



NOTICE OF SPECIAL MEETING CITY OF RIALTO CITY COUNCIL

NOTICE IS HEREBY GIVEN that a special meeting of the City Council of the City of Rialto will be held on Wednesday, August 8, 2012, at 6:00 p.m., in the City Council Chambers located at 150 S. Palm Avenue, Rialto.

SAID SPECIAL MEETING shall be held for the purpose of:

NEW BUSINESS

Request City Council to adopt **Resolution No. 6154** to place the Tax Measure (to Impose Higher Business License Taxes on Tank Farm Businesses) on the November 6, 2012 Ballot seeking voter approval of proposed Ordinance.

TAB 1

Motion _____
Second _____
Vote _____

RESOLUTION NO. 6154

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIALTO, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF AN ELECTION ON NOVEMBER 6, 2012 TO VOTE ON A MEASURE TO INCREASE THE BUSINESS LICENSE TAX ON BUSINESSES ENGAGED IN THE MANUFACTURER, PIPING, REFINING, STORAGE AND WHOLESALE OF PETROLEUM PRODUCTS SO AS TO REPLACE A PORTION OF THE REVENUES LOST TO THE CITY DUE TO THE DOWNTURN IN THE ECONOMY; ORDERING THE SUBMITTAL OF THE ORDINANCE TO THE VOTERS AT THE GENERAL ELECTION MUNICIPAL ELECTION; AND REQUESTING THE SAN BERNARDINO COUNTY BOARD OF SUPERVISORS TO CONSENT TO THE CONSOLIDATION OF THIS ELECTION WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON NOVEMBER 6, 2012 AND DIRECT THE REGISTRAR OF VOTERS TO CONDUCT THE ELECTION

ORDINANCE

AN ORDINANCE OF THE CITY OF RIALTO, CALIFORNIA, AMENDING CHAPTERS 5.04 AND 5.14 OF THE RIALTO MUNICIPAL CODE TO INCREASE THE BUSINESS LICENSE TAX ON BUSINESSES ENGAGED IN THE MANUFACTURER, PIPING, REFINING, STORAGE AND WHOLESALE OF PETROLEUM PRODUCTS

(ACTION)

/s/ Barbara A. McGee, City Clerk

Dated: August 7, 2012

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIALTO, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF AN ELECTION ON NOVEMBER 6, 2012 TO VOTE ON A MEASURE TO INCREASE THE BUSINESS LICENSE TAX ON BUSINESSES ENGAGED IN THE MANUFACTURER, PIPING, REFINING, STORAGE AND WHOLESALE OF PETROLEUM PRODUCTS SO AS TO REPLACE A PORTION OF THE REVENUES LOST TO THE CITY DUE TO THE DOWNTURN IN THE ECONOMY; ORDERING THE SUBMITTAL OF THE ORDINANCE TO THE VOTERS AT THE GENERAL ELECTION MUNICIPAL ELECTION; AND REQUESTING THE SAN BERNARDINO COUNTY BOARD OF SUPERVISORS TO CONSENT TO THE CONSOLIDATION OF THIS ELECTION WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON NOVEMBER 6, 2012 AND DIRECT THE REGISTRAR OF VOTERS TO CONDUCT THE ELECTION

WHEREAS, the Rialto City Council finds that the City's future revenues will be insufficient to meet the cost of the City's current level of city services, which without additional revenues will necessitate further reductions of city services including police and fire services, and therefore seeks to call an election to allow the voters of the City of Rialto to adopt a measure that will increase revenues without placing a burden on the residents of the City of Rialto; and

WHEREAS, like all other Cities in San Bernardino County, the City of Rialto has experienced large reductions in its traditional revenues over the past six years due to the downturn in the economy that exceed eight million dollars (\$8,000,000) including a 20% reduction in property taxes, a 17% reduction in sales taxes and a 17% reduction in In Lieu Property taxes; and

WHEREAS, the City of Rialto has been able to fund city services from the City's reserves in the past and current fiscal years and the management and finance staff forecast another deficit budget for the coming fiscal year that will require a decrease in city services levels including fire and police protection unless new sources of revenues are realized; and

