



CITY COUNCIL STAFF REPORT

DATE: DECEMBER 7, 2011 SPECIAL ITEM

SUBJECT: PROPOSED RESOLUTION DECLARING THE RESULTS OF THE NOVEMBER 8, 2011, REGULAR MUNICIPAL ELECTION.

FROM: David H. Ready, City Manager

BY: James Thompson, City Clerk

SUMMARY

Pursuant to California Elections Code the City Council shall adopt a resolution declaring the results of the November 8, 2011, Regular Municipal Election.

RECOMMENDATION:

Adopt Resolution No. 23048, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, RECITING THE FACT OF THE REGULAR MUNICIPAL ELECTION HELD ON NOVEMBER 8, 2011, DECLARING THE RESULT AND SUCH OTHER MATTERS AS ARE PROVIDED BY LAW."

STAFF ANALYSIS:

At the direction of the City Clerk, the Riverside County Registrar of Voters canvassed the returns of the November 8, 2011, Regular Municipal Election, pursuant to City Council Resolution No. 22957. The Registrar of Voters has provided a Certification to the Results and Canvass of the Election Returns, pursuant to California Elections Code Section 10262.

Pursuant to California Elections Code Section 10263 the City Council shall adopt a Resolution declaring the results of the election.

The proposed Resolution declares Steve Pougnet elected to the office of Mayor of the City of Palm Springs for the term ending December 2015, further declares Paul Lewin and Rick Hutcheson elected to office of Member of the Palm Springs City Council for the term ending December, 2015.

ITEM NO. 1A

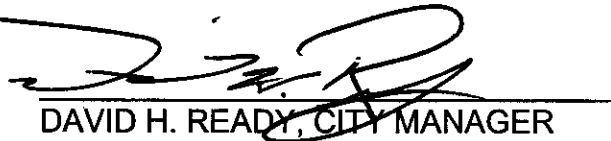
Additionally, the proposed Resolution deems Ordinance No. 1802, "AN ORDINANCE OF THE PEOPLE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING CHAPTER 3.22 TO THE PALM SPRINGS MUNICIPAL CODE, APPROVING AND IMPLEMENTING A ONE PERCENT (1%) TRANSACTIONS, SALES, AND USE TAX;" (Measure "J") adopted and ratified.

FISCAL IMPACT:

None.



JAMES THOMPSON, CITY CLERK



DAVID H. READY, CITY MANAGER

Attachments:

- Proposed Resolution
- Certification of Election Results
- Ordinance No. 1802

RESOLUTION NO. 23048

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA RECITING THE FACT OF THE REGULAR MUNICIPAL ELECTION HELD ON NOVEMBER 8, 2011, DECLARING THE RESULT AND SUCH OTHER MATTERS AS ARE PROVIDED BY LAW.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, HEREBY FINDS:

A. A Regular Municipal Election was held and conducted in the City of Palm Springs, California, on Tuesday, November 8, 2011, as required by law.

B. Notice of the election was given in time, form and manner as provided by law; that voting precincts were properly established; that election officers were appointed and that in all respects the election was held and conducted and the votes cast, received and canvassed and the returns made and declared in time, form and manner as required by the provisions of the laws of the State of California, and the Charter of the City of Palm Springs.

C. Pursuant to §7 of Resolution No. 22957, adopted by the City Council on June 15, 2011, the Riverside County Registrar of Voters, at the direction of the City Clerk of the City of Palm Springs, canvassed the returns of the election and has certified the results to the City Council. The results are attached to this resolution as Exhibit A.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS HEREBY DETERMINES, DECLARES, APPROVES, AND RESOLVES:

SECTION 1. The whole number of ballots cast in the precincts except vote-by-mail ballots was 3,695. That the whole number of vote-by-mail ballots cast in the City was 7,813, making a total of 11,508 ballots cast in the City [50.96% Voter Turnout].

