

2008

POLLING PLACE
LOCATION
ON BACK COVER

Polls Open
November 4, 2008
7:00 a.m. to 8:00 p.m.

LAST DAY TO
REGISTER TO VOTE
October 20, 2008

VOTE -BY- MAIL
October 6th – October 28th
APPLICATION ON BACK

IT'S QUICK
IT'S EASY
IT'S CONVENIENT

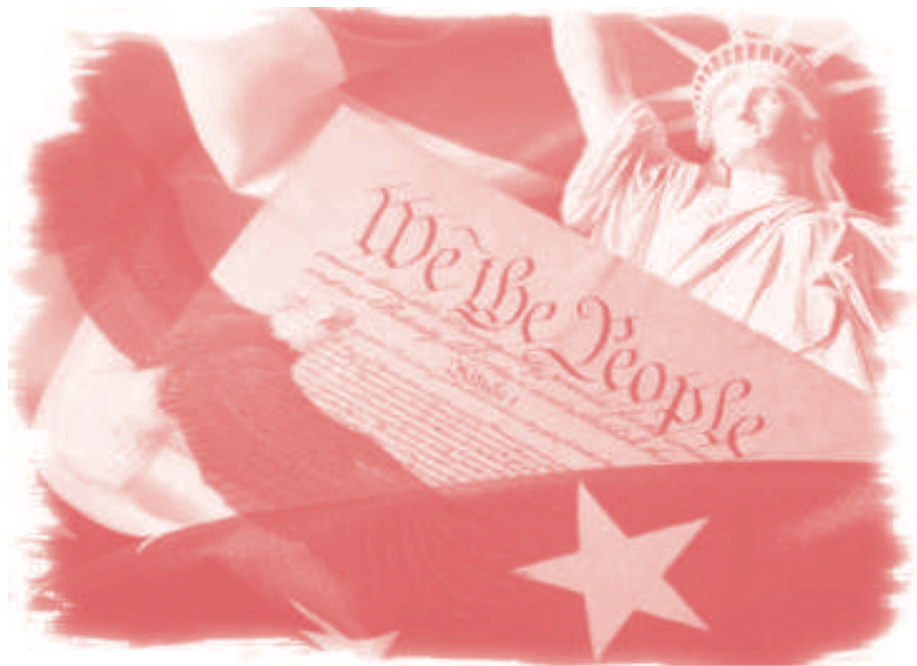
GET OUT OF LINE
ON ELECTION DAY!

VOTE -BY- MAIL

County of Riverside *Sample Ballot and Information Pamphlet*



Consolidated General Election *Tuesday, November 4, 2008*



AVISO IMPORTANTE
Una traducción al Español de este Balota
Ejemplar y Folleto de Información al
Votante puede obtenerse en la oficina del
Registradora de Votantes Llame al (951)
486-7200 o 1 (800) 773-VOTE (8683)

COUNTY OF RIVERSIDE REGISTRAR OF VOTERS
2724 Gateway Drive, Riverside, CA 92507
951-486-7200 * 800-773-VOTE (8683) * TTY: 951-697-8966
www.voteinfo.net

IMPORTANT NOTICE TO VOTERS

In an effort to maintain current voter rolls and reduce waste, the Riverside County Registrar of Voters will be mailing an alternate residency confirmation notice after the November 4, 2008 Consolidated General Election, pursuant to California Elections Code § 2224 that permits removal from the active voter roll the names of those registered voters who have **NOT** voted in any election nor had their registration updated in the preceding four years.

The pre-addressed return postage-paid card **MUST BE RETURNED** to the registrar of voters if he or she wish to remain on the active voter roll. However, if you receive a card for someone who has moved or does not live at the address shown return the card so that we can maintain a current voter file.

Voters who return the notice with an affirmative response will remain on the active list of registered voters.

Voters who do **NOT** respond affirmatively will be placed on an inactive voter list, and they will no longer receive election materials. If they fail to vote in any election between the time they receive the notice and the next two federal general elections, they may be canceled from the voter file.



VOTE EARLY

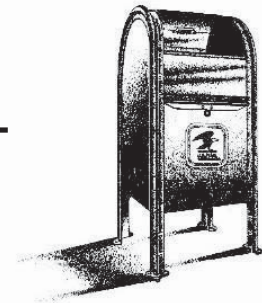
IT'S QUICK

IT'S EASY

IT'S CONVENIENT

**GET OUT OF LINE
ON ELECTION DAY!**

VOTE -BY- MAIL



Did You Know...

- Any voter can vote-by-mail
- You can opt to vote-by-mail once or chose to permanently receive all future ballots by mail
- Vote-by-mail ballots are mailed to voters up to 29 days before Election Day
- A vote-by-mail voter can check online to see if the Registrar has received their ballot
- Vote-by-mail ballots can be returned by mail, at drop off locations, or at any polling place
- The back of this pamphlet includes a vote-by-mail application



BARBARA DUNMORE
Registrar of Voters



2724 Gateway Drive
Riverside, CA 92507-0918
(951) 486-7200 FAX (951) 486-7272
web site www.voteinfo.net

**REGISTRAR OF VOTERS
COUNTY OF RIVERSIDE**

Dear Riverside County Voter:

Your Consolidated General Election Sample Ballot and Information Pamphlet was prepared to assist you in becoming informed about your choices so you can **make your voice heard on November 4th**.

Your ballot will contain contests for federal and state offices, as well as a number of statewide propositions. In addition, your ballot may include local contests and measures. We recommend that you read this Sample Ballot and Information Pamphlet and your State-issued Voter Information Guide. Mark your selections on your sample ballot for easy reference when completing your official ballot. There are many options to cast your ballot in this election.



Polling Place Your polling place is listed on the back of this pamphlet. Polling places will be open from 7 a.m. to 8 p.m. on Election Day, November 4th.



Registrar of Voters Office You may receive and cast your ballot (paper or on an electronic accessible voting unit) at the Registrar of Voters Office located at 2724 Gateway Drive in Riverside, Monday – Saturday, October 6th through the close of polls on Election Day.



Vote-by-Mail Request a vote-by-mail ballot and return it by mail at your convenience to reach the Registrar of Voters Office no later than the close of polls on Election Day. Postmarks are not accepted. Vote-by-mail ballots may also be turned in at any Riverside County polling place on Election Day.



Vote-by-Mail Drop off Box Drop off boxes for vote-by-mail ballots are available at county libraries and city clerk's offices through October 31st.



Early Voting Site Electronic accessible voting units will be available at three regional malls October 18th – 26th. See page 3 of this pamphlet for locations.



Vote Early on R.O.V.E.R. The county's votemobile, known as R.O.V.E.R., will be traveling throughout the county during the month of October equipped with electronic accessible voting units for early voting. Check our website at www.voteinfo.net for locations.



Metrolink Stations R.O.V.E.R. will be parked at metrolink locations on selected evenings for returning commuters to cast their ballots early and conveniently on electronic accessible voting units. A vote-by-mail drop off box will also be available on R.O.V.E.R. for deposit of completed vote-by-mail ballots. Check our website at www.voteinfo.net for times and locations.

The ballot box is where we exercise our most cherished heritage and our proudest legacy – **the right to vote**. We look forward to counting your vote with your participation on November 4th.

Sincerely,

Barbara Dunmore
Registrar of Voters

IMPORTANT NOTICE!!!

Please refer to the following instructions on how to properly complete your official ballot.

HOW TO MARK YOUR PAPER BALLOT

- ✓ Connect the head and tail of the arrow like the example provided
- ✓ Use a black ball point pen (Do not use felt tip, red or gel ink)
- ✓ Draw the line only once
- ✓ Vote for no more than the number of candidates allowed in each contest (e.g. vote for one, vote for two, etc.)
- ✓ Please keep the ballot folded the same way as you received it

DRAW A LINE



VOTE DEMOCRACY

For a demonstration on marking your ballot
please visit our website at www.voteinfo.net

CAN'T MAKE IT ON ELECTION DAY? WE'RE MAKING IT EASY TO VOTE EARLY



AT THE FOLLOWING MALL LOCATIONS

October 18 through October 26

Monday thru Saturday 10:00 a.m. to 7:00 p.m. and Sunday 11:00 a.m. to 6:00 p.m.



GALLERIA AT TYLER
1299 GALLERIA AT TYLER
(basement level below food court)



WESTFIELD
72-840 HIGHWAY 111
(across from Hallmark)

THE PROMENADE
In Temecula

THE PROMENADE
40820 WINCHESTER ROAD
(in the Plaza)

WITH THE R.O.V.E.R. VOTEMOBILE AT THE FOLLOWING METROLINK STATIONS FROM 3:00 p.m. to 8:00 p.m.



La Sierra Station
Monday, October 27

North Main Corona Station
Tuesday, October 28

Riverside Downtown Station
Wednesday, October 29

Pedley Station
Thursday, October 30

West Corona Station
Friday, October 31

THE REGISTRAR OF VOTERS OFFICE 2724 Gateway Drive, Riverside

October 6 through November 3

Monday thru Friday
8:00 a.m. to 5:00 p.m.

Saturdays
9:00 a.m. to 4:00 p.m.

Election Day, November 4
7:00 a.m. to 8:00 p.m.

Check out our website
for more early voting
locations with
R.O.V.E.R.
throughout
Riverside County at
WWW.VOTEINFO.NET
or
call our office at
951-486-7200 or
1-800-773-VOTE(8683)

VOTE-BY-MAIL

You can request your OFFICIAL VOTE-BY-MAIL BALLOT by using the application on the back of this sample ballot booklet. Return your vote-by-mail ballot by mail or for your convenience, you can return your ballot at the following drop-off locations throughout Riverside County October 6 to October 31:

- City Clerk's Offices
- County-run Libraries (as listed)
- The Registrar of Voters Office up until close of polls on Election Day.
- The Registrar of Voters 24-hour Drop Box is available east of the main entry doors.
- At any polling place on Election Day.