WHEREAS, the Rialto City Council welcomes the opportunity of allowing the residents of the City of Rialto to determine their desired level of city services as well as the source of revenues to support that level of city services; and

WHEREAS, the County of San Bernardino is holding a consolidated statewide general election on Tuesday, November 6, 2012, which also is the regularly scheduled general election for the Mayor and two Members of the Rialto City Council; and

WHEREAS, Section 2(b) of Article XIIC of the California Constitution, Sections 37101, 53723 and 53724 of the California Government Code and Section 9222 of the California

Elections Code authorize the Rialto City Council, by a two-thirds vote of all members of the City Council, to submit to the voters of the City of Rialto, without a petition therefore, a measure for the amendment or enactment of any ordinance that would permit an increase of a general tax, to be voted upon at a regular election; and if the measure submitted receives a majority of the votes cast on it at the election, the ordinance shall be amended or enacted accordingly; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Rialto does hereby resolve, declare, determine and order as follows:

Section 1. The foregoing recitals are true and correct.

Section 2. Pursuant to Section 2(b) of Article XIIC of the Constitution, Government Code Section 53724, and Elections Code Section 9222, the City Council of the City of Rialto, by a two-thirds vote of all the members of the City Council, hereby calls an election at which it shall submit to the qualified voters of the City a measure, which if approved, would increase the City’s business license tax, a general tax, on businesses engaged the manufacturer, piping, refining, storage and wholesale of petroleum products, as authorized by Section 37101 of the California Government Code. This measure shall be designated by letter by the San Bernardino County Registrar of Voters. Pursuant to Section 2(b) of Article XIIC of the Constitution, Government Code Section 53724 and Elections Code Section 10400 et seq., the election for this measure shall be consolidated with the General Election to be conducted on Tuesday, November 6, 2012.

Section 3. The Ordinance, attached hereto as Attachment 1, proposes to amend the City’s business license tax ordinance contained in Chapters 5.04 and 5.14 of the Rialto Municipal Code. The ordinance proposes to increase the business license tax on businesses engaged in the manufacturer, piping, refining, storage and wholesale of petroleum products. The type of tax proposed by the Ordinance is an increase to the general tax currently charged businesses in the City of Rialto. The rate of tax to be levied by the Ordinance is an increase in the tax rate upon the gross receipts of the affected businesses. The tax on the affected businesses shall be collected by the City upon issuance of a new business license or upon the renewal of a business license. The date upon which the election shall be held on the issue is November 6, 2012.

Section 4. The question to be presented to the voters is:

Shall the Ordinance to Increase the Business License Tax on Businesses Engaged in the Manufacture, Piping, Refining, Storage and Wholesale Distribution of Petroleum Products be Adopted?	YES	
	NO	

Section 5. The City Clerk is requested to transmit a copy of the Ordinance to the City Attorney. The City Attorney is directed to prepare an impartial analysis of the measure, not to exceed 500 words, showing the effect of the measure on the existing law and the operation of the

measure and to transmit the same to the Registrar of Voters as required by law. The impartial analysis shall be printed preceding the arguments for and against the measure.

Section 6. Arguments for or against the measure and rebuttal arguments shall be submitted and selected as follows:

- a. The last day for submission of primary arguments for or against the measure shall be August 23, 2012.
- b. The last day for submission of rebuttal arguments for or against the measure shall be August 31, 2012.
- c. Primary arguments shall not exceed three hundred (300) words and shall be signed by not more than five persons.
- d. Rebuttal arguments shall not exceed two hundred fifty (250) words and shall be signed by not more than five persons; those persons may be different persons than the persons who signed the primary arguments.
- e. Pursuant to California Elections Code Section 9282, the Mayor is hereby authorized to prepare and file a written argument in favor of the proposed measure, not to exceed three hundred (300) words, on behalf of the City Council. At the Mayor's discretion, the argument may also be signed by members of the City Council or bona fide associations or by individual voters who are eligible to vote on the measure. In the event that an argument is filed against the measure, the Mayor is also authorized to prepare a rebuttal argument on behalf of the City Council, which may also be signed by members of the City Council or bona fide associations or by individual voters who are eligible to vote on the measure.
- f. Pursuant to California Elections Code Section 9285, when the City Clerk has selected the arguments for and against the measure, which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. Rebuttal arguments shall be printed in the same manner as the primary arguments. Each rebuttal argument shall immediately follow the primary argument, which it seeks to rebut.