SECTION 2. The Regular Municipal Election was held for the purpose of electing:

- a. Mayor of the City of Palm Springs;
- b. Two-members to the office of Member of the Palm Springs City Council;
- c. The submission to the qualified voters an ordinance implementing a one-percent (1%) local transactions, sales and use tax for the period of twenty-five (25) years [Measure "J"].

SECTION 3. The names of the persons voted for at the election for the office of Mayor of the City of Palm Springs for the term ending December, 2015 are as follows:

Bill Ferra
Don Cook
Phyllis Claire Burgess
Bridgette Sullenger
Vincent William Steven Ziegler
Jeff Nichols
Steve Pougnet
Write-in Candidate Wayne Gottlieb

SECTION 4. The names of persons voted for at the election for the office of Member of the Palm Springs City Council for the term ending December, 2015 are as follows:

Rick Hutcheson
Kerry Hendrix
John Tymon
Elizabeth "Liz" Glass
Lee Weigel
Paul Lewin

SECTION 5. The City Council pursuant to its right and authority, ordered submitted to the qualified voters the following question and ordinance [Measure "J"]:

Shall an ordinance to provide funding that cannot be taken by the State and help preserve Palm Springs' city services, including without limitation police, fire, library, parks, streets/pothole repair, acquisition and development of garages and parking facilities, installation and maintenance of improvements and facilities for the implementation of the Museum Market Plaza Specific Plan, by enacting a City of Palm Springs 1% sales and use tax, for 25 years, subject to independent annual audits, be adopted?	YES
	NO

SECTION 6. The number of votes given at each precinct, the number of votes for each qualified candidate and Measure "J" are attached hereto and incorporated herein as Exhibit A to this Resolution.

SECTION 7. The City Council determines and declares that Steve Pougnet was elected to the office of Mayor of the City of Palm Springs for the term ending December, 2015.

SECTION 8. The City Council determines and declares that Paul Lewin and Rick Hutcheson were elected to the office of Member of the Palm Springs City Council for the term ending December, 2015.

SECTION 9. The City Council determines and declares that as a result of the election, a majority of the voters voting on Measure "J" implementing a one-percent (1%) local transactions, sales and use tax for the period of twenty-five (25) years, did vote in favor of it, and that Measure "J" was carried, and shall be deemed adopted and ratified.

SECTION 10. The Mayor and City Clerk are hereby authorized and directed to execute Ordinance No. 1802, "AN ORDINANCE OF THE PEOPLE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING CHAPTER 3.22 TO THE PALM SPRINGS MUNICIPAL CODE, APPROVING AND IMPLEMENTING A ONE PERCENT (1%) TRANSACTIONS, SALES, AND USE TAX;" (attached hereto and incorporated herein as Exhibit B to this Resolution) and the City Clerk shall certify to the passage of Ordinance No. 1802, by the People of the City of Palm Springs, enter it into the book of original Ordinances, correct any non-substantive typographical errors, and cause such Ordinance to be codified in the Palm Springs Municipal Code.

SECTION 11. The City Clerk shall enter on the records of the City Council a statement of the results of the election, showing:

- a. The whole number of votes cast in the City;
- b. The qualified candidates voted upon;
- c. The measure voted upon;
- d. For what office each person was vote for;
- e. The number of votes given at each precinct to each to each qualified candidate, and for and against Measure "J;"
- f. The total number of votes given in the City for each qualified candidate, and for and against Measure "J."

SECTION 12. The City Clerk shall certify to the adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL THIS 7TH DAY OF DECEMBER, 2011.