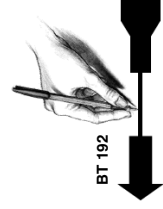
Anza Library
Calimesa Library
Canyon Lake Library
Cathedral City Library
Coachella Library
Desert Hot Springs Library
Eastvale Library
El Cerrito Library
Glen Avon Library
Grace Mellman Library
Highgrove Library
Home Gardens Library
Idyllwild Library
Indio Library
La Quinta Library
Lake Elsinore Library

Lake Tamarisk Library
Lakeside Library
Mecca Library
Mission Trail Library
Norco Library
Nuvview Library
Palm Desert Library
Paloma Valley Library
Perris Library
Romoland Library
Robidoux Library
San Jacinto Library
Sun City Library
Temecula Public Library
Thousand Palms Library
Valle Vista Library
Woodcrest Library

FEDERAL FEDERAL		CITY CIUDAD	
PRESIDENT AND VICE PRESIDENT PRESIDENTE Y VICE PRESIDENTE		CITY OF INDO CIUDAD DE INDO	
Vote for One Party Vote por Un Partido		City Council Member Miembro Concejo Municipal	
CYNTHIA MCKINNEY for President / por Presidente	Green Verde	PATRICK RUNYON Retired Sheriff's Lieutenant Teniente del Agenci del Condado Jubilado	Vote for no more than Two Vote por no más de Dos
ROSA CLEMENTE for Vice President / por Vice Presidente		GLENN MILLER Indio Planning Commissioner Comisario de Planificación de Indio	
ALAN KEYES for President / por Presidente	American Independent Americano Independiente	GUADALUPE "LUPE" RAMOS WATSON Councilmember / Small Businesswoman Miembra del Consejo / Pequeña Empresaria	
WILEY S. DRAKE, SR. for Vice President / por Vice Presidente		MICHAEL H. WILSON Incumbent Titular	
RALPH NADER for President / por Presidente	Peace And Freedom Paz Y Libertad	STEVE SANCHEZ Public Relations Representative Representate de Relaciones Públicas	
MATT GONZALEZ for Vice President / por Vice Presidente			
BARACK OBAMA for President / por Presidente	Democratic Demócrata		
JOE BIDEN for Vice President / por Vice Presidente			
BOB BARR for President / por Presidente	Libertarian Libertario		
WAYNE A. ROOT for Vice President / por Vice Presidente			
JOHN MCCAIN for President / por Presidente	Republican Republicano	City Clerk Secretario Municipal	Vote for One Vote por Uno
SARAH PALIN for Vice President / por Vice Presidente		CYNTHIA HERNANDEZ Incumbent Titular	

SAMPLE BALLOT/BALOTA EJEMPLAR

UNITED STATES REPRESENTATIVE REPRESENTANTE DE ESTADOS UNIDOS	MATT MONICA Incumbent Titular	Treasurer Tesorero
45th Congressional District Distrito Congresional No. 45	JIM KOEDYKER Director de Escuela	SHARON ELLIS Incumbent Titular
JULIE BORNSTEIN Nonprofit Housing Executive Ejecutiva de organización de viviendas sin fines de lucro	GARY TOMAK Incumbent Titular	
MARY BONO MACK Member of Congress Miembro del Congreso		
MEMBER OF THE STATE ASSEMBLY MIEMBRO DE LA ASAMBLEA DEL ESTADO		DISTRICT DISTRITO
80th Assembly District Distrito de Asamblea No. 80	Governing Board Member Miembro Junta Gobernante	COACHELLA VALLEY WATER DISTRICT DISTRITO DE AGUA DE COACHELLA VALLEY
GARY JEANDRON Police Chief / Teacher Jefe de policía / Maestro	Short Term / Plazo Corto	Director, División 2
MANUEL PEREZ Educator / Healthcare Director Educador / Director de atención de la salud	SONJA M. L. MARTIN Educator Educador	PATRICIA "CORKY" LARSON Incumbent Titular
	DONALD B. GRIFFITH Appointed Incumbent Titular Nominado	ROY CARL KLOPFENSTEIN Engineer / Electrical Contractor Ingeniero / Contratista Electricista
SCHOOL ESCOLAR	DALE M. CRIPPEN Retired Educator Educador Jubilado	ROBERT R. NICKLEN Retired Water Engineer Ingeniero Hidráulico Jubilado
DESERT COMMUNITY COLLEGE DISTRICT DISTRITO DE UNIVERSIDAD COMUNITARIA DE DESERT		SERGIO L. NUNEZ Gas Chromatography Analyst Analista de Cromatografía de Gas
Governing Board Member, Trustee Area 2 Miembro Junta Gobernante, Fielcomisario Area 2		
PAUL E. MILLER Pastor		
CHARLES "CHUCK" HAYDEN Incumbent Titular		



SAMPLE BALLOT/BALOTA EJEMPLAR

MEASURE(S) SUBMITTED TO THE VOTERS
MEDIDA(S) SOMETIDAS A LOS VOTANTES
STATE / ESTADO

1A **SAFE, RELIABLE HIGH-SPEED PASSENGER TRAIN BOND ACT.** To provide Californians a safe, convenient, affordable, and reliable alternative to driving and high gas prices; to provide good-paying jobs and improve California's economy while reducing air pollution, global warming greenhouse gases, and our dependence on foreign oil, shall \$9.95 billion in bonds be issued to establish a clean, efficient high-speed train service linking Southern California, the Sacramento/San Joaquin Valley, and the San Francisco Bay Area, with at least 90 percent of bond funds spent for specific projects, with private and public matching funds required, including, but not limited to, federal funds, funds from revenue bonds, and local funds, and all bond funds subject to independent audits? Fiscal Impact: State costs of \$19.4 billion, assuming 30 years to pay both principal and interest costs of the bonds. Payments would average about \$647 million per year. When constructed, unknown operation and maintenance costs, probably over \$1 billion annually; at least partially, and potentially fully, offset by passenger fares.

LEY DE BONOS PARA TRENES DE PASAJEROS SEGUROS, CONFIABLES Y DE ALTA VELOCIDAD. Para proporcionar a los californianos una alternativa segura, cómoda, económica y confiable a manejar y a los precios elevados de la gasolina; para proporcionar empleos bien remunerados y mejorar la economía de California y, a la vez, reducir la contaminación del aire, y a la vez, de efecto invernadero que causan el calentamiento global y nuestra dependencia en petróleo extranjero, ¿se deberán emitir bonos por un valor de \$9.95 mil millones para establecer un servicio limpio y eficiente de trenes de alta velocidad que una el Sur de California, el Valle de Sacramento/San Joaquin y el Área de la Bahía de San Francisco, con un mínimo del 90 por ciento de los fondos de los bonos gastados en proyectos específicos, con fondos de contrapartida privados y públicos requeridos,

2 **STANDARDS FOR CONFINING FARM ANIMALS. INITIATIVE STATUTE.** Requires that certain farm animals be allowed, for the majority of every day, to fully extend their limbs or wings, lie down, stand up and turn around. Limited exceptions apply. Fiscal Impact: Potential unknown decrease in state and local tax revenues from farm businesses, possibly in the range of several million dollars annually. Potential minor local and state enforcement and prosecution costs, partly offset by increased fine revenue.

NORMAS PARA EL CONFINAMIENTO DE ANIMALES DE GRANJA. LEY POR INICIATIVA. Requiere que se permita que ciertos animales de granja puedan extender completamente los miembros o las alas, acostarse, pararse y darse vuelta la mayor parte de todos los días. Se aplicarían excepciones limitadas. Impacto fiscal: Posible reducción desconocida de las recaudaciones impositivas estatales y locales de granjas comerciales, posiblemente del orden de varios millones de dólares anuales. Posibles costos locales y estatales menores de cumplimiento y enjuiciamiento, por contrarrestados parcialmente por recaudaciones provenientes de multas.

Yes / Sí

No / No

3 **CHILDREN'S HOSPITAL BOND ACT. GRANT PROGRAM. INITIATIVE STATUTE.**

Authorizes \$980,000,000 in general obligation bonds for construction, expansion, remodeling, renovation, furnishing and equipping of eligible children's hospitals. Fiscal Impact: State cost of about \$2 billion over 30 years to pay off both the principal (\$980 million) and interest (\$933 million) costs of the bonds. Payments of about \$64 million per year.

LEY DE BONOS PARA HOSPITALES DE NIÑOS. PROGRAMA DE SUBSIDIOS. LEY POR INICIATIVA. Autoriza la emisión de bonos de responsabilidad general por un

incluyendo, pero sin limitarse a, fondos federales, fondos provenientes de las recaudaciones de los bonos y fondos locales, y con todos los fondos de los bonos sujetos a auditorías independientes? Impacto fiscal: Costos para el estado de \$19.4 mil millones, suponiendo 30 años para saldar los costos de capital e intereses de los bonos. Los pagos en promedio serían de unos \$647 millones por año. Cuando esté construido, costos operativos y de mantenimiento desconocidos, probablemente de más de mil millones de dólares anuales contrarrestados al menos parcialmente, y posiblemente en su totalidad, por las tarifas de pasajeros.

