

RESOLUTION NO. 10-086-B

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, CALLING FOR AND GIVING NOTICE OF THE HOLDING OF A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER, 2, 2010, FOR THE SUBMISSION TO THE QUALIFIED VOTERS OF THE CITY A PROPOSED ORDINANCE ESTABLISHING A ONE CENT SALES TAX IN THE CITY OF CARSON

WHEREAS, the city of Carson has experienced, and continues to face, a dramatic and critical decline in revenues and has reached a point where cutting expenses will not allow the city to ease the structural deficit without further cutting essential city services. The city projects a budget deficit in excess of \$9 million in each of the next five years; and

WHEREAS, in FY 2009/10 the city cut \$3.3 million from its proposed budget. This comes on top of millions in cuts over the previous three years. The city has eliminated full-time positions, reduced services in all departments, and been required to use emergency reserves; and

WHEREAS, in FY 2010/11, public safety staffing levels have been reduced and many other full-time positions have been frozen and remain vacant; the summer youth employment program and cultural, fine arts, and city-wide community events have been canceled; tree trimming has been suspended; and fees have been increased; and

WHEREAS, this unprecedented financial situation is due to several factors including: (1) the city's General Fund has seen total revenues decline 13.2% this past fiscal year. This is due to the state's borrowing of \$1.5 million in property tax revenues, which will continue annually for two more years; (2) a 30% reduction in sales tax revenues from two years ago, a result of the declining economy; (3) a 50% reduction in the city's gas franchise tax revenue this past fiscal year; (4) the city, like most other cities, has endured several years of damaging money grabs by the state of California, such as the \$10.1 million Redevelopment take which funds had been earmarked for Carson infrastructure projects and street paving; and (5) increasing general expenses to the city such as the rising costs of fuel, electricity and supplies. This has made it impossible for the city to balance its budget and still continue to provide critical services at an acceptable level; and

WHEREAS, if the city were to address this shortfall with cuts alone, it would have to further cut Sheriff's patrols, emergency response, youth programs, street and sidewalk repair, graffiti removal, animal control, senior services, and parks and recreation programs. These additional cuts are a last resort. In order to address a shortfall of this magnitude, the city would have to include further cuts to public safety and other critical city services; and

WHEREAS, because of the scale of the city's budget shortfall and the depth of the cuts that have already been made, only two realistic choices remain for dealing with this shortfall. The city of Carson must either generate additional revenue or begin making deeper cuts to essential city services; and

WHEREAS, because citizens repeatedly rank public safety and street maintenance as their top priorities, the city is proposing a solution that would help maintain these important services; and

WHEREAS, the city expects that the city's financial situation will begin to recover within the next five years due to the general expectation that the state of the economy will improve within that time; and

WHEREAS, the City Council desires to submit to the voters a proposal to enact a one cent transactions and use tax in the city of Carson, with the funds to be deposited in the city's General Fund and be used for general city purposes and services including but not limited to Sheriff's services and crime prevention, paramedic and 9-1-1 emergency response services, street repair and maintenance, maintenance of public landscapes and facilities, parks and recreation programs and services, and youth and senior services; and

WHEREAS, by taking this step, keeping the city safe, crime rates low, emergency response times low for all areas of the city, and keeping the city well maintained, we can protect property values and protect the progress the city has made and keep it moving in the right direction; and

WHEREAS, California Constitution Article XIII C, § 2, provides any general tax must be submitted to the electorate and approved by a majority vote; and

WHEREAS, on the basis of the foregoing, the City Council determines it is appropriate to place a measure before the voters on November 2, 2010, at a Special Municipal Election regarding adopting a city transactions and use tax.

NOW, THEREFORE, the CITY COUNCIL of the CITY OF CARSON, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE, and ORDER AS FOLLOWS:

**Section 1.** Pursuant to the laws of the state of California relating to general law cities, there is called and ordered to be held in the city of Carson, California, on Tuesday, November 2, 2010, a Special Municipal Election for the purpose of submitting to the voters of the City, the measure specified in Sections 2 and 3, below. The collection of a one cent transactions and use tax as a general tax is hereby proposed pursuant to Article XIII C, § 2(b) of the California Constitution and Government Code §§ 53723 and 53724. Pursuant to Government Code § 53724(d) and Elections Code § 9222, it is the intent of the City Council that the measure be submitted to the voters of Carson at the aforementioned Special Municipal Election.

**Section 2.** There is no scheduled regular municipal election prior to November of 2010. Given the existence of a fiscal emergency, pursuant to Government Code § 53725(b), the City Council hereby orders that the following measure be submitted to the voters at a Special Municipal Election, rather than the next regular municipal election:

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<b>The Carson Vital City Services Emergency Protection Measure.</b> To offset severe state budget cuts; maintain Sheriffs deputies patrols; 9-1-1 emergency response; pothole/street repairs; gang prevention; youth recreation and after school programs; parks; natural disaster response; seniors' services including meals on wheels and other general fund services; shall the City of Carson sales tax be increased one cent, legally required to end after five years with annual audits, and state government cannot take these funds?	Y E S
	N O

**Section 3.** Upon approval of the voters of the city of Carson, the Carson Municipal Code shall be amended to add a new Chapter 12 to Article VI, establishing a one cent sales tax within the city of Carson. The complete text of the measure hereby ordered to be submitted to the voters is attached hereto as Exhibit "A."