DAVID H. READY, CITY MANAGER

ATTEST:

JAMES THOMPSON, CITY CLERK

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Resolution No. 23048 is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on 7th day of December, 2011 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JAMES THOMPSON, CITY CLERK
City of Palm Springs, California



Kari Verjil
Registrar of Voters

Rebecca Spencer
Assistant Registrar of Voters

**REGISTRAR OF VOTERS
COUNTY OF RIVERSIDE**

**CERTIFICATE OF REGISTRAR OF VOTERS
TO THE RESULTS OF THE CANVASS OF ELECTION RETURNS**

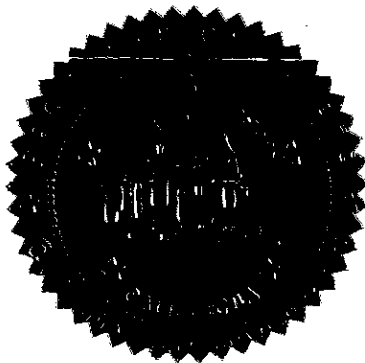
State of California)
) ss.
County of Riverside)

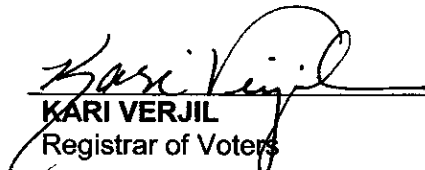
I, KARI VERJIL, Registrar of Voters of said County, do hereby certify that, in pursuance of the provisions of Sections 15301, 15372, and 15374 of the California Elections Code, and the resolution adopted by the City Council, I did canvass the returns of the votes cast on November 8, 2011, as part of the Consolidated General Election in the

CITY OF PALM SPRINGS

and I further certify that the statement of votes cast, to which this certificate is attached, shows the whole number of votes for each candidate for elective office and for and against each measure at said election, in said City, and in each precinct therein, and that the totals as shown for said election are full, true, and correct.

Dated this 16th day of November 2011.





KARI VERJIL
Registrar of Voters

RIVERSIDE COUNTY Statement of Vote
GENERAL CONSOLIDATED ELECTION

100013		NON-PARTISAN CITY OF PALM SPRINGS - MAYOR												
	Registration	Ballots Cast	Turnout (%)	BILL FERRA	DON COOK	PHYLLIS CLAIRE BURGESS	BRIDGETTE SULLENGER	VINCENT WILLIAM STEVEN ZIEGLER	JEFF NICHOLS	STEVE POUQUET				
49005 PALM SPRINGS	2216	382	17.24	28	20	16	32	17	15	233				
49005 - Vote by Mail Reporting	2216	699	31.54	58	30	29	47	33	24	428				
49006 PALM SPRINGS	1827	362	19.81	18	14	18	42	13	19	211				
49006 - Vote by Mail Reporting	1827	624	34.15	49	13	26	46	18	32	395				
49009 PALM SPRINGS	1896	298	15.72	10	7	16	29	7	16	195				
49009 - Vote by Mail Reporting	1896	600	31.65	28	8	19	32	23	34	424				
49017 PALM SPRINGS	2279	381	16.72	17	10	10	24	21	25	254				
49017 - Vote by Mail Reporting	2279	715	31.37	31	20	20	33	26	38	499				
49018 PALM SPRINGS	2609	449	17.21	15	16	12	34	16	21	313				
49018 - Vote by Mail Reporting	2609	1129	43.27	53	35	46	62	37	63	770				