Yes / Sí
No / No

valor de \$980,000,000 para la construcción, la expansión, el remodelado, la renovación, el amueblamiento y el equipamiento de hospitales de niños calificados. Impacto fiscal: Costo para el estado de unos \$2 mil millones a lo largo de 30 años para pagar los costos de capital (\$980 millones) e intereses (\$933 millones) de los bonos. Pagos de unos \$64 millones anuales.

Yes / Sí
No / No



MEASURE(S) SUBMITTED TO THE VOTERS / MEDIDA(S) SOMETIDAS A LOS VOTANTES	
STATE / ESTADO	
4 WAITING PERIOD AND PARENTAL NOTIFICATION BEFORE TERMINATION OF MINOR'S PREGNANCY. INITIATIVE CONSTITUTIONAL AMENDMENT. Changes California Constitution, prohibiting abortion for unemancipated minor until 48 hours after physician notifies minor's parent, legal guardian, or, in limited cases, substitute adult relative. Provides an exception for medical emergency or parental waiver. Fiscal Impact: Potential unknown net state costs of several million dollars annually for health and social services programs, court administration, and state health agency administration combined. PERIODO DE ESPERA Y NOTIFICACIÓN A LOS PADRES ANTES DE PONER FIN AL EMBARAZO DE UNA MENOR DE EDAD. ENMIENDA CONSTITUCIONAL POR INICIATIVA. Cambia la Constitución de California para prohibir los abortos a menores de edad no emancipadas hasta que hayan transcurrido 48 horas desde que el médico se lo haya notificado a uno de los padres, al tutor legal o, en casos limitados, a un pariente adulto sustituto de la menor de edad. Permite una excepción para emergencias médicas o renuncia de los padres. Impacto fiscal: Posibles costos netos desconocidos para el estado de varios millones de dólares anuales correspondientes a programas de salud y servicios sociales, administración de tribunales y administración de la agencia de salud pública del estado.	YES SI NO NO ↓ ↓ ↓ ↓
5 NONVIOLENT DRUG OFFENSES, SENTENCING, PAROLE AND REHABILITATION. INITIATIVE STATUTE. Allocates \$460,000,000 annually to improve and expand treatment programs. Limits court authority to incarcerate offenders who commit certain drug crimes, break drug treatment rules or violate parole. Fiscal Impact: Increased state costs potentially exceeding \$1 billion annually primarily for expansion of offender treatment programs. State savings potentially exceeding \$1 billion annually on corrections operations. Net one-time state prison capital outlay savings potentially exceeding \$2.5 billion. DELITOS DE DROGAS NO VIOLENTOS. SENTENCIAS, LIBERTAD SUPERVISADA Y REHABILITACIÓN. LEY POR INICIATIVA. Adjudica anualmente \$460,000,000 al mejoramiento y la expansión de programas de tratamiento de drogas. Limita la autoridad de los tribunales de encarcelar a delincuentes que cometen ciertos delitos de drogas, violan las reglas del tratamiento de drogas o violan la libertad supervisada. Impacto fiscal: Mayores costos que pueden exceder mil millones de dólares anuales, principalmente por la expansión de los programas de tratamiento de los delincuentes. Ahorros para el estado posiblemente en exceso de mil millones de dólares anuales para operar las correccionales. Ahorro neto único de inversión de capital estatal en prisiones estatales posiblemente en exceso los \$2.5 mil millones.	YES SI NO NO ↓ ↓ ↓ ↓
6 POLICE AND LAW ENFORCEMENT FUNDING. CRIMINAL PENALTIES AND LAWS. INITIATIVE STATUTE. Requires minimum of \$965,000,000 of state funding each year for police and local law enforcement. Makes approximately 30 revisions to California criminal law. Fiscal Impact: Increased net state costs exceeding \$500 million annually due to increasing spending on criminal justice programs to at least \$965 million and for corrections operating costs. Potential one-time state prison capital outlay costs exceeding \$500 million. FINANCIAMIENTO PARA LA POLICÍA Y EL CUMPLIMIENTO DE LA LEY. SANCIONES Y LEYES PENALES. LEY POR INICIATIVA. Requiere un financiamiento estatal anual mínimo de \$965,000,000 para la policía y el cumplimiento local de la ley. Realiza aproximadamente 30 modificaciones del derecho penal de California. Impacto fiscal: Mayores costos netos para el estado que exceden los \$500 millones anuales debido al aumento de los gastos en programas de justicia penal hasta un mínimo de \$965 millones y de costos de operación de las correccionales. Posible inversión única de capital en prisiones estatales de más de \$500 millones.	YES SI NO NO ↓ ↓ ↓ ↓
7 RENEWABLE ENERGY GENERATION. INITIATIVE STATUTE. Requires government-owned utilities to generate 20% of their electricity from renewable energy by 2010, a standard currently applicable to private electrical corporations. Raises requirement for all utilities to 40% by 2020 and 50% by 2025. Fiscal Impact: Increased state administrative costs up to \$3.4 million annually, paid by fees. Unknown impact on state and local government costs and revenues due to the measure's uncertain impact on retail electricity rates. GENERACIÓN DE ENERGÍA RENOVABLE. LEY POR INICIATIVA. Requiere que los servicios públicos de propiedad del gobierno generen el 20% de su electricidad de fuentes de energía renovable para el 2010, una norma que en la actualidad es aplicable a las corporaciones privadas de generación de energía eléctrica. Aumenta el requisito para todos los servicios públicos al 40% para el 2020 y al 50% para el 2025. Impacto fiscal: Mayores costos administrativos para el estado de hasta \$3.4 millones anuales, pagados con cuotas. Impacto desconocido sobre los gastos y recaudaciones de los gobiernos estatal y locales a causa del impacto incierto de la medida sobre las tarifas minoristas de electricidad.	YES SI NO NO ↓ ↓ ↓ ↓

8

ELIMINATES RIGHT OF SAME-SEX COUPLES TO MARRY. INITIATIVE CONSTITUTIONAL AMENDMENT. Changes California Constitution to eliminate the right of same-sex couples to marry. Provides that only marriage between a man and a woman is valid or recognized in California. Fiscal Impact: Over next few years, potential revenue loss, mainly sales taxes, totaling in the several tens of millions of dollars, to state and local governments. In the long run, likely little fiscal impact on state and local governments.

ELIMINA EL DERECHO A CASARSE DE LAS PAREJAS DEL MISMO SEXO. ENMIENDA CONSTITUCIONAL POR INICIATIVA. Cambia la Constitución de California para eliminar el derecho a casarse de las parejas del mismo sexo. Dispone que sólo el casamiento entre un hombre y una mujer sea válido o reconocido en California. Impacto fiscal: A lo largo de los próximos varios años, posible pérdida de recaudaciones, principalmente de impuestos sobre las ventas, que puede ascender a varias decenas de millones de dólares, para los gobiernos estatal y locales. A largo plazo, probablemente poco impacto fiscal sobre los gobiernos estatal y locales.

YES

SÍ

NO

NO

9

CRIMINAL JUSTICE SYSTEM. VICTIMS' RIGHTS. PAROLE. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE. Requires notification to victim and opportunity for input during phases of criminal justice process, including bail, pleas, sentencing and parole. Establishes victim safety as consideration for bail or parole. Fiscal Impact: Potential loss of state savings on prison operations and increased county jail costs amounting to hundreds of millions of dollars annually. Potential net savings in the low tens of millions of dollars annually on parole procedures.

SISTEMA DE JUSTICIA PENAL. DERECHOS DE LAS VÍCTIMAS. LIBERTAD SUPERVISADA. ENMIENDA CONSTITUCIONAL Y LEY POR INICIATIVA. Requiere notificación a la víctima y que se le dé la oportunidad de hacer comentarios durante ciertas etapas del proceso de justicia penal, incluyendo fianza, declaración de culpabilidad o inocencia, sentencia y libertad supervisada. Establece que se considere la seguridad de la víctima al determinar la fianza o la libertad supervisada. Impacto fiscal: Posible pérdida de ahorros estatales de funcionamiento de prisiones y mayores costos para las cárceles de los condados de cientos de millones de dólares anuales. Posibles ahorros netos anuales a largo plazo de unas pocas decenas de millones de dólares en procedimientos de libertad supervisada.

YES

SÍ

NO

NO

10

ALTERNATIVE FUEL VEHICLES AND RENEWABLE ENERGY. BONDS. INITIATIVE STATUTE. Authorizes \$5 billion in bonds paid from state's General Fund, to help consumers and others purchase certain vehicles, and to fund research in renewable energy and alternative fuel vehicles. Fiscal Impact: State cost of about \$10 billion over 30 years to repay bonds. Increased state and local revenues, potentially totaling several tens of millions of dollars through 2019. Potential state administrative costs up to about \$10 million annually.

VEHÍCULOS DE COMBUSTIBLE ALTERNATIVO Y ENERGÍA RENOVABLE. BONOS. LEY POR INICIATIVA. Autoriza \$5 mil millones en bonos a ser pagados con dinero del Fondo General del estado para ayudar a consumidores y a otros a comprar ciertos vehículos y para financiar investigación en energía renovable y vehículos de combustible alternativo. Impacto fiscal: Costos para el estado de unos \$10 mil millones a lo largo de 30 años para saldar los bonos. Mayores recaudaciones estatales y locales, con posibilidad de ascender a varias decenas de millones de dólares hasta el año 2019. Posibles costos administrativos para el estado de unos \$10 millones anuales.

YES

SÍ

NO

NO

11

REDISTRICTING. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE. Changes authority for establishing state office boundaries from elected representatives to commission. Establishes multilevel process to select commissioners from registered voter pool. Commission comprised of Democrats, Republicans, and representatives of neither party. Fiscal Impact: Potential increase in state redistricting costs once every ten years due to two entities performing redistricting. Any increase in costs probably would not be significant.