Section 7. The Board of Supervisors of the County of San Bernardino is requested to order the County Registrar of Voters to set forth in the voter information portion of all sample ballots to be mailed to the qualified electors of the City of Rialto the full text of the Ordinance and to mail with the sample ballots to the electors printed copies of the full text of the Ordinance, together with the impartial analysis and the primary arguments and rebuttal arguments (if any) for and against the measure, and to provide absentee voter ballots for the election for use by qualified electors of the City who are entitled thereto in the manner provided by law.

Section 8. The City Clerk is authorized and directed to work with the Office of the Registrar of Voters as needed in order to properly and lawfully conduct the election. The ballots to be used in the election shall be in form and content as required by law. The Office of the Registrar of Voters is authorized to canvass the returns of the general municipal election. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

Section 9. The Board of Supervisors of San Bernardino County is requested to instruct the Office of the Registrar of Voters to provide such services as may be necessary for the holding of the consolidated election. The election shall be held in all respects as if there were only one election. The City of Rialto recognizes that the County will incur additional costs because of this consolidation and agrees to reimburse the County for those costs. The City Administrator is hereby authorized and directed to expend the necessary funds to pay for the City's cost of placing the measure on the election ballot.

Section 10. The City Clerk is directed to file certified copies of this Resolution with the Board of Supervisors and the Registrar of Voters of San Bernardino County, together with the attached Ordinance (Attachment 1).

Section 11. The jurisdictional boundaries of the City of Rialto have not changed since the last general municipal election.

Section 12. The approval of this Resolution is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"). The transactions and use tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the city would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060 CEQA analyses is not required.

PASSED APPROVED AND ADOPTED this 8th day of August, 2012.

By: _____
GRACE VARGAS, Mayor

ATTEST:

By: _____
Barbara McGee, City Clerk

APPROVED AS TO FORM:

By: _____
Jimmy L. Gutierrez, City Attorney

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) ss
CITY OF RIALTO)

I, Barbara McGee, City Clerk of the City of Rialto, do hereby certify that the foregoing Resolution No. ____ was duly passed and adopted at a regular meeting of the City Council of the City of Rialto held on the 8th day of August, 2012.

Upon motion of Council Member _____, seconded by Council Member _____, the foregoing Resolution No. ____ was duly passed and adopted.

Vote on the motion:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of the City of Rialto this 8th day of August, 2012.

By: _____
Barbara McGee, City Clerk

**AN ORDINANCE OF THE CITY OF RIALTO, CALIFORNIA,
AMENDING CHAPTERS 5.04 AND 5.14 OF THE RIALTO MUNICIPAL
CODE TO INCREASE THE BUSINESS LICENSE TAX ON BUSINESSES
ENGAGED IN THE MANUFACTURER, PIPING, REFINING, STORAGE
AND WHOLESALE OF PETROLEUM PRODUCTS**

WHEREAS, the Rialto City Council has found that the City's future revenues will be insufficient to meet the cost of the City's current level of city services, which without additional revenues will necessitate further reductions of city services including police and fire services, and therefore seeks to call an election to allow the voters of the City of Rialto to adopt a measure that will increase revenues without placing a burden on the residents of the City of Rialto; and

WHEREAS, like all other Cities in San Bernardino County, the City of Rialto has experienced large reductions in its traditional revenues over the past six years due to the downturn in the economy that exceed eight million dollars (\$8,000,000) including a 20% reduction in property taxes, a 17% reduction in sales taxes and a 17% reduction in In Lieu Property taxes; and

WHEREAS, the City of Rialto has been able to fund city services from the City's reserves in the past and current fiscal years and the management and finance staff forecast another deficit budget for the coming fiscal year that will require a decrease in city services levels including fire and police protection unless new sources of revenues are realized; and

WHEREAS, the Rialto City Council has allowed the residents of the City of Rialto to determine the desired level of city services as well as the source of revenues to support that level of city services; and

THE PEOPLE OF THE CITY OF RIALTO DO ORDAIN AS FOLLOWS:

Section 1. The following definitions are added to Section 5.04.020 of the Rialto Municipal Code:

"Petroleum Bulk Station or Terminal" shall mean a business with bulk liquid storage facilities primarily engaged in either the bulk warehousing or storage of petroleum, including liquefied petroleum gas and petroleum products blended with ethanol, or in the merchant wholesale distribution of crude petroleum and petroleum products, including liquefied petroleum gas and petroleum products blended with ethanol. Petroleum Bulk Station or Terminal shall also mean a business primarily engaged in the provision of specialized or support services for a Petroleum Bulk Station or Terminal including, without limitation, the loading and unloading of such products on to and off of railcars and tanker trucks.