49023 PALM SPRINGS	2200	297	13.50	4	12	13	21	15	24	186				
49023 - Vote by Mail Reporting	2200	842	38.27	41	42	44	50	37	47	518				
49025 PALM SPRINGS	1340	260	19.40	13	12	6	18	5	14	175				
49025 - Vote by Mail Reporting	1340	574	42.84	20	10	17	33	15	33	405				
49026 PALM SPRINGS	2958	466	15.75	28	24	18	35	21	32	281				
49026 - Vote by Mail Reporting	2958	986	33.33	52	30	54	63	29	55	630				
49031 PALM SPRINGS	0	0	0.00	0	0	0	0	0	0	0				
49031 - Vote by Mail Reporting	0	0	0.00	0	0	0	0	0	0	0				
49033 PALM SPRINGS	0	0	0.00	0	0	0	0	0	0	0				
49033 - Vote by Mail Reporting	0	0	0.00	0	0	0	0	0	0	0				
49034 PALM SPRINGS	0	0	0.00	0	0	0	0	0	0	0				
49034 - Vote by Mail Reporting	0	0	0.00	0	0	0	0	0	0	0				
59000 PALM SPRINGS	0	0	0.00	0	0	0	0	0	0	0				
59000 - Vote by Mail Reporting	0	0	0.00	0	0	0	0	0	0	0				
59001 PALM SPRINGS	0	0	0.00	0	0	0	0	0	0	0				
59001 - Vote by Mail Reporting	0	0	0.00	0	0	0	0	0	0	0				
59002 PALM SPRINGS	6	2	33.33				***** Insufficient Turnout to Protect Voter Privacy *****							
59002 - Vote by Mail Reporting	6	0	0.00	0	0	0	0	0	0	0				
59003 PALM SPRINGS	0	0	0.00	0	0	0	0	0	0	0				
59003 - Vote by Mail Reporting	0	0	0.00	0	0	0	0	0	0	0				
59006 PALM SPRINGS	0	0	0.00	0	0	0	0	0	0	0				
59006 - Vote by Mail Reporting	0	0	0.00	0	0	0	0	0	0	0				
59011 PALM SPRINGS	1549	194	12.52	9	12	11	20	4	14	115				
59011 - Vote by Mail Reporting	1549	381	24.60	14	9	16	16	19	26	267				
59020 PALM SPRINGS	2178	342	15.70	14	23	15	28	17	18	212				
59020 - Vote by Mail Reporting	2178	731	33.56	34	26	31	43	26	40	486				
59021 PALM SPRINGS	1525	262	17.18	14	12	8	30	12	13	155				
59021 - Vote by Mail Reporting	1525	532	34.89	35	17	30	40	16	28	337				
Precinct Totals	22583	3695	16.36	170	162	143	313	148	211	2332				
Vote by Mail Reporting Totals	22583	7813	34.60	415	240	332	465	279	420	5159				
Grand Totals	22583	11508	50.96	585	402	475	778	427	631	7491				
Riverside County	22583	11508	50.96	585	402	475	778	427	631	7491				
45th Congressional	22583	11508	50.96	585	402	475	778	427	631	7491				
37th Senatorial District	22583	11508	50.96	585	402	475	778	427	631	7491				
80th Assembly District	22583	11508	50.96	585	402	475	778	427	631	7491				
4th Supervisory District	17325	9064	52.32	465	303	364	601	333	492	5917				
5th Supervisory District	5258	2444	46.48	120	99	111	177	94	139	1574				
City of Palm Springs	22583	11508	50.96	585	402	475	778	427	631	7491				