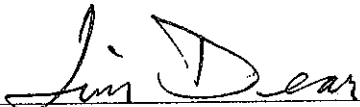
**Section 4.** That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

**Section 5.** The City Council of the city of Carson further does resolve, declare, determine, and order as follows:

(a) That notice of time and place of holding said election is hereby given and the City Clerk is hereby authorized, instructed, and directed to give such further or additional notice of said election in the time, form and manner as required by California law.

(b) That this resolution shall become effective immediately upon its passage and adoption, and the City Clerk is directed to send certified copies of this Resolution to the Los Angeles County Board of Supervisors, to the Los Angeles County Registrar-Recorder, and county of Los Angeles Election Department.

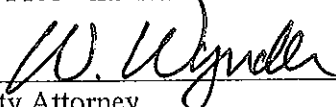
**PASSED, APPROVED and ADOPTED** on the 4<sup>th</sup> day of August, 2010

  
\_\_\_\_\_  
Mayor Jim Dear

ATTESTED:

  
\_\_\_\_\_  
City Clerk Helen S. Kawagoe, MMC

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES    ) ss.  
CITY OF CARSON                )

I, Helen S. Kawagoe, City Clerk of the City of Carson, California, do hereby certify that the whole number of members of the City Council is five; that the foregoing resolution, being Resolution No. 10-086-B was duly and regularly adopted by said Council at a regular meeting duly and regularly held on the 4th day of August, 2010, and that the same was passed and adopted by the following vote:

AYES:            COUNCIL MEMBERS: Mayor Dear, Santarina, Gipson, Davis-Holmes and Ruiz-Raber  
NOES:            COUNCIL MEMBERS: None  
ABSTAIN:        COUNCIL MEMBERS: None  
ABSENT:         COUNCIL MEMBERS: None

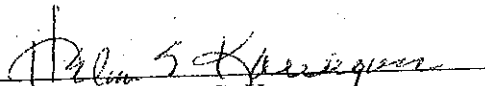
  
City Clerk Helen S. Kawagoe

EXHIBIT "A"

ORDINANCE NO. 10-\_\_\_\_\_

AN ORDINANCE OF THE PEOPLE OF THE CITY OF CARSON ADDING CHAPTER 12 TO ARTICLE VI OF THE CARSON MUNICIPAL CODE IMPOSING A TRANSACTIONS AND USE ("SALES") TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION, SUBJECT TO APPROVAL OF A MAJORITY OF THE VOTERS VOTING ON THE TAX MEASURE AT A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 2, 2010.

NOW THEREFORE, the People of the city of Carson, California, do hereby ordain as follows:

SECTION 1. A new Chapter 12 is hereby added to Article VI, commencing with Section 61201, of the Carson Municipal Code to read, in its entirety, as follows:

Article VI  
Chapter 12  
TRANSACTIONS & USE ("SALES") TAX

61201 -- Short Title.

This Chapter shall be known as the city of Carson Transactions and Use ("Sales") Tax Ordinance. This Chapter shall be applicable only in the incorporated territory of the City.

61202 -- Definitions.

As used in this Chapter, "City" means the city of Carson, California, and "tax" means the transactions and use tax imposed under the provisions of this Chapter.

61203 -- Operative Date.

"Operative Date" means that 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.

61204 -- Findings & Intent.

The City Council finds and declares:

A. The City of Carson has experienced, and continues to face, a dramatic and critical decline in revenues and has reached a point where cutting expenses will not allow the City to

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ease the structural deficit without further cutting essential City services. The City projects a budget deficit in excess of \$9 million in each of the next five years.

B. In FY 2009/10, the City cut \$3.3 million from its proposed budget. This comes on top of millions in cuts over the previous three years. The City has eliminated full-time positions, reduced services in all departments, and been required to use emergency reserves.

C. In FY 2010/11, public safety staffing levels have been reduced and many other full-time positions have been frozen and remain vacant; the summer youth employment program and cultural, fine arts, and city-wide community events have been canceled; tree trimming has been suspended; and fees have been increased.

D. This unprecedented financial situation is due to several factors including: (1) the City's General Fund has seen total revenues decline 13.2% this past fiscal year. This is due to the State's borrowing of \$1.5 million in property tax revenues, which will continue annually for two more years; (2) a 30% reduction in sales tax revenue from two years ago, a result of the declining economy; (3) a 50% reduction in the City's gas franchise tax revenue this past fiscal year; (4) the City, like most other cities, has endured several years of damaging money grabs by the State of California, such as the \$10.1 million Redevelopment take which funds had been earmarked for Carson infrastructure projects and street paving; and (5) increasing general expenses to the City such as the rising costs of fuel, electricity and supplies. This has made it impossible for the City to balance its budget and still continue to provide critical services at an acceptable level.

E. If the City were to address this shortfall with cuts alone, it would have to further cut Sheriff's patrols, emergency response, youth programs, street and sidewalk repair, graffiti removal, animal control, and parks and recreation programs. These additional cuts are a last resort. In order to address a shortfall of this magnitude, the City would have to include further cuts to public safety and other critical City services.

F. Because of the scale of the City's budget shortfall and the depth of the cuts that have already been made, only two realistic choices remain for dealing with this shortfall. The City of Carson must either generate additional revenue or begin making deeper cuts to essential City services;

G. Because citizens repeatedly rank public safety and street maintenance as their top priorities, the City is proposing a solution that would help maintain these important services;

H. The City expects that the City's financial situation will begin to recover within the next five years due to the general expectation that the state of the economy will improve within that time; and

I. It is the intention and understanding of the people that this measure shall be deemed a "general tax" and that it is not a "special tax" within the meaning of Section 4 of Article XIII of the California Constitution by virtue of the fact that the proceeds of this tax are to

be deposited in the general fund of the City and are to be available to be used for any general governmental purpose that the City Council shall determine.

61205 -- Purpose.

This Chapter is adopted to achieve the following, among other 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 only 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.

B. To adopt a retail transactions and use tax 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 may 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 may 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.

61206 -- Contract With State.

Concurrently with 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 however, 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.

61207 -- Imposition of Transactions Tax; Transactions Tax Rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of one percent (1%) 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.

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61208 -- Place of Transaction.

For the purposes of this Chapter, 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-state 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.

61209 -- Imposition of Use Tax; 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 percent (1%) 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.

61210 -- Proceeds of Tax.

The proceeds of the transactions and use tax imposed by this Chapter shall be deposited into the General Fund of the City to be used for all general government purposes which may include, but are not limited to, fire and police protection, street and sidewalk repair and maintenance, park repair and maintenance, recreational programs, building and code enforcement services, planning and zoning services, capital equipment requirements, repair and replacement of City facilities, capital improvement projects, operational expenses, fiduciary responsibilities, administration, indebtedness and general obligations of the City. The tax imposed by this Chapter is intended to be, and is, a general tax, the proceeds of which are to be spent as the City Council shall in its discretion, from time to time, determine.

61211 -- Adoption of Provisions of State Law.

Except as otherwise provided in this Chapter and except insofar as they are inconsistent with the provisions of Parts 1.5 or 1.6 of Division 2 of the Revenue and Taxation Code, all of the 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 Chapter as though fully set forth herein.

61212 -- 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 this City shall be substituted therefore. However, the substitution shall not be made:

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

2. When 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 Chapter.

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, use 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 provision of that 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.

61213 -- 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 Ordinance.

61214 -- Exemptions & Exclusions.

A. There shall be excluded from the calculation 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 county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered 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.

2. Sales of property to be used outside the City which are 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 a 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 purposes 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 unconditional 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 Chapter, 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 issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 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 for 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 purposes of subparagraphs (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 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.

61215 -- 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.

61216 -- 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 Chapter, 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.

61217 -- Effective Date.

This Ordinance relates to the levying and collecting of the City transactions and use taxes and the same shall take effect ten (10) days after the date on which the City Council declares that the voters of the City of Carson have approved said ordinance by a vote of no less than a majority of the votes cast by the electors voting on the tax measure set forth in this ordinance at the Special Municipal Election to be held on Tuesday, November 2, 2010.

61218 -- Annual Audit.

The proceeds resulting from this Transactions and Use Tax shall be deposited into the City's General Fund and become subject to the same independent annual audit requirements as other general fund revenue.

61219 -- All Funds Staying Local.

All tax revenues collected under the authority of this chapter shall be expended solely on local municipal services, and shall not be used for any other purposes.

61220 -- Penalties.

Any person violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor.

61221 -- Amendments.

The maximum tax rate in this chapter may only be increased by a vote of the people of the City of Carson; provided, however, that the City Council may amend this chapter by ordinance adopted by the City Council to reduce the rate of the tax in increments of .25% with such reduction becoming operative on the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, or to otherwise implement or advance the purpose and intent of this chapter.

61222 -- Sunset Date.

The authority to levy the sales tax imposed by this chapter shall expire on March 31, 2016, and at such time this chapter shall be repealed without further action, except that the provisions of this chapter shall remain in effect as to any tax due and owing, but unpaid, as of March 31, 2016.

SECTION 2. If any section, subsection, sentence, clause or phrase of this Ordinance or the application thereof to any person or circumstance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The People of the City of Carson hereby declared that they would have passed each subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more subsection, subdivision, paragraph, sentence, clause, or phrase be declared unconstitutional.

I hereby certify that Ordinance No. 10-\_\_\_ was passed, approved and adopted by the People of the City of Carson, California, voting on the 2<sup>nd</sup> day of November, 2010.

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Mayor Jim Dear

ATTESTED:

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City Clerk Helen S. Kawagoe, MMC