"Petroleum Manufacturer" shall mean businesses primarily engaged in manufacturing petroleum products from refined petroleum and businesses primarily engaged in blending or compounding refined petroleum, including but not limited to blending petroleum products with ethanol, making lubricating oils and greases and/or re-refining used petroleum lubricating oils.

“Petroleum and Petroleum Products Merchant Wholesaler” shall mean a business primarily engaged in the merchant wholesale distribution of petroleum and petroleum products, including petroleum products that have been blended with ethanol.

“Petroleum Pipeline” shall mean a business primarily engaged in the pipeline transportation of crude and refined petroleum products, including petroleum products that have been blended with ethanol.

“Petroleum Refinery” shall mean a business primarily engaged in refining crude petroleum into refined petroleum. Petroleum refining involves one or more of the following activities: (1) fractionation; (2) straight distillation of crude oil; and (3) cracking.

Section 2. Section 5.04.060 of the Rialto Municipal Code is revised to read as follows:

5.04.060. Tax Rates on Businesses.

The maximum amount of the administration fee and the business license tax rate for the various businesses described in Title 5 of the Rialto Municipal Code are those established and described in Appendix A to Chapter 5.04 of the Rialto Municipal Code. The City Council may by resolution, from time to time and in its sole discretion, reduce the license tax rate applicable to any class of businesses listed in Appendix A to an amount that is less than the maximum rate. In the event that it does so, the City Council may by resolution subsequently readjust the license tax rate for any class of businesses listed in Appendix A to the maximum rate or to some other rate less than the maximum rate without subsequent voter approval.

Section 3. Section 5.04.062 is added to the Rialto Municipal Code to read as follows:

5.04.062. Business License Taxes on Petroleum Businesses.

Petroleum Bulk Products Stations or Terminals, Petroleum Manufacturers, Petroleum and Petroleum Products Merchant Wholesalers and Petroleum Refineries shall pay an administration fee and a license tax based on the entire gross receipts of the previous year which are attributable to the business activities of such businesses conducted within the City. The amount of the administration fee and the business license tax rate of each such business shall be established pursuant to Section 5.04.060.

Section 4. Section 5.04.064 is added to the Rialto Municipal Code to read as follows:

5.04.064. Amendments without Tax Increases.

Sections 5.04.020, 5.04.060, 5.04.062, 5.04.064, Appendix A to Chapter 5.04, Chapter 5.14 and Section 5.68.035 of the Rialto Municipal Code may be amended by the City Council without a vote of the people. However, as required by Chapter XIIC of the California Constitution, and except as otherwise provided in Section 5.04.060, voter approval is required for any amendment of those previously listed sections that would result in an increase of a tax rate. Sections 5.04.020, 5.04.060, 5.04.062, 5.04.064, Appendix A to Chapter 5.04, Chapter 5.14 and Section

5.68.035 were adopted to increase revenue for the City of Rialto and to ensure that, to the extent permissible under state and federal law, a business license tax is imposed on all businesses operating in the City consistent with that intent. Without limiting the foregoing, the following amendments shall not constitute an increase of a tax rate:

- A. An action that interprets or clarifies the methodology of calculating the tax, or any definition applicable to the tax, as long as said interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the text of Title 5 or the purposes expressed above.
- B. The collection of a tax imposed, even if the City had, for some period of time, failed to collect the tax.
- C. Amendments to effectuate the purpose of Sections 5.04.020, 5.04.060, 5.04.062, 5.04.064, Appendix A to Chapter 5.04, Chapter 5.14 and Section 5.68.035.

Section 5. Section 5.04.070 of the Rialto Municipal Code is deleted in its entirety.