RIVERSIDE COUNTY Statement of Vote
GENERAL CONSOLIDATED ELECTION

100014		NON-PARTISAN CITY OF PALM SPRINGS - CITY COUNCIL												
	Registration	Ballots Cast	Turnout (%)	RICK HUTCHESON	KERRY HENDRIX	JOHN TYMON	ELIZABETH "LIZ" GLASS	LEE WEIGEL	PAUL LEWIN					
49005 - PALM SPRINGS	2216	382	17.24	182	28	15	136	104	199					
49005 - Vote by Mail Reporting	2216	699	31.54	334	68	30	222	203	345					
49006 - PALM SPRINGS	1827	362	19.81	149	35	15	109	112	267					
49006 - Vote by Mail Reporting	1827	624	34.15	337	50	21	139	198	312					
49009 - PALM SPRINGS	1896	298	15.72	140	21	8	85	71	165					
49009 - Vote by Mail Reporting	1896	600	31.65	343	72	19	146	176	298					
49017 - PALM SPRINGS	2279	381	16.72	182	45	15	95	86	243					
49017 - Vote by Mail Reporting	2279	715	31.37	392	72	23	181	159	425					
49018 - PALM SPRINGS	2609	449	17.21	221	24	10	140	131	267					
49018 - Vote by Mail Reporting	2609	1129	43.27	620	88	29	265	312	653					
49023 - PALM SPRINGS	2200	297	13.50	137	27	12	95	85	144					
49023 - Vote by Mail Reporting	2200	842	38.27	403	45	27	265	287	417					
49025 - PALM SPRINGS	1340	260	19.40	132	14	7	63	70	158					
49025 - Vote by Mail Reporting	1340	574	42.84	306	39	17	123	194	319					
49026 - PALM SPRINGS	2958	466	15.75	197	38	21	158	156	218					
49026 - Vote by Mail Reporting	2958	986	33.33	462	84	31	286	333	503					
49031 - PALM SPRINGS	0	0	0.00	0	0	0	0	0	0					
49031 - Vote by Mail Reporting	0	0	0.00	0	0	0	0	0	0					
49033 - PALM SPRINGS	0	0	0.00	0	0	0	0	0	0					
49033 - Vote by Mail Reporting	0	0	0.00	0	0	0	0	0	0					
49034 - PALM SPRINGS	0	0	0.00	0	0	0	0	0	0					
49034 - Vote by Mail Reporting	0	0	0.00	0	0	0	0	0	0					
59000 - PALM SPRINGS	0	0	0.00	0	0	0	0	0	0					
59000 - Vote by Mail Reporting	0	0	0.00	0	0	0	0	0	0					
59001 - PALM SPRINGS	0	0	0.00	0	0	0	0	0	0					
59001 - Vote by Mail Reporting	0	0	0.00	0	0	0	0	0	0					
59002 - PALM SPRINGS	6	2	33.33				***** Insufficient Turnout to Protect Voter Privacy *****							
59002 - Vote by Mail Reporting	6	0	0.00	0	0	0	0	0	0					
59003 - PALM SPRINGS	0	0	0.00	0	0	0	0	0	0					
59003 - Vote by Mail Reporting	0	0	0.00	0	0	0	0	0	0					
59006 - PALM SPRINGS	0	0	0.00	0	0	0	0	0	0					
59006 - Vote by Mail Reporting	0	0	0.00	0	0	0	0	0	0					
59011 - PALM SPRINGS	1549	194	12.52	89	18	8	76	45	80					
59011 - Vote by Mail Reporting	1549	381	24.60	178	48	12	107	129	165					
59020 - PALM SPRINGS	2178	342	15.70	160	24	14	115	108	170					
59020 - Vote by Mail Reporting	2178	731	33.56	390	54	26	200	219	367					
59021 - PALM SPRINGS	1525	262	17.18	118	19	12	94	63	157					
59021 - Vote by Mail Reporting	1525	532	34.89	272	45	27	148	153	278					
Precinct Totals	22583	3695	16.36	1708	293	137	1167	1031	2008					
Vote by Mail Reporting Totals	22583	7813	34.60	4037	665	262	2082	2363	4082					
Grand Totals	22583	11508	50.96	5745	958	399	3249	3394	6090					
Riverside County	22583	11508	50.96	5745	958	399	3249	3394	6090					
45th Congressional	22583	11508	50.96	5745	958	399	3249	3394	6090					
37th Senatorial District	22583	11508	50.96	5745	958	399	3249	3394	6090					
80th Assembly District	22583	11508	50.96	5745	958	399	3249	3394	6090					
4th Supervisorial District	17325	9064	52.32	4537	750	300	2508	2677	4871					
5th Supervisorial District	5258	2444	46.48	1208	208	99	741	717	1219					
City of Palm Springs	22583	11508	50.96	5745	958	399	3249	3394	6090					

RIVERSIDE COUNTY Statement of Vote
GENERAL CONSOLIDATED ELECTION

140021		NON-PARTISAN MEASURE J - CITY OF PALM SPRINGS												
	Registration	Ballots Cast	Turnout (%)		YES	NO								
49005 PALM SPRINGS	2216	382	17.24		201	180								
49005 - Vote by Mail Reporting	2216	699	31.54		375	321								
49006 PALM SPRINGS	1827	362	19.81		203	154								
49006 - Vote by Mail Reporting	1827	624	34.15		380	241								
49009 PALM SPRINGS	1896	298	15.72		174	122								
49009 - Vote by Mail Reporting	1896	600	31.65		382	211								
49017 PALM SPRINGS	2279	381	16.72		225	155								
49017 - Vote by Mail Reporting	2279	715	31.37		437	272								
49018 PALM SPRINGS	2609	449	17.21		258	187								
49018 - Vote by Mail Reporting	2609	1129	43.27		678	438								
49023 PALM SPRINGS	2200	297	13.50		158	132								
49023 - Vote by Mail Reporting	2200	842	38.27		434	396								
49025 PALM SPRINGS	1340	260	19.40		170	86								
49025 - Vote by Mail Reporting	1340	574	42.84		358	209								
49026 PALM SPRINGS	2958	466	15.75		233	226								
49026 - Vote by Mail Reporting	2958	986	33.33		553	426								
49031 PALM SPRINGS	0	0	0.00		0	0								
49031 - Vote by Mail Reporting	0	0	0.00		0	0								
49033 PALM SPRINGS	0	0	0.00		0	0								
49033 - Vote by Mail Reporting	0	0	0.00		0	0								
49034 PALM SPRINGS	0	0	0.00		0	0								
49034 - Vote by Mail Reporting	0	0	0.00		0	0								
59000 PALM SPRINGS	0	0	0.00		0	0								
59000 - Vote by Mail Reporting	0	0	0.00		0	0								
59001 PALM SPRINGS	0	0	0.00		0	0								
59001 - Vote by Mail Reporting	0	0	0.00		0	0								
59002 PALM SPRINGS	6	2	33.33				***** Insufficient Turnout to Protect Voter Privacy *****							
59002 - Vote by Mail Reporting	6	0	0.00		0	0								
59003 PALM SPRINGS	0	0	0.00		0	0								
59003 - Vote by Mail Reporting	0	0	0.00		0	0								
59006 PALM SPRINGS	0	0	0.00		0	0								
59006 - Vote by Mail Reporting	0	0	0.00		0	0								
59011 PALM SPRINGS	1549	194	12.52		92	95								
59011 - Vote by Mail Reporting	1549	381	24.60		201	177								
59020 PALM SPRINGS	2178	342	15.70		168	170								
59020 - Vote by Mail Reporting	2178	731	33.56		428	296								
59021 PALM SPRINGS	1525	262	17.18		136	126								
59021 - Vote by Mail Reporting	1525	532	34.89		305	224								
Precinct Totals	22583	3695	16.36		2019	1634								
Vote by Mail Reporting Totals	22583	7813	34.60		4531	3211								
Grand Totals	22583	11508	50.96		6550	4845								
Riverside County	22583	11508	50.96		6550	4845								
45th Congressional	22583	11508	50.96		6550	4845								
37th Senatorial District	22583	11508	50.96		6550	4845								
80th Assembly District	22583	11508	50.96		6550	4845								
4th Supervisory District	17325	9064	52.32		5219	3756								
5th Supervisory District	5258	2444	46.48		1331	1089								
City of Palm Springs	22583	11508	50.96		6550	4845								



Kari Verjil
Registrar of Voters

Rebecca Spencer
Assistant Registrar of Voters

REGISTRAR OF VOTERS
COUNTY OF RIVERSIDE

CONSOLIDATED GENERAL ELECTION
NOVEMBER 8, 2011
OFFICIAL TALLY RESULTS OF QUALIFIED WRITE-IN CANDIDATES

November 15, 2011

CITY OF PALM SPRINGS – MAYOR

WAYNE GOTTLIEB -----

22

KARI VERJIL
Registrar of Voters

ORDINANCE NO. 1802

AN ORDINANCE OF THE PEOPLE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING CHAPTER 3.22 TO THE PALM SPRINGS MUNICIPAL CODE, APPROVING AND IMPLEMENTING A ONE PERCENT (1%) TRANSACTIONS, SALES, AND USE TAX.

