARMERS AT CERTIFIED FARMERS' MARKETS FROM CITY LICENSE AND PERMIT REQUIREMENTS AND STATING THE SITE, OPERATIONAL AND OTHER REQUIREMENTS FOR SUCH EXEMPTION

WHEREAS, the city of Carson currently allows the operation of a Certified Farmers' Market on private property at the Carson SouthBay Pavilion located at 20700 Avalon Blvd., Carson, California; and

WHEREAS, the certified farmers operating as vendors within the Certified Farmers' Market provide organic and fresh fruit, vegetable and other food items for sale to the general public on a seasonal, temporary, intermittent, non-permanent basis; and

WHEREAS, the City Council recognizes that the sale of such items by certified farmers operating as vendors stationed within a Certified Farmers' Market is beneficial to the health and well-being of the residents of the city of Carson, and promotes economic growth; and

WHEREAS, the City Council has determined that vendors operating as California Department of Agriculture certified farmers within the Certified Farmers' Market at the SouthBay Pavilion, or other Certified Farmers' Markets properly licensed and permitted in the city of Carson should be exempt from having to obtain a business license from the city of Carson for such seasonal, intermittent and/or temporary use and sales;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Amendment to Section 4118.4 of the Carson Municipal Code. Section 4118.4 of the Carson Municipal Code, entitled "Vending of Merchandise on Public Property, Stadiums, Athletic Fields, Community Centers or Abandoned Property – Exclusions.," is hereby amended to add section (4) and to read in its entirety as follows:

The provisions of CMC 4118.3 shall not apply to:

- (1) Any person delivering any goods where such goods have been ordered in advance for such delivery from any business located at a permanent location and which goods are being delivered from such location to the customer regardless of the point of sale thereof; or
- (2) Any charitable or religious solicitation which meets all requirements of CMC 6339; or
- (3) Any person selling or offering to sell any merchandise upon public property if such sale is pursuant to agreement with the city or the prior

written consent of the City has otherwise first been obtained. (Ord. 09-1427U, § 2; Ord. 09-1427, § 2); or

(4) Any person selling or offering to sell any agricultural items upon public property if such sale is within a designated Certified Farmers' Market pursuant to an agreement with the city or the prior written consent of the city has otherwise first been obtained.

Section 2. Amendment to Section 6303 of the Carson Municipal Code. Section 6303 of the Carson Municipal Code, entitled "Definitions" is hereby amended to add section 6303.14 1/2, definition of "Certified Farmer," add section 6303.41, definition of "Farmer," and add section 6303.42, definition of "Farmers' Market," to read in its entirety as follows:

"6303.14 1/2 "Certified Farmer" shall mean any person or entity possessing certification by the California Department of Food and Agriculture to operate as a certified farmer and is engaged in the business of selling fruits, vegetables, plants and other agricultural items produced by them, on a seasonal, temporary or intermittent basis at any city authorized and permitted farmers' market."

"6303.41 "Farmer" shall mean any person selling farm products produced by them.

"6303.42 "Farmers' Market" as used in this Section is any temporary, intermittent or seasonal place of business approved by the city of Carson and properly permitted and licensed within the city of Carson to host certified farmers offering agricultural items for sale on a seasonal, temporary or intermittent basis."

Section 3. Amendment to Section 63143.1 of the Carson Municipal Code. Section 63143.1 of the Carson Municipal Code, entitled "Same – Exceptions" is hereby amended to read in its entirety as follows:

"63143.1 Same – Exceptions.

CMC 63143 does not apply to:

- (a) Merchants having a fixed place of business in the city of Carson;
- (b) Employees of such merchants;
- (c) Farmers selling farm products produced by them *and are otherwise permitted by city.*
- (d) *Certified farmers selling farm and agricultural products produced by them at city authorized farmers' markets on a seasonal, temporary or intermittent basis.*

A "fixed place of business" as that term is used in this Section is any structure permanently affixed at a particular site in compliance with the provisions of the Building Code and of the Health Code of the city of Carson. (Ord. 71-162)"

Section 4. Amendment to Section 6339 of the Carson Municipal Code. Section 6339 of the Carson Municipal Code, entitled "General Exemptions," is hereby amended to add section (e) and to read in its entirety as follows:

"§ 6339 General Exemptions.

Except as otherwise provided herein, no license or license fee shall be required of:

(a) The Federal Government or the State of California, or any of the political subdivisions, agencies or instrumentalities thereof;

(b) Any person engaging in any business exempt by virtue of the Constitution or laws of the State of California, or the Constitution or laws of the United States, from the payment of such taxes as are provided in said Parts 2 and 3.

(c) Any religious, charitable, fraternal, educational, cultural or civic organization, and any other organization, whether incorporated or not, described in Article 1, Chapter 4, Part II of the Revenue and Taxation Code of the State of California; provided, however, that any such organization shall be required to obtain a license and pay the appropriate license fees if and to the extent it engages in any "unrelated trade or business" as that term is used in Section 23734 of the Revenue and Taxation Code of the State of California.

(d) Any person certified as blind by the Bureau of Vocational Rehabilitation of the State of California. (Ord. 71-161, § 2; Ord. 82-620, § 2)

(e) Any person defined as a "certified farmer" within the meaning of Carson Municipal Code Section 6303.14 1/2 and who for purposes of this section is engaged in the sale of agricultural products, produced by them, at a city permitted and authorized Farmers' Market provided, however, that any such individual or person possesses a Certified Farmers' Certificate which shall be maintained by the operators of the Farmers' Market and available for inspection upon the request of city. Any person or entity approved by the city of Carson and properly permitted and licensed within the city of Carson to host certified farmers at a Farmers' Market shall maintain a list of certified farmers selling at the Farmers' Market and provide copies of the list at least monthly to the city and upon request by the city.

Section 5. Amendment to Section 6341 of the Carson Municipal Code. Section 6341 of the Carson Municipal Code, entitled "**Certain Exemptions Under State or Federal Law**" is hereby amended to add section (e) and to read in its entirety as follows:

"§ 6341 Certain Exemptions Under Federal, State or **Local Law or Ordinance.**

Any person claiming to be exempt from the requirement to obtain a business license or pay the business license fees, in whole or in



part, pursuant to CMC 6339(b), other than banks, national banking associations, insurance companies or insurance agents (but not insurance brokers) on the grounds that such requirements are in conflict with the law of the State or the Constitution or laws of the United States, *or, such persons claiming to be exempt from the requirement to obtain a business license or pay the business license fees, in whole or in part, pursuant to CMC 6339(e) on the grounds that such person is exempt by operation, a local law or ordinance* is required to file a claim for exemption, on forms to be supplied by the city, setting forth such information as the Finance Director may require to make a determination as to the validity of the claimed exemption, which information may include but shall not be limited to:

- (a) The name, business address, general manager or responsible officer of the claimant;
- (b) Sales records of claimant including records of contracts of sale, delivery tickets, bills of lading;
- (c) The location of the claimant's offices, warehouses, factories and other business operations;
- (d) Copies of advertising literature of claimant;
- (e) *Copies of certification and listing with a Certified Farmers' Market operator as a certified farmer, as applicable;*
- (e) A statement of the legal grounds, with citations to pertinent statutory and case authority tending to support the claim for exemption; and
- (f) Such other information as the Finance Director may require to determine whether the claimant is exempt, or as is necessary to determine the number of employees of the claimant. (Ord. 71-161, § 2, Ord. 82-620, § 2)

Section 6. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Ordinance, or any part thereof, is held invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this Ordinance or part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that any one or more sections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

Section 7. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance by the City Council of the city of Carson and shall cause a summary of this Ordinance to be published or posted in accordance with applicable law.

Section 8. Effective Date. This ordinance shall take effect 30 days after its final passage, and within fifteen (15) days after its passage, the City Clerk shall cause it to be posted as required by law, and hereby designated for that purpose.

PASSED, APPROVED and ADOPTED this _____ day of _____, 2010.

Mayor Jim Dear

ATTEST:

City Clerk Helen S. Kawagoe, MMC

APPROVED AS TO FORM:

City Attorney



ECONOMIC DEVELOPMENT COMMISSION MEETING

MINUTES – April

Page 2

NEW BUSINESS:

Review of Film LA – Carson filing issues: Business and Employment Development Manager Barry Waite reported Film LA provided a letter stating their analysis and suggestions.

This item will be brought back to the commission at a later date.

Review of farmer's market licensing: Cheryl Roberts, representing the South Bay Pavilion, reported the city charges up to \$150 in business license fees per vendor yearly. This fee is in addition to the percentage fee assessed by the company that manages the market. The Southbay Pavilion recommends no annual business license fee for individual farmers and instead implementing a general license fee for farmer's market management company \$147.

Yuko Dunham reported the city proposed a waving the application fee and assessing a \$35.75 license fee.

Commissioner Brian Raber moved to recommend that the farmer's market be treated as a Southbay Pavilion promotional event and not charge individual business licenses fees for vendors, seconded by Commissioner Dobard. The motion passed with a vote of four to one with Commissioner Aldridge opposed.

Commissioner Sharron King excused herself from the room during discussion and voting on this item.

City Budge Issue: Economic Development General Manager Cliff Graves reported the city council would have a series of budget workshops in May and June.

This item will be carried over to the June 3, 2010 meeting.

**SUBCOMMITTEE/
COMMISSIONERS' REPORTS:**

None

GENERAL MANAGER'S REPORT:

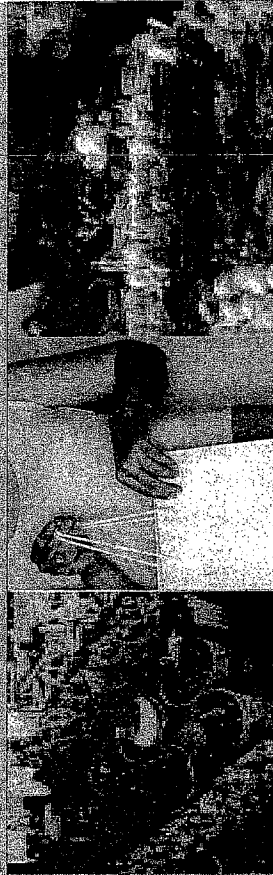
Economic General Manager Cliff Graves reported the Nissan proposal will go to council on June 2, 2010.

Thomas Saffran has received HUD financing for the second phase of the project on Carson Street.



SAVE OUR FARMERS!

**SouthBay Pavilion
Certified Farmers Market**



History

- The City of Carson's Farmers Market opened on June 6, 1996. In June 2008, due to budget cuts, the City Council decided to retire the Farmers Market as of October 31st.
- SouthBay Pavilion (SBP) was contacted by the City of Carson to manage this amenity so that residents and visitors could continue to enjoy the only farmers market in the City of Carson.
- In an effort to make the transition seamless and successful, the owners of the SBP invested over \$30,000 in collateral, special event fixtures, marketing and advertising.
- SBP hired, Coastal Pacific, LLC, as the market manager to manage the SouthBay Pavilion Market. Coastal Pacific, LLC also manages several Farmers Markets, including the Farmers Market at Northridge Fashion Center in Northridge, CA
- The Farmers Market at SouthBay Pavilion opened on Thursday, September 25, 2008. The Grand Opening event was supported by the City of Carson, the Carson Chamber of Commerce and several community organizations.



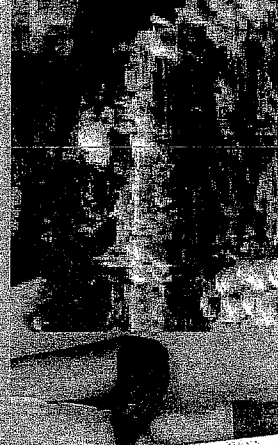
Unfair to Farmers

Most Cities in Los Angeles and Orange Counties do not implement an individual business license for Farmers Market vendors. Based on our analysis of several farmers market operations, it is not the culture for Farmers Market vendors to attain an individual business license from the City to do business at a farmers market.

Currently, the City of Carson Business License Department has enforced unprecedented and expensive fees on the farmers. This is especially true if farmers do not provide various required accounting documents to qualify for apportioned license fees. Examples of these fees include:

- *Standard Application Fee of \$25 or Renewal Processing Fee of \$15*
- *Farmers have incurred business license fees that vary from \$37.⁵⁰ to \$150. Most farmers have paid the \$150 general business license fee plus a processing fee.*
- *Late fees and penalty charges of up to \$145 have also been assessed on some farmers.*

Farmers are not open for business everyday as they are only operating within the city once a week and their product is seasonal. *These city fees are in addition to the percentage fee that the farmers market management company charges the farmers each week to participate.* Most farmers in the above mentioned counties pay a daily fee or percentage of sales to the Farmers Market Management Company only.



Benefits of a Farmers Market:

- Better for the Environment - a farmers market reduces vehicle pollution, noise and fossil fuel use. Additionally, it helps reduce packaging.

"Our existing system of food transportation and distribution requires enormous amounts of energy and resources. Before reaching your table, the average food item in the United States will travel 1,300 miles! In fact, only about 10% of the fossil-fuel energy used in the world's food system is used for production. The other 90% goes into packaging, transportation, and marketing of the food. All this inefficiency creates many environmental problems."

— Becky Hand, Licensed Dietician author of *Farmers Market Food Finds*

- Stimulates the local economy - Shopping at the Farmers Market benefits the local farmer and strengthens the local community.
- Healthier Eating - Since the produce is picked at the peak of the season, nutrients, and phytochemicals will be more abundant.
- Consumer Education - Farmers Markets provide direct contact and feedback between customers and producers, so there is greater certainty of how vegetables are grown and meat produced.



SouthBay Pavilion Proposes:

- Amend the City of Carson's Tax Rate Schedule for Special License Fees for Certain Businesses, sub section 10.5: Art, Craft and Trade Fairs, to include Farmers Markets and change paragraph C of this subsection to include:

"[on the property of] an enclosed permanent commercial structure having ten or more different commercial establishments as a promotional activity of said commercial building."

This would mean that the Farmers Market would be considered a SBP promotional event, there should be no charge individual farmers market vendors.

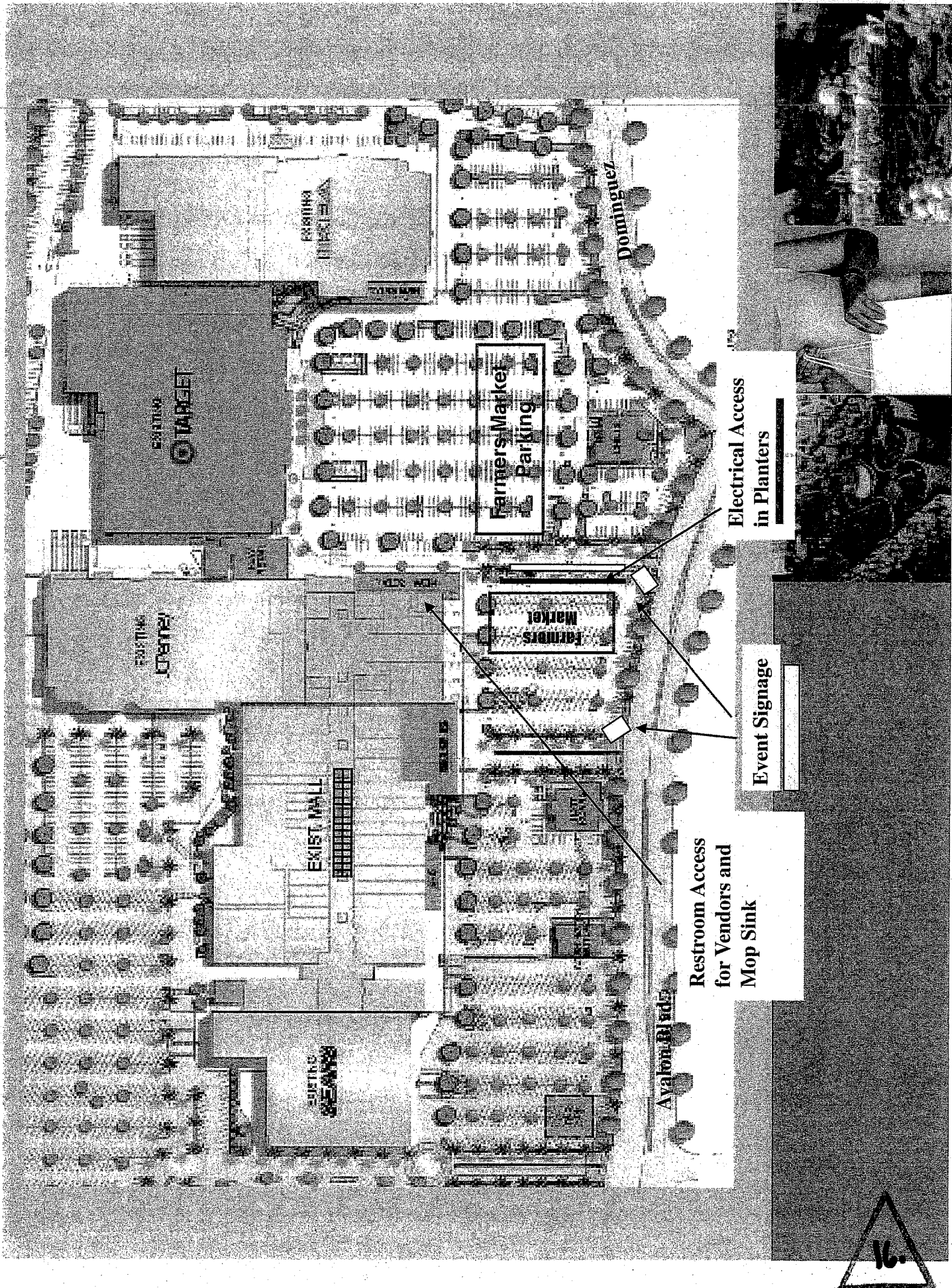
- No Annual City of Carson Business License fees for individual farmers market vendors.
- Implement a General Business License Fee for the Farmers Market management company (\$147.00 + \$25 application fee)



What other Cities are doing

City Name	Comments
Torrance	No business license fee for Farmers. The market is run by the Torrance Recreation Services Division.
Hermosa	No business license fee for Farmers. The market is run by the Hermosa Chamber of Commerce.
El Segundo	\$15 Annual fee to register.
Thousand Oaks	No business license fee for Farmers. There is a Blanket Permit for Management Company.
Oxnard	Business license fee is not required for Farmers.
Agoura	Business registration is \$35 annually but no license is required.
Manhattan Beach	Business License fee is not required for Farmers.
Lawndale	Per the Lawndale Business License Department, there is no business license charge for farmers market vendors. Vendors are directed to contact the Chamber of Commerce to register as they are the management company for the farmers market.
Long Beach	Farmers only pay a nominal charge (approx \$2) to management company.
Beverly Hills	Farmers/vendors do not need a business license from the city.
Watts	If a farmer makes over \$100,000 in gross sales then they are required to attain a business license with the City of Los Angeles.
Culver City	There is a business license fee because the city of Culver City manages the farmers market.
Burbank	Per the Burbank Business License Department, there is no charge for farmers market vendors. Vendors are directed to register by contacting the Sisters of St. Providence Hospital, the Farmers Market management company.
Hawthorne	Farmers are under the Del Aire Home Owners Association.
Cerritos	Per the Cerritos Business License Department, there is no business license charge for farmers market vendors. Vendors are directed to contact and register under Harbor Area Farmers Market.





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Electrical Access
in Planters

Event Signage

Restroom Access
for Vendors and
Mop Sink

Avalon Blvd

Dominguez

Farmers Market
Parking

Farmers
Market

EXISTING
PARKING

EXISTING
TARGET

EXISTING
MARKET

EXIST MALL

EXISTING
PARKING