Section 6. Section 5.14.010 of Chapter 5.14 of the Rialto Municipal Code is amended to add the following clarification after the definitions set forth in that Section:

For the purposes of this Chapter, “distribution facility,” “manufacturer,” “warehouse,” and “wholesaler” shall not include any Petroleum Bulk Products Station or Terminal, Petroleum Manufacturer, Petroleum and Petroleum Products Merchant Wholesaler, Petroleum Pipeline or Petroleum Refinery as those terms are defined in Section 5.04.020.

Section 7. Section 5.14.020 the Rialto Municipal Code is amended to read as follows:

5.14.020. Business License Requirement.

For the purpose of generating more revenue for the city, every person, corporation or association of persons engaged in the activity of, or operation of, a distribution facility, manufacturer, professional service, retail merchant-food, retail merchant-nonfood, services business, truck deliveries, warehouse or wholesaler shall be licensed and pay an administration fee and business license tax pursuant to Chapter 5.04.

Section 8. Section 5.14.030 the Rialto Municipal Code is amended to read as follows:

5.14.030. Unlicensed Businesses Prohibited.

It is a misdemeanor for any person, corporation or association of persons to operate, conduct or carry on any business described in Section 5.14.020 in the city without first obtaining a license to do so. Applicants for said license shall also be required to pay an administration fee.

Section 9. Section 5.14.040 the Rialto Municipal Code is amended to read as follows:

5.14.040. Amount of Business License Tax.

The amount of the administration fee and the business license tax rate for operating, conducting or carrying on any business described in Section 5.14.020 shall be established pursuant to Section 5.04.060.

Section 10. Sections 5.14.050 and 5.14.060 of the Rialto Municipal Code are deleted in their entirety.

Section 11. Chapter 5.48 (“Truck Delivery”) of the Rialto Municipal Code is deleted in its entirety.

Section 12. Section 5.56.040 of the Rialto Municipal Code is amended to read as follows:

5.56.040. Contractors. Each contractor and subcontractor engaged in business in the City shall obtain a business license pursuant to Chapter 5.04 and shall pay an administration fee and business license tax in the amounts established pursuant to Chapter 5.04.060.

Section 13. Section 5.68.035 is hereby added to the Rialto Municipal Code to read as follows:

5.68.035. Other Businesses.

For the purpose of generating more revenue for the city, and in addition to the permit requirement contained in this Chapter, every person, corporation or association of persons engaged in the activity of, or operation of a home occupancy business within the city shall be licensed and the requisite fee paid pursuant to Chapter 5.04. All applicants for a business license shall also be required to pay an administration fee. The amount of the administration fee and the business license tax rate for home occupancy businesses shall be established pursuant to Section 5.04.060.

Section 14. Chapter 5.04 of the Rialto Municipal Code is hereby amended to add Appendix A, attached hereto and incorporated herein. Appendix A establishes the maximum amount of the administration fee and the business license tax rate for the various businesses described in Title 5 of the Rialto Municipal Code. Appendix A also affirms and includes the classifications of businesses and license tax rates set forth in City Council Resolution 5280, except that the schedules for “Distribution Centers” is amended as set forth therein. The City Council may by resolution, from time to time and in its sole discretion, reduce the license tax rate applicable to any class of businesses listed in Appendix A to an amount that is less than the maximum rate. In the event that it does so, the City Council may by resolution subsequently readjust the license tax rate for any class of businesses listed in Appendix A to the maximum rate or to some other rate less than the maximum rate without subsequent voter approval.

Section 15. The provisions of this Ordinance are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any

person or circumstances, such as illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the ordinance or their applicability to other persons or circumstances.

Section 16. This Ordinance shall be considered adopted on the date that the City Council declares the results of the election at which it was voted upon and shall be effective ten days thereafter.

Section 17. The City Clerk of the City of Rialto shall cause this Ordinance to be posted in the manner required by law.

Section 18. The approval of this Ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., “CEQA,” and 14 Cal. Code Reg. §§ 15000 et seq., “CEQA Guidelines”). This Ordinance amends the City’s Business License Tax, which is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15378(b)(4), the Ordinance is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the city would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060 CEQA analyses is not required.