THE PEOPLE OF THE CITY OF PALM SPRINGS HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 3.22 is hereby added to Division I of Title 3 of the Palm Springs Municipal Code to read:

SALES AND USE TAX

3.22.010	Title.
3.22.020	Purpose.
3.22.030	Operative Date.
3.22.040	Contract with State.
3.22.050	Transactions and Sales Tax Rate.
3.22.060	Place of Sale.
3.22.070	Use tax rate.
3.22.080	Adoption of Provisions of State Law.
3.22.090	Limitation on Adoption of State Law.
3.22.100	Permit not Required.
3.22.110	Exemptions and Exclusions.
3.22.120	Amendments.
3.22.130	Enjoining Collection Forbidden.
3.22.140	Independent Annual Audit.

3.22.010 Title.

This Chapter shall be known as the City of Palm Springs Local Transactions and Use Tax Code. This Chapter shall be applicable in the incorporated territory of the City of Palm Springs hereinafter referred to as the "City."

3.22.020 Purpose.

This Chapter 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 to be applied throughout the entire territory of the City to the fullest extent permitted by law and 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 of the Revenue and Taxation Code, which authorizes the City to adopt this Chapter 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, sales, 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, sales, and use tax ordinance that imposes a tax and provides a measure therefor 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, sales, 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 Chapter.

(e) To provide transactions, sales, and use tax revenue to the City to be used for the general governmental purposes of the City and with any transactions, sales, and use tax revenue received being placed into the City's general fund.

3.22.030 Operative Date.

This Chapter shall be operative on the first day of the first calendar quarter commencing at least thirty (30) days after the City Council certifies the results of the election.

3.22.040 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, sales 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 contract.

3.22.050 Transactions and Sales 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 retailers for the sale of all tangible personal property sold at retail in said territory on and after the operative date of this Chapter.

3.22.060 Place of Sale.

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 or her 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.

3.22.070 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 Chapter 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.

3.22.080 Adoption of provisions of State Law.

Except as otherwise provided in this Chapter and 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 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.

3.22.090 Limitation on Adoption of State Law.

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. The substitution, however, 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 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.

3.22.100 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 seller's permit shall not be required by this Chapter.

3.22.110 Exemptions and Exclusions.

(a) There shall be excluded from the measure of the transactions and sales 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 is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his or her 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 the ordinance codified in this Chapter.

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 the ordinance codified in this Chapter.

5. For the purposes of subsections (b)(3) and (b)(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 Chapter.

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 this Chapter.

5. For the purposes of subsections (c)(3) and (c)(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 subsection (c)(7) of this Section, 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 Chapter 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.

(e) Nothing in this Chapter shall be construed as imposing a tax upon any person or service when the imposition of such tax upon such person or service would be in violation of a federal or state statute, the Constitution of the United States or the Constitution of the State of California.

3.22.120 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.

3.22.130 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 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.

3.22.140 Independent Annual Audit.

The proceeds resulting from this transactions, sales, 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. The independent auditor's report, which shall include an accounting of the revenues received and expenditures made from the transactions and use tax, will be presented annually to the City Council and made available for public review.

SECTION 2. This Ordinance shall become effective upon adoption by a majority of the voters casting votes at the general municipal election on November 8, 2011, and shall expire on the twenty-fifth (25th) anniversary of the operative date, unless otherwise extended by a majority vote of the electors in the City of Palm Springs.

PASSED, APPROVED, AND ADOPTED BY THE PEOPLE OF THE CITY OF PALM SPRINGS AT THE REGULAR MUNICIPAL ELECTION HELD THE 8TH DAY OF NOVEMBER, 2011.

STEPHEN P. POUQUET, MAYOR

ATTEST:

JAMES THOMPSON, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

CERTIFICATION

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, California, do hereby certify that Ordinance No. 1802 is a full, true, and correct copy, and was adopted by a majority vote of the People of the City of Palm Springs, at the Regular Municipal Election held the 8th day of November, 2011, as appears by the official returns of said election, and the Statement of Votes Cast as declared by the City Council, Resolution No. 23048, adopted the 7th day of December, 2011.

JAMES THOMPSON, CITY CLERK
City of Palm Springs, California