REDISTRIBUCIÓN DE LOS DISTRITOS ELECTORALES. ENMIENDA CONSTITUCIONAL Y LEY POR INICIATIVA. Cambia la autoridad de establecer límites de distritos electorales de representantes elegidos por votación a una comisión. Establece un proceso de múltiples niveles para seleccionar comisionados de un grupo de votantes inscritos. La comisión estaría formada por demócratas, republicanos y representantes de ninguno de esos partidos políticos. Impacto fiscal: Posible aumento de los costos de redistribución de los distritos electorales para el estado una vez cada diez años porque la redistribución sería realizada por dos entidades. Los aumentos de los costos, si los hay, probablemente no serían significativos.

YES

SÍ

NO

NO

MEASURE(S) SUBMITTED TO THE VOTERS / MEDIDA(S) SOMETIDAS A LOS VOTANTES	
STATE / ESTADO	
12 VETERANS' BOND ACT OF 2008. This act provides for a bond issue of nine hundred million dollars (\$900,000,000) to provide farm and home aid for California veterans. Fiscal Impact: Costs of about \$1.8 billion to pay off both the principal (\$900 million) and interest (\$856 million) on the bonds; costs paid by participating veterans. Average payment for principal and interest of about \$59 million per year for 30 years. LEY DE BONOS DE VETERANOS DE 2008. Esta ley dispone una emisión de bonos de novecientos millones de dólares (\$900,000,000) para proporcionar asistencia a los veteranos de California para granjas y viviendas. Impacto fiscal: Costos de unos \$1.8 mil millones para saldar el capital (\$900 millones) y los intereses (\$856 millones) de los bonos; costos pagados por los veteranos participantes. Pago promedio del capital e intereses de aproximadamente \$59 millones anuales por 30 años.	YES SI NO NO
CITY / CIUDAD	
CITY OF INDIO / CIUDAD DE INDIO	
K Shall an ordinance be adopted that modernizes Utility User Tax definitions so that taxpayers are treated the same regardless of technology used, provides for an annual audit of all expenditures, preserves current senior and disabled exemptions, and applies to all technologies and telecommunication services, including intrastate, interstate and international calls and private communication services such as T-1, paging and text messaging? ¿Debería ser adoptada una ordenanza que modernice las definiciones del Impuesto del Consumidor de Servicios Públicos para que los contribuyentes sean tratados de igual manera sin importar la tecnología que se use, dispone de una auditoría anual de todos los gastos, preserva las actuales exenciones a personas mayores y los discapacitados, y aplica a todos los servicios de tecnología y telecomunicación, incluyendo llamadas intraestatales, interestatales e internacionales y servicios de comunicación privada tales como T-1, sistema buscapersonas y mensajes de texto?	YES SI NO NO

VOTER'S PAMPHLET INFORMATION SECTION

The following pages contain voter information applicable to your ballot which may include any/all of the following items:

- CANDIDATE STATEMENTS
- BALLOT MEASURES
- ANALYSES
- ARGUMENTS IN SUPPORT & IN OPPOSITION
- TEXT OF MEASURE(S)

This pamphlet section may not contain a complete list of candidates. A complete list of candidates appears on the Sample Ballot section of this pamphlet. Each candidate's statement in this pamphlet is volunteered by the candidate and is printed at the expense of the candidate unless otherwise determined by the governing body. Deposit amounts required for publication of candidate statements are listed in the candidate handbook at www.voteinfo.net.

Arguments in support of or in opposition to the proposed laws are opinions of the authors.

The text, grammar and spelling are as submitted by the authors.

Candidate statements represent the views of candidates, and are not endorsed by the County of Riverside. Internet web site addresses included in candidate statements are provided by individual candidates. The County of Riverside assumes no liability for the accuracy or content of web sites listed therein.

Campaign Finance Reform

Among all state legislative candidates appearing on ballots in Riverside County, the following persons have pledged to abide by campaign spending limits as specified in the California Government Code. Candidates agreeing to the limits have the opportunity to publish a statement of qualifications in the local sample ballot pamphlet.

This list covers all legislative districts in the county. Not all districts will appear on your ballot.

STATE SENATE, 31ST DISTRICT

Bob Dutton, Republican

STATE SENATE, 37TH DISTRICT

Arthur Bravo Guerrero, Democratic

STATE ASSEMBLY, 63RD DISTRICT

Bill Emmerson, Republican
Mark David Westwood, Democratic

STATE ASSEMBLY, 64TH DISTRICT

Brian Nestande, Republican

STATE ASSEMBLY, 65TH DISTRICT

Paul Cook, Republican
Carl Wood, Democratic

STATE ASSEMBLY, 66TH DISTRICT

Grey Kenneth Frandsen, Democratic
Kevin D. Jeffries, Republican

STATE ASSEMBLY, 71ST DISTRICT

STATE ASSEMBLY, 80TH DISTRICT

Manuel Perez, Democratic

STATEMENTS OF LEGISLATIVE CANDIDATES SEEKING PARTISAN OFFICE

CANDIDATE STATEMENT FOR MEMBER OF THE STATE ASSEMBLY, 80TH ASSEMBLY DISTRICT

MANUEL PEREZ, Democratic EDUCATION AND QUALIFICATIONS:

My name is Manuel Perez, I am the Democratic Nominee for the State Assembly and I would be honored to have your support.

I grew up in Riverside County and I understand the struggles of working families. My parents were farm workers who taught me the importance of a good education and the value of hard work.

After graduating from U.C. Riverside I came home to teach and coach before earning my Masters in Education from Harvard University.

Now I live in Coachella with my wife Gladis and our two sons. As a School Board Member and Healthcare Director I've worked hard to deliver:

- \$250 million to modernize classrooms and build new schools
- New jobs and economic development
- Healthcare for children and seniors
- Fiscal leadership by balancing a multi-million dollar budget

As your Assemblymember, I will bring new leadership and fresh ideas to solve the challenges we face: creating new jobs, improving schools, and expanding healthcare.

I'll take on the Sacramento bureaucrats and fight for our fair share. We've been underrepresented for too long. Now is time for positive change.

For more information, please visit www.ManuelPerezforAssembly.com. Or call my Riverside County campaign headquarters at (760) 398-1886

**CANDIDATE STATEMENT FOR
GOVERNING BOARD MEMBER,
DESERT COMMUNITY COLLEGE DISTRICT, TRUSTEE AREA 2**

PAUL E. MILLER

OCCUPATION: Pastor

EDUCATION AND QUALIFICATIONS:

"If you want to have a good future, get a good education." College of the Desert exists for that very purpose, namely to provide the very best education opportunities. Therefore, I desire to serve on the Board of Trustees.

I have been an active leader in education as Student Body President at both a California community college and graduate school.

My wife, Karen, and I have been residents of the valley for 13 years, and I serve as pastor of Christ Lutheran Church. I have been chaplain for the Desert Hot Springs Police Dept. since 1997.

I am a strong proponent of the public safety and nursing programs at COD. As well, I strongly encourage additional emphasis on skills development and basic education to meet the needs of all Coachella Valley citizens.

New facilities' projects coming to fruition, such as east and west valley centers, are cause for great excitement. My platform follows:

- Fiscal Responsibility
- Encourage current leadership
- Quality Education for All
- Student Priority
- Community College Concept
- K-16 Outreach
- Technical Skills Development

It would be my privilege to help lead College of the Desert into a new and vital future.

**CANDIDATE STATEMENT FOR
GOVERNING BOARD MEMBER,
DESERT COMMUNITY COLLEGE DISTRICT, TRUSTEE AREA 2**

CHARLES H. HAYDEN, JR.

EDUCATION AND QUALIFICATIONS:

When I joined the Governing Board of College of the Desert I pledged to always consider students first, insure quality classroom teaching and strive for strong fiscal policies. I have, throughout my years of service, kept my pledges. For Example:

Our college academic transfers exceeded the state average. COD offers a wide range of occupational and certificate programs and professional business classes through the Training and Development Center

I have promoted programs for senior citizens and for those who wish to pursue lifelong learning.

Moreover, even in times of restricted educational budgets, my board colleagues and I have kept salaries, operating capital and reserves balanced. An achievement for which I am proud.

My Goals:

Keep COD affordable. Insure our mission of open access. Work with Sun Bus to help student transportation issues. Assist students in moving through academic programs. Work with the high schools to insure student success in college by creating pathway to success programs. Work to get our East and West Centers open on time.

As an incumbent board member I pledge to keep College of the Desert on the right track,

Please give me your vote on Election Day

Thank you , Charles Hayden

**CANDIDATE STATEMENT FOR
GOVERNING BOARD MEMBER,
DESERT COMMUNITY COLLEGE DISTRICT, TRUSTEE AREA 3**

MERLE C. MILLER

OCCUPATION: Retired College Professor

EDUCATION AND QUALIFICATIONS:

College of the Desert is a unique and vitally important institution, serving multiple communities and a diverse student base. The College prepares students for professions, to qualify for admission to four year colleges and universities and to exercise their duties as citizens.

As a retired professor from the California State University system, I have a deep commitment and understanding of the district's obligation to operate in a fiscally responsible way, while providing an excellent education. Ways must be found to continue the recruitment of the most qualified faculty and provide them with the tools necessary to fulfill their educational mission.

The College serves a diverse population and the student body reflects that diversity. This presents the district with the exciting challenge of providing for students at different levels of accomplishment, with the goal of making them able to step into the next phase of their education.

The administrative and support staff need to be treated as valued employees who have invested in productive and satisfying careers.

I intend to work diligently to cooperate in an enlightened leadership to insure that the College meets its state mandated goals and serves our Valley as a credit to the taxpayers and citizens.

**CANDIDATE STATEMENT FOR
GOVERNING BOARD MEMBER,
DESERT COMMUNITY COLLEGE DISTRICT, TRUSTEE AREA 5**

ROGER V. NUÑEZ

AGE: 34

OCCUPATION: Riverside County Employee

EDUCATION AND QUALIFICATIONS:

My commitment to the eastern Coachella Valley has driven me to become actively involved in the growth and development of numerous community service programs that assist families, youth, and the community. Among such services has been the underlying goal of educating our communities on the importance of pursuing higher education. It is a topic that deserves much needed attention in the eastern Coachella Valley and which I look forward to addressing.

My name is Roger Nuñez, and it has been my goal to instill the importance of an education in the lives of our future generation. Your vote will help me carry that message at College of the Desert and engage the eastern Coachella Valley under a unifying goal of improving college awareness.

As founder and president of several community organizations, including the Coachella Valley Mexican American Chamber of Commerce and the Youth Council, I have been able to work with the community in focusing on specific educational topics as they relate to the growing need to increase our local college going rates. Join me in helping College of the Desert further increase its presence throughout the Coachella Valley and assist our local students in reaching their academic goals.

**CANDIDATE STATEMENT FOR
GOVERNING BOARD MEMBER,
DESERT SANDS UNIFIED SCHOOL DISTRICT, FULL TERM**

JOHN MENDOZA

OCCUPATION: Educator

EDUCATION AND QUALIFICATIONS:

With over 30 years of experience and dedicated service at all levels of public education, I offer a proven track record of advocacy for the students and the families of the Desert Sands Unified School District. As a high school teacher, student counselor, middle and high school principal, and as a district level administrator, I've spent a career working with diverse student populations across Southern California. As a school district Director of State and Federal Programs, I have direct experience with the kinds of financial challenges DSUSD faces in the current economic climate. As an Executive Board Member of the California Interscholastic Federation (CIF) Southern Section, I have been a strong voice for students across the Desert Cities region, many of whom have faced significant educational challenges. With experience and passion, I will work to ensure that there are quality schools in every community, and that our students are prepared for all the opportunities available to them. I hope to continue my work in education for your family as a member of the DSUSD Board of Education. I would be honored to have your support and vote. For more information, please visit my website at www.johnmendoza.org.

**CANDIDATE STATEMENT FOR
GOVERNING BOARD MEMBER,
DESERT SANDS UNIFIED SCHOOL DISTRICT, FULL TERM**

MATT MONICA

AGE: 63

EDUCATION AND QUALIFICATIONS:

Educating our children successfully is a necessary and critical element in their becoming productive citizens. Children must be provided the tools needed to excel in reading, writing, mathematics, science and computer technology. This goal can be accomplished by hiring the most qualified and competent teachers, support staff and administrators. Input from teachers, staff, parents, seniors and retired educators must be included in the curriculum decision-making process. This district-wide cooperative effort will result in higher test scores, higher graduation rates and the knowledge needed to pursue college or professional careers.

The district must be responsible and accountable for all expenditures. Afterall, the district operates as a direct result of taxes paid by district residents.

I am a Marine Corps veteran with a BA and MA degree and Life Credentials in Teaching and Counseling. I have served as an administrator, counselor and instructor at College of the Desert for 33 years. I have served on the Desert Sands Board of Education for 22 years.

I will continue to bring your voice and concerns into the decision-making process. Together we can make a difference on behalf of all our children.

Vote for Matt Monica on November 4th.

**CANDIDATE STATEMENT FOR
GOVERNING BOARD MEMBER,
DESERT SANDS UNIFIED SCHOOL DISTRICT, FULL TERM**

GARY TOMAK

AGE: 54

OCCUPATION: Incumbent Board Member

EDUCATION AND QUALIFICATIONS:

Bachelor's Degree - Finance; MBA - Human Resource Management

When first elected to the school board, I promised to promote a rigorous curriculum, offer greater school choice, and provide a safe and effective learning environment.

Academic achievement has improved dramatically across the district. More students are taking college entrance exams and scoring higher. More students are studying calculus, chemistry, and physics. Many are now learning Latin and performing in Shakespearean plays.

Desert Sands continues to be recognized by the US Department of Education as a model for school choice programs. During my tenure on the school board I have worked to: develop magnet schools which focus on communication, law, and medicine; add a new charter school for middle school students; enhance independent study and distance learning programs; and, expand the highly rigorous International Baccalaureate Program to additional schools. I support vocational educational programs as an option for those pursuing careers in construction, culinary arts, public service, and computer technology.

I will continue to work to modernize classrooms with state-of-the-art technology, enhance programs in music, art, and the performing arts, and improve facilities for athletic programs.

With your continued support, my priority will always be KIDS: Keep Improving Desert Sands.

**CANDIDATE STATEMENT FOR
GOVERNING BOARD MEMBER,
DESERT SANDS UNIFIED SCHOOL DISTRICT, SHORT TERM**

SONJA M. / L. MARTIN

OCCUPATION: K-12 Educator

EDUCATION AND QUALIFICATIONS:

As an educator, I will commit to the children, the parents, the staff and community of the Desert Sands Unified School District that every decision that I will make as a member of the Board of Directors, will be filtered through my +35 years of experience; which include teaching at all three levels, school principalships at both elementary and secondary, alternative education and several years of district level administration.

In my last position, I was honored to receive the Golden Bell Award from the California School Boards Association, for my work in assessment as linked to improved student achievement.

Since my retirement, I have authored six books for parents, focusing on school success and three books for teachers. I have also consulted internationally in the Philippines; focusing on positive teaching strategies and improving student achievement.

My first target areas will be an aggressive focus on improved school funding and continuing the challenge of every child learning every day in a safe school environment.

Please make the right choice on Election Day. Vote for Sonja M./L. Martin

**CANDIDATE STATEMENT FOR
GOVERNING BOARD MEMBER,
DESERT SANDS UNIFIED SCHOOL DISTRICT, SHORT TERM**

DONALD BRYSON GRIFFITH

AGE: 48

EDUCATION AND QUALIFICATIONS:

I was appointed to fill a vacancy on the DSUSD School Board in June 2008. I was a teacher from 1984 to 1993. I served on the Washington Charter School Governing Board and have been a volunteer at Washington Charter, Palm Desert Middle School and Palm Desert High School. I will be President of the Desert Bar Association (DBA) for the 2008-09 term and have been on the Board of Trustees of the DBA since 2001. I volunteer as a judge with the Odyssey of the Mind academic competition. I am a member of the Professional Business Alliance.

I am in a unique position as a former teacher and small business owner. I understand the needs of a classroom teacher and the requirement to work within a budget. As a parent, I understand each parent wants a positive academic experience for their child. In addition to providing each child with fundamental skills, DSUSD needs to find ways to provide children with a variety of enrichment opportunities. I have always believed in giving back to the community. Being elected to fulfill the term I was appointed to on the School Board, will allow me the opportunity to continue serving our community.

**CANDIDATE STATEMENT FOR
CITY COUNCIL MEMBER,
CITY OF INDIO**

PATRICK RUNYON

OCCUPATION: Retired Sheriffs Lieutenant

EDUCATION AND QUALIFICATIONS:

I have lived in Indio for 32 years where I have worked and raised my family. As a former Council Member for Bermuda Dunes Council, an honorably retired Sheriff's Lieutenant and various boards and committees I served on has prepared me for the position of "City Councilmember" in helping to lead our city in these hard economic times. I will help to sustain local jobs, recruit new businesses to our city and work with local businesses to ensure that they prosper.

I also strongly believe all of our children deserve to attend good and safe schools. While managing school cadet programs at various schools, I have witnessed first hand positive changes in our children when involved in well structured school programs. The City of Indio continues to be a very diverse city and we pride ourselves in preserving its historical traditions. As a councilmember, I will be working hand in hand with families, civic and business leaders with the primary focus on quality of life for all of our residents. "Our Community, My Commitment."

**CANDIDATE STATEMENT FOR
CITY COUNCIL MEMBER,
CITY OF INDIO**

GLENN MILLER

AGE: 45

OCCUPATION: Indio Planning Commissioner

EDUCATION AND QUALIFICATIONS:

I believe in Indio's future.

I am running for City Council so that I can contribute more fully to the growth, vitality and quality of life in our community.

For the past five years, I served as your Indio Planning Commissioner, including two terms as Chairman. During that time, I have worked to ensure that our city's development was thoughtful, well planned, and in the best interest of all citizens.

I've lived in our City for over 21 years. My wife Steffani and I are homeowners, and we have been active in many local civic and charitable organizations, including: the Indio Rotary Club, Boys & Girls Club and the State Military Reserve.

My platform is straightforward. I support increased law enforcement and public safety, a balanced City budget and long term planning in all City endeavors.

Indio is on the brink of a new era of expansion and diversity. We need City Councilmembers who thoughtfully consider opinions and strategies and then aggressively pursue the implementation of those plans. With your support and vote, that is what I will do.

If we have not yet met, please contact me (760) 275-6000 or at www.GlennMiller4IndioCityCouncil.com. I look forward to hearing from you.

**CANDIDATE STATEMENT FOR
CITY COUNCIL MEMBER,
CITY OF INDIO**

GUADALUPE "LUPE" RAMOS WATSON

AGE: 45

OCCUPATION: Mayor / Council Member / Small Businesswoman /
Vice-President / Chief Financial Officer

EDUCATION AND QUALIFICATIONS:

We have accomplished a lot in Indio since I was first elected in 2004, and I'm proud of the achievements and progress our city has made.

We've increased police and fire protection (two new fire stations have been added) without raising taxes. That's made our community safer.

We've made great progress improving the flow of traffic with road improvements like widening Avenue 42 and Jackson Street to reduce congestion and make driving in our city easier.

We've brought good paying jobs into our community and increased the number of stores that local residents can visit to help our local economy.

I supported the new teen center across the street from Indio High School to help our children and teach our youth new skills and to give them opportunities to stay out of trouble.

Indio is doing better than many of our neighboring cities because we have managed our resources wisely and planned for our responsible growth. Since I was first elected, we've made sure every dollar we spent is spent wisely because I believe in holding government accountable.

I would be honored to receive your vote and look forward to making Indio an even better place for our families.

Lupe

**CONTINUED
ON NEXT
PAGE**

**CANDIDATE STATEMENT FOR
CITY COUNCIL MEMBER,
CITY OF INDIO**

MICHAEL H. WILSON

AGE: 43

**OCCUPATION: Retired Firefighter / City Council
EDUCATION AND QUALIFICATIONS:**

My name is Michael Wilson and I have served Indio's citizens for 13 years as your City Councilmember and two times MAYOR leading Indio from tough times to good times. In 2004 Indio residents supported me overwhelmingly receiving the most votes ever for a City Councilmember. I have been a proud Indio resident for 32 years. I have served 22 years in the Fire Service and understand Public Safety from a firsthand point of view. My education includes Leadership training from USC, Business Administration and Fire Science from our local Junior Colleges, and Economic Development from the University of Pennsylvania. In service to my Community, Education, and Public Safety, I am clearly the most qualified candidate for Indio City Council. I serve at your pleasure, direction, and have been the lone voice of the people and voice of reason.

I am a strong fiscal conservative, pro business, and oppose out of control spending. I opposed the last two budgets calling for better oversight, responsibility, and fought raising your taxes. I understand Indio's problems. My 13 year record stands on its merits. I ask for your vote on November 4th and I can be contacted at 760-404-7715 or Wilson4indio@aol.com

**CANDIDATE STATEMENT FOR
CITY COUNCIL MEMBER,
CITY OF INDIO**

STEVE SANCHEZ

AGE: 31

**OCCUPATION: Account Executive
EDUCATION AND QUALIFICATIONS:**

As an 8 year veteran of the United States Marine Corps, serving a tour in Iraq in 2003 and obtaining the rank of Sergeant, I have proven I am a leader. I then went to work for Assemblywoman Bonnie Garcia; my duties included working with state agencies, local governments, non-profits, chamber of commerce and assisting constituents. I am the past President for CASA for Riverside County, was on the advisory committee for Safe House of the Desert, currently a Big Brother, Board member for the Coalition to Reduce Underage Drinking, and former legislative representative to multiple government affairs committee for various chambers of commerce.

I am seeking the position of City Council Member to restore accountability to the people on the City Council, oppose tax increases, protect the rights of property owners and create a business friendly environment. I am committed to working with the other members on the council and residents of the community to grow Indio in a responsible manner.

I have the support of local merchants and community leaders.

I am Steve Sanchez and I am asking for your vote.

**CANDIDATE STATEMENT FOR
DIRECTOR,
COACHELLA VALLEY WATER DISTRICT, DIVISION 2**

PATRICIA A. LARSON

OCCUPATION: Attorney

EDUCATION AND QUALIFICATIONS:

The Coachella Valley Water District has taken giant strides in proactive measures to ensure a safe and adequate water supply at reasonable rates. I am pleased to have been a team member of that progress these last few years.

The word limitation makes it difficult to address specific issues here, but I would be happy to do so via e-mail. I can be reached at: Here1954@aol.com.

It takes time to be knowledgeable on California and Coachella Valley issues. I have gained that knowledge and request your vote to keep it working for the Valley.

**MEASURE "K" – FULL TEXT
CITY OF INDIO – ORDINANCE NO. 1539**

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF INDIO, CALIFORNIA, ADDING TO CODE OF INDIO TITLE III, CHAPTER 34, SECTIONS 150 THROUGH 199, TO AMEND AND MODERNIZE THE CITY'S UTILITY USERS' TAX ORDINANCE

WHEREAS, the City Council of the City of Indio originally adopted the City of Indio's Utility Users' Tax ("UUT") by Ordinance Nos. 920 and 939 in 1985; and

WHEREAS, the City Council is mindful that Ordinance No. 1479, adopted in 2006, attempted to conform UUT language with the U.S. Treasury Department's Notice 2006-50, but that on-going litigation calls the efficacy of that conformance into question; and

WHEREAS, this Ordinance modernizes the City's UUT, treats all residents fairly and equally, regardless of technology used and preserving current exemptions, and insures the City's continued capacity to collect UUT in the City of Indio's interest; and

WHEREAS, this Ordinance modernizes the City's UUT by making clear that all technologies and telecommunication services are to be treated the same, and that the tax is applicable to intrastate, interstate and international calls and private communication services such as T-1, paging, and text messaging; and

WHEREAS, this Ordinance ratifies and approves Chapter 53 (Sections 53.01 through 53.99) of the Municipal Code during and through its existence prior to its effective date, and the City's past collection, through utility service suppliers, of the Utility Users' Tax thereunder; and

WHEREAS, the City Council of the City of Indio, at its special meeting scheduled for August 5, 2008, did duly and lawfully adopt a Resolution entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDIO, AMENDING RESOLUTION NO. 9312, ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF INDIO A MEASURE TO AMEND AND MODERNIZE THE CITY OF INDIO'S UTILITY USERS' TAX ORDINANCE AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 4, 2008" submitting this Ordinance to the people of the City of Indio for approval.

NOW, THEREFORE THE PEOPLE OF THE CITY OF INDIO DO ORDAIN AS FOLLOWS:

SECTION 1. Chapter 34 (Sections 150 through 199) of the Municipal Code is hereby added, and it shall read as follows:

CHAPTER 34
(Sections. 150 through 199)

UTILITY USERS' TAX

- 34.150 Definitions.
- 34.151 Constitutional, Statutory, and Other Exemptions.
- 34.152 Senior/Disabled Exemption.
- 34.153 Telecommunication Tax
- 34.154 Video Tax
- 34.155 Electricity Tax
- 34.156 Gas Tax
- 34.157 Collection of tax from service users receiving direct purchase of gas or electricity.
- 34.158 Water Tax
- 34.159 Bundling Taxable Items with Non-taxable Items
- 34.160 Substantial Nexus / Minimum Contacts.
- 34.161 Duty to collect —Procedures.
- 34.162 Collection Penalties – Service Suppliers.
- 34.163 Actions to Collect.
- 34.164 Deficiency Determination and Assessment – Tax Application Errors.
- 34.165 Administrative Remedy - Non-Paying Service Users.
- 34.166 Additional powers and duties of the Tax Administrator.
- 34.167 Records.
- 34.168 Refunds.
- 34.169 Appeals.
- 34.170 Notice No Injunction/Writ of Mandate.
- 34.171 Notice of Changes to Ordinance.
- 34.172 Effect of State and Federal Reference/Authorization.
- 34.173 Independent Audit of Tax Collection, Exemption, Remittance, and Expenditure.
- 34.174 Remedies Cumulative.
- 34.175 Interaction with Prior Tax.
- 34.176-34.198 Reserved
- 34.199 Penalty, Criminal.

§ 34.150 DEFINITIONS.

The following words and phrases whenever used in this Chapter shall be construed as defined in this section.

(a) "Ancillary telecommunication services" means services that are associated with or incidental to the provision, use or enjoyment of telecommunications services, including but not limited to the following services:

(1) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call and may include the provision of a telephone number. Conference bridging service does not include the telecommunications services used to reach the conference bridge.

(2) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(3) "Directory assistance" means an ancillary service of providing telephone number information, and/or address information.

(4) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services.

(5) "Voice mail service" means an ancillary service that enables the customer to store, send or receive recorded messages. Voice mail service does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

(b) "Ancillary video services" means services that are associated with or incidental to the provision or delivery of video services, including but not limited to electronic program guide services, search functions, recording services, or other interactive services or communications that are associated with or incidental to the provision, use or enjoyment of video services.

(c) "Billing Address" shall mean the mailing address of the service user where the service supplier submits invoices or bills for payment by the customer.

(d) "City" shall mean the City of Indio.

(e) "Gas" shall mean natural or manufactured gas or any alternate hydrocarbon fuel which may be substituted therefore.

(f) "Mobile Telecommunications Service" has the meaning and usage as set forth in the Mobile Telecommunications Sourcing Act (4 U.S.C. Section 124) and the regulations there under.

(g) "Month" shall mean a calendar month.

(h) "Paging service" means a "telecommunications service" that provides transmission of coded radio signals for the purpose of activating specific pagers; such transmissions may include messages and/or sounds.

(i) "Person" shall mean, without limitation, any natural individual, firm, trust, common law trust, estate, partnership of any kind, association, syndicate, club, joint stock company, joint venture, limited liability company, corporation (including foreign, domestic, and non-profit), municipal district or municipal corporation (other than the City), cooperative, receiver, trustee, guardian, or other representative appointed by order of any court.

(j) "Place of Primary Use" means the street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer.

(k) "Post-paid telecommunication service" means the telecommunication service obtained by making a payment on a telecommunication-by-telecommunication basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a service number which is not associated with the origination or termination of the telecommunication service.

(l) "Prepaid telecommunication service" means the right to access telecommunication services, which must be paid for in advance and which enables the origination of telecommunications using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(m) "Private telecommunication service" means a telecommunication service that entitles the customer to exclusive or priority use of a telecommunications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels. A telecommunications channel is a physical or virtual path of telecommunications over which signals are transmitted between or among customer channel termination points (i.e., the location where the customer either inputs or receives the telecommunications).

(n) "Service Address" shall mean the residential street address or the business street address of the service user. For a communication service user, "service address" means either:

(1) The location of the service user's communication equipment from which the communication originates or terminates, regardless of where the communication is billed or paid; or,

(2) If the location in subsection (1) of this definition is unknown (e.g., mobile telecommunications service or VoIP service), the service address shall mean- the location of the service user's place of primary use.

(3) For prepaid telecommunication service, "service address" shall mean the location associated with the service number.

(o) "Service Supplier" shall mean any entity or person, including the City, that provides telecommunication or video service to a user of such service within the City.

(p) "Service User" shall mean a person required to pay a tax imposed under the provisions of this Article.

(q) "State" shall mean the State of California.

(r) "Streamlined Sales and Use Tax Agreement shall mean the multi-state agreement commonly known and referred to as the Streamlined Sales and Use Tax Agreement, and as it is amended from time to time.

(s) "Tax Administrator" means the Management Services Director of the city or his or her designee.

(t) "Telecommunications services" means the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points, whatever the technology used. The term "telecommunications services" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmission, conveyance or routing without regard to whether such services are referred to as voice over internet protocol (VoIP) services or are classified by the Federal Telecommunications Commission as enhanced or value added, and includes video and/or data services that is functionally integrated with "telecommunication services". "Telecommunications services" include, but are not limited to the following services, regardless of the manner or basis on which such services are calculated or billed: ancillary telecommunication services; mobile telecommunications service; prepaid telecommunication service; post-paid telecommunication service; private telecommunication service; paging service; 800 service (or any other toll-free numbers designated by the Federal Telecommunications Commission); 900 service (or any other similar numbers designated by the Federal Telecommunications Commission for services whereby subscribers who call in to pre-recorded or live service).

(u) "Video Programming" means those programming services commonly provided to subscribers by a "video service supplier" including but not limited to basic services, premium services, audio services, video games, pay-per-view services, video on demand, origination programming, or any other similar services, regardless of the content of such video programming, or the technology used to deliver such services, and regardless of the manner or basis on which such services are calculated or billed.

(v) "Video Services" means "video programming" and any and all services related to the providing, recording, delivering, use or enjoyment of "video programming" (including origination programming and programming using Internet Protocol, e.g., IP-TV and IP-Video) using one or more channels by a "video service supplier", regardless of the technology used to deliver, store or provide such services, and regardless of the manner or basis on which such services are calculated or billed, and includes ancillary video services, data services, "telecommunication services", or interactive communication services that are functionally integrated with "video services".

(w) "Video Service Supplier" means any person, company, or service which provides or sells one or more channels of video programming, or provides or sells the capability to receive one or more channels of video programming, including any telecommunications that are ancillary, necessary or common to the provision, use or enjoyment of the video programming, to or from a business or residential address in the City, where some fee is paid, whether directly or included in dues or rental charges for that service, whether or not public rights-of-way are utilized in the delivery of the video programming or telecommunications. A "video service supplier" includes, but is not limited to, multichannel video programming distributors [as defined in 47 U.S.C.A. Section 522(13)]; open video systems (OVS) suppliers; and suppliers of cable television; master antenna television; satellite master antenna television; multichannel multipoint distribution services (MMDS); video services using internet protocol (e.g., IP-TV and IP-Video, which provide, among other things, broadcasting and video on demand), direct broadcast satellite to the extent Federal law permits taxation of its video services, now or in the future; and other suppliers of video services (including two-way communications), whatever their technology.

(x) VoIP (voice over internet protocol) means the digital process of making and receiving real-time voice transmissions over any Internet Protocol network.

(y) "800 service" means a "telecommunications service" that allows a caller to dial a toll-free number without incurring a charge for the call. The service is typically marketed under the name "800", "855", "866", "877", and "888" toll-free calling, and any subsequent numbers designated by the Federal Communications Commission.

(z) "900 service" means an inbound toll "telecommunications service" purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service. "900 service" does not include the charge for: collection services provided by the seller of the "telecommunications services" to the subscriber, or service or product sold by the subscriber to the subscriber's customer. The service is typically marketed under the name "900" service, and any subsequent numbers designated by the Federal Communications Commission.

§ 34.151 CONSTITUTIONAL, STATUTORY, AND OTHER EXEMPTIONS.

(a) 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.

(b) Any service user that is exempt from the tax imposed by this Chapter pursuant to subsection (a) of this section shall file an application with the Tax Administrator for an exemption; provided, however, this requirement shall not apply to a service user that is a State or Federal agency or subdivision with a commonly recognized name for such service. Said application shall be made upon a form approved by the Tax Administrator and shall state those facts, declared under penalty of perjury, which qualify the applicant for an exemption, and shall include the names of all utility service suppliers serving that service user. If deemed exempt by the Tax Administrator, such service user shall give the Tax Administrator timely written notice of any change in utility service suppliers so that the Tax Administrator can properly notify the new utility service supplier of the service user's tax exempt status. A service user that fails to comply with this section shall not be entitled to a refund of utility users' taxes collected and remitted to the Tax Administrator from such service user as a result of such noncompliance.

The decision of the Tax Administrator may be appealed pursuant to § 34.169 of this Chapter. Filing an application with the Tax Administrator and appeal to the City Manager pursuant to § 34.169 of this Chapter is a prerequisite to a suit thereon.

§ 34.152 Senior/Disabled Exemption.

(a) ELIGIBILITY. Any service user who is 62 years of age or older and is head of the household shall be eligible for an exemption from the taxes imposed by this chapter on service supplied to the service user's residential living quarters. The provisions of this exemption shall also apply to any individual who meets the criteria for disability, as established by the Social Security Administration's Supplemental Security Income Program for the Aged, Blind and Disabled (Title XLII of the Social Security Act, as amended) without regard to the age of the disabled individual.

(b) APPLICATION; TIME TO FILE. Applications for exemption shall be filed with the Tax Administrator on forms as he or she may provide. Applications may be filed at any time.

(c) APPLICATION; CONTENTS. Applications shall be verified by declaration under penalty of perjury and shall contain information as may be required by the Tax Administrator.

(d) APPLICATION; REVIEW AND CERTIFICATION. The Tax Administrator shall review each application and shall certify the service user as exempt if the eligibility requirements of subsection (a) are met. If a service user is exempt under the eligibility requirements of subsection (a) and the service user is receiving service from a service supplier through a master meter, upon application and approval, the Tax Administrator shall refund the eligible service user as provided in § 34.168. However, no exemption shall be granted with respect to any tax imposed by this chapter which is or has been paid by a public agency or where the service user received funds from a public agency specifically for the payment of the tax.

(e) NOTICE TO SERVICE SUPPLIER. If a service user is certified as exempt, the Tax Administrator shall promptly notify the service user's service suppliers, stating the name of the service user, the address to which exempt service is being supplied, the account number, if any, and such other information as may be necessary for the service supplier to remove the exempt service user from its tax billing procedure.

(f) DISCONTINUANCE OF BILLING. Upon receipt of the notice referred to in subsection (e), the service supplier shall, within 60 days, discontinue billing the service user for taxes imposed by this chapter, except as otherwise provided in subsection (g).

(g) PRIOR TAXES TO BE COLLECTED. Taxes billed by the service supplier to the service user from its tax billing procedure shall be collected from the service user and the service user shall pay these taxes to the service supplier. Taxes billed to and paid by the service user between the time the application for exemption is filed and the service supplier removes the service user from its billing procedure will not be refunded to the service user.

(h) DURATION. Exemptions certified by the Tax Administrator shall continue as long as the facts supporting the qualification for exemption shall exist; provided, the exemption shall automatically terminate with any change in the service address or residence of the exempt individual and provided, further, that the individual may nevertheless apply for a new exemption with each change of address of residence.

(i) DUTY TO DISCLOSE. Any service user who has been exempted under this chapter shall notify the collector within ten days of any change in fact or circumstance which might disqualify the individual from receiving the exemption. It shall be a misdemeanor for any person to knowingly receive the benefits of the exemption provided by this chapter when the basis for that exemption does not exist or ceases to exist.

Any service supplier who determines, by any means, that a new or nonexempt service user is receiving service through a meter or connection exempt by virtue of an exemption issued to a previous user or exempt user of the same meter or connection shall immediately notify the Tax Administrator of that fact and the Tax Administrator shall conduct an investigation to ascertain whether or not the provisions of this chapter have been complied with and, where appropriate, order the service supplier to commence collecting the tax from the nonexempt service user.

§ 34.153 TELECOMMUNICATION USERS' TAX.

(a) There is hereby imposed a tax upon every person in the City using telecommunication services. The tax imposed by this section shall be at the rate of three percent (3%) of the charges made for such services and shall be collected from the service user by the telecommunication services supplier or its billing agent. There is a rebuttable presumption that telecommunication services, which are billed to a billing or service address in the City, are used, in whole or in part, within the City's boundaries, and such services are subject to taxation under this Chapter. If the billing address of the service user is different from the service address, the service address of the service user shall be used for purposes of imposing the tax. As used in this Section, the term "charges" shall include the value of any other services, credits, property of every kind or nature, or other consideration provided by the service user in exchange for the telecommunication services.

(b) "Mobile Telecommunications Service" shall be sourced in accordance with the sourcing rules set forth in the *Mobile Telecommunications Sourcing Act* (4 U.S.C. Section 124). The Tax Administrator may issue and disseminate to telecommunication service suppliers, which are subject to the tax collection requirements of this Chapter, sourcing rules for the taxation of other telecommunication services, including but not limited to post-paid telecommunication services, and prepaid telecommunication services, provided that such rules are based upon custom and common practice that further administrative efficiency and minimize multi-jurisdictional taxation (e.g., Streamline Sales and Use Tax Agreement).

(c) The Tax Administrator may issue and disseminate to telecommunication service suppliers, which are subject to the tax collection requirements of this Chapter, an administrative ruling identifying those telecommunication services, or charges therefore, that are subject to or not subject to the tax of subsection (a) above.

(d) As used in this section, the term "telecommunication services" shall include, but are not limited to charges for: connection, reconnection, termination, movement, or change of telecommunication services; late payment fees; detailed billing; central office and custom calling features (including but not limited to call waiting, call forwarding, caller identification and three-way calling); voice mail and other messaging services; directory assistance; access and line charges; universal service charges; regulatory, administrative and other cost recovery charges; and local number

portability charges. "Telecommunication services" shall not include digital downloads that are not "ancillary telecommunications services", such as books, music, ringtones, games, and similar digital products.

(e) To prevent actual multi-jurisdictional taxation of telecommunication services subject to tax under this section, any service user, upon proof to the Tax Administrator that the service user has previously paid the same tax in another state or local jurisdiction on such telecommunication services, shall be allowed a credit against the tax imposed to the extent of the amount of such tax legally imposed in such other state or local jurisdiction; provided, however, the amount of credit shall not exceed the tax owed to the City under this section.

(f) The tax on telecommunication services imposed by this section shall be collected from the service user by the service supplier. The amount of tax collected in one (1) month shall be remitted to the Tax Administrator, and must be received by the Tax Administrator on or before the twentieth (20th) day of the following month.

§ 34.154 Video Users Tax.

(a) There is hereby imposed a tax upon every person in the City using video services. The tax imposed by this section shall be at the rate of three percent (3%) of the charges made for such services and shall be collected from the service user by the video service supplier or its billing agent. There is a rebuttable presumption that video services, which are billed to a billing or service address in the City, are used, in whole or in part, within the City's boundaries, and such services are subject to taxation under this Chapter. If the billing address of the service user is different from the service address, the service address of the service user shall be used for purposes of imposing the tax.

(b) As used in this section, the term "charges" shall include, but is not limited to, charges for the following:

- (1) regulatory fees and surcharges, franchise fees and access fees (PEG);
- (2) initial installation of equipment necessary for provision and receipt of telecommunication services;
- (3) late fees, collection fees, bad debt recoveries, and return check fees;
- (4) activation fees, reactivation fees, and reconnection fees;
- (5) video programming and video services;
- (6) ancillary video programming services (e.g., electronic program guide services, search functions, recording functions, or other interactive services or communications that are ancillary, necessary or common to the use or enjoyment of the video services);
- (7) equipment leases (e.g., remote, recording and/or search devices; converters); and,
- (8) service calls, service protection plans, name changes, changes of services, and special services.

(c) As used in this section, the term "charges" shall include the value of any other services, credits, property of every kind or nature, or other consideration provided by the service user in exchange for the video services.

(d) The Tax Administrator may issue and disseminate to video service suppliers, which are subject to the tax collection requirements of this Chapter, an administrative ruling identifying those telecommunication services, or charges therefore, that are subject to or not subject to the tax of subsection (a) above.

(e) The tax imposed by this section shall be collected from the service user by the video service supplier, its billing agent, or a reseller of such services. In the case of video service, the service user shall be deemed to be the purchaser of the bulk video service (e.g., an apartment owner), unless such service is resold to individual users, in which case the service user shall be the ultimate purchaser of the video service. The amount of tax collected in one (1) month shall be remitted to the Tax Administrator, and must be received by the Tax Administrator on or before the twentieth (20th) day of the following month.

§ 34.155 ELECTRICITY USERS TAX.

(a) There is hereby imposed a tax upon every person using electricity in the City. The tax imposed by this section shall be at the rate of three percent (3%) of the charges made for such electricity, and for any supplemental services or other associated activities directly related to and/or necessary for the provision of electricity to the service user, which are provided by a service supplier or non-utility service supplier to a service user. The tax shall be collected from the service user by the service supplier or non-utility service supplier, or its billing agent.

(b) As used in this section, the term "charges" shall apply to all services, components and items that are: i) necessary for or common to the receipt, use or enjoyment of electric service; or, ii) currently are or historically have been included in a single or bundled rate for electric service by a local distribution company to a class of retail customers. The term "charges" shall include, but is not limited to, the following charges:

- (1) energy charges;
- (2) distribution or transmission charges;
- (3) metering charges;

(4) stand-by, reserves, firming, ramping, voltage support, regulation, emergency, or other similar charges for supplemental services to self-generation service users;

(5) customer charges, late charges, service establishment or reestablishment charges, demand charges, fuel or other cost adjustments, power exchange charges, independent system operator (ISO) charges, stranded investment or competitive transition charges (CTC), public purpose program charges, nuclear decommissioning charges, trust transfer amounts (bond financing charges), franchise fees, franchise surcharges, annual and monthly charges, and other charges, fees or surcharges which are necessary for or common to the receipt, use or enjoyment of electric service; and,

(6) charges, fees, or surcharges for electricity services or programs which are mandated by the California Public Utilities Commission or the Federal Energy Regulatory Commission, whether or not such charges, fees, or surcharges appear on a bundled or line item basis on the customer billing.

(c) As used in this section, the term "charges" shall include the value of any other services, credits, property of every kind or nature, or other consideration provided by the service user in exchange for the electricity or services related to the provision of such electricity.

(d) The Tax Administrator, from time to time, may survey the electric service suppliers to identify the various unbundled billing components of electric retail service that they commonly provide to residential and commercial/industrial customers in the of the City, and the charges therefore, including those items that are mandated by State or Federal regulatory agencies as a condition of providing such electric service. The Tax Administrator, thereafter, may issue and disseminate to such electric service suppliers an administrative ruling identifying those components and items which are: i) necessary for or common to the receipt, use or enjoyment of electric service; or, ii) currently are or historically have been included in a single or bundled rate for electric service by a local distribution company to a class of retail customers. Charges for such components and items shall be subject to the tax of subsection (a) above.

(e) As used in this section, the term "using electricity" shall not include the mere receiving of such electricity by an electrical corporation or governmental agency at a point within the City for resale.

(f) The tax on electricity provided by self-production or by a non-utility service supplier not under the jurisdiction of this Chapter shall be collected and remitted in the manner set forth in § 34.157 of this Chapter. All other taxes on charges for electricity imposed by this section shall be collected from the service user by the electric service supplier or its billing agent. The amount of tax collected in one (1) month shall be remitted to the Tax Administrator, and must be received by the Tax Administrator on or before the twentieth (20th) day of the following month; or, at the option of the person required to collect and/or remit the tax, such person shall remit an estimated amount of tax measured by the tax billed in the previous month or upon the payment pattern of the service user, which must be received by the Tax Administrator on or before the twentieth (20th) day of the following month, provided that such person shall submit an adjusted payment or request for credit, as appropriate, within sixty (60) days following each calendar quarter. The credit, if approved by the Tax Administrator, may be applied against any subsequent remittance that becomes due.

§ 34.156 GAS USERS TAX.

(a) There is hereby imposed a tax upon every person using gas in the City, which is transported and delivered through a pipeline or by mobile transport. The tax imposed by this section shall be at the rate of three percent (3%) of the charges made for such gas, including all services related to the storage, transportation and delivery of such gas. The tax shall be collected from the service user by the service supplier or non-utility service supplier, or its billing agent, and shall apply to all uses of gas, including but not limited to, heating, electricity generation, and the use of gas as a component of a manufactured product.

(b) As used in this section, the term "charges" shall apply to all services, components and items for gas service that are: i) necessary for or common to the receipt, use or enjoyment of gas service; or, ii) currently are or historically have been included in a single or bundled rate for gas service by a local distribution company to a class of retail customers. The term "charges" shall include, but is not limited to, the following charges:

(1) the commodity charges for purchased gas, or the cost of gas owned by the service user (including the actual costs attributed to drilling, production, lifting, storage, gathering, trunk line, pipeline, and other operating costs associated with the production and delivery of such gas), which is delivered through a gas pipeline distribution system;

(2) gas transportation charges (including interstate charges to the extent not included in commodity charges);

(3) storage charges; provided, however, that the service supplier shall not be required to apply the tax to any charges for gas storage services when the service supplier cannot, as a practical matter, determine the jurisdiction where such stored gas is ultimately used; but it shall be the obligation of the service user to self-collect the amount of tax not applied to any charge for gas storage by the service supplier and to remit the tax to the appropriate jurisdiction;

(4) capacity or demand charges, late charges, service establishment or reestablishment charges, transition charges, customer charges, minimum charges, annual and monthly charges, and any other charges which are necessary for or common to the receipt, use or enjoyment of gas service; and,

(5) charges, fees, or surcharges for gas services or programs which are mandated by the California Public Utilities Commission or the Federal Energy Regulatory Commission, whether or not such charges, fees, or surcharges appear on a bundled or line item basis on the customer billing.

(c) As used in this section, the term "charges" shall include the value of any other services, credits, property of every kind or nature, or other consideration provided by the service user in exchange for the gas or services related to the delivery of such gas.

(d) The Tax Administrator, from time to time, may survey the gas service suppliers to identify the various unbundled billing components of gas retail service that they commonly provide to residential and commercial/industