RESOLUTION NO. 20-133

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, ADOPTING A "TENTATIVE AGREEMENT REGARDING DUES DEDUCTIONS PER CALIFORNIA GOVERNMENT CODE SECTION 3505.1 BETWEEN THE CITY OF CARSON AND THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES UNION, COUNCIL 36, LOCAL 1017, REPRESENTING THE CONFIDENTIAL EMPLOYEE BARGAINING UNIT."

WHEREAS, the previous Memorandum of Understanding ("MOU") between the City of Carson ("City") and the American Federation of State, County and Municipal Employees Union, Council 36, Local 1017 ("Union"), representing the Confidential Employee Bargaining Unit, expired on June 30, 2016 ("AFSCME MOU 2015-16").

WHEREAS, City and Union representatives began negotiating in June 2016 regarding a successor AFSCME MOU and the parties reached a tentative agreement on the terms for a successor AFSCME MOU covering the period July 1, 2016 through June 30, 2021, which deal points were forth and affirmed in the Tentative Agreement ratified by the Union on September 11, 2018, and approved by the City's City Council on January 8, 2019 (the "TA").

WHEREAS, the AFSCME MOU 2015-16 contained Agency Shop and mandatory dues deduction language under Article VIII Union Rights, Sections 1 through 4, which was not changed by the TA.

WHEREAS, on June 27, 2018, the United States Supreme Court decided Janus v. American Federation of State, County & Municipal Employees, Council 31, 138 S. Ct. 2448 (2018), holding that the application of public sector union fees to non-members is a violation of the First Amendment, and as a result the Union delivered a letter to the City dated that same day directing the City to immediately cease deducting any agency or fair share fees from employees in the represented bargaining unit who were not current members of the Union, cease remitting such funds to the Union, and refund such funds being currently held by the City. The Union also requested to immediately meet and confer over the impacts of the Janus decision.

WHEREAS, immediately after the U.S. Supreme Court decided Janus, Governor Brown signed Senate Bill 866 as urgency legislation that applied to all California public employers effective June 27, 2018. Among other things, S.B. 866 amended the Government Code and created new state laws regulating: employee organization membership dues and membership-related fees; employer communications with employees about their rights to join or support, or refrain from joining or supporting unions; and the disclosure of the date, time, and place of the union's access to new employee orientations.

WHEREAS, the City and the Union did not have sufficient time to negotiate the effects and impacts of the aforementioned legal changes prior to ratification of the TA. In addition, the parties have not yet drafted and/or approved the successor MOU itself. However, the parties have since come to agreement on new dues deduction language to be included in the successor MOU, and intend to adopt such provisions and practices effective immediately through the "Tentative Agreement Regarding Dues Deductions Per California Government Code Section 3505.1, Between the City of Carson and the American Federation Of State, County, and Municipal Employees Union, Council 36, Local 1017, Representing the Confidential Employee Bargaining Unit," dated July 14, 2020, a copy of which is attached hereto as Exhibit "A" (the "Tentative Agreement Regarding Dues Deductions").

WHEREAS, as provided in the Tentative Agreement Regarding Dues Deductions, all terms and conditions of the AFSCME MOU 2015-16 and the subsequent TA, except those prohibited by law, shall be maintained unless expressly modified or changed in the Tentative Agreement Regarding Dues Deductions until the successor AFSCME MOU is accepted, approved and adopted by the City Council, which shall then supersede and replace the Tentative Agreement Regarding Dues Deductions.

WHEREAS, the Union and the City's representatives have fully executed the Tentative Agreement Regarding Dues Deductions for the aforementioned purposes, but the Tentative Agreement Regarding Dues Deductions is not effective until accepted, approved and adopted by the City's City Council pursuant to Government Code Section 3505.1.

WHEREAS, the City Council hereby intends to accept, approve and adopt the Tentative Agreement Regarding Dues Deductions pursuant to Government Code Section 3505.1.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, HEREBY FINDS, DETERMINES AND RESOLVES AS FOLLOWS:

SECTION 1.   The above recitals are true and correct.

SECTION 2.   The City Council hereby accepts, approves, and adopts the "TENTATIVE AGREEMENT REGARDING DUES DEDUCTIONS Per California Government Code Section 3505.1 Between the City of Carson and the American Federation Of State, County and Municipal Employees Union, Council 36, Local 1017, Representing the Confidential Employee Bargaining Unit," dated July 14, 2020, a copy of which is attached hereto as Exhibit "A," pursuant to Government Code Section 3505.1.

SECTION 3.   This resolution shall be effective immediately upon its adoption.

SECTION 4.   The City Clerk shall certify to the adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED and **ADOPTED** this 18th day of August, 2020.

_____
ALBERT ROBLES, MAYOR

ATTEST:

_____
DONESIA GAUSE-ALDANA, CITY CLERK

APPROVED AS TO FORM:

_____
SUNNY K. SOLTANI, CITY ATTORNEY

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

I, Donesia Gause, City Clerk of the City of Carson, California, do hereby certify that the whole number of members is five; that the foregoing resolution, being Resolution No. 20-133, was duly and regularly adopted by said City at a regular meeting duly and regularly held on the 18th day of August, 2020, and that the same was passed and adopted by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

By: _____
                City Clerk

EXHIBIT "A"

TENTATIVE AGREEMENT REGARDING DUES DEDUCTIONS

[to be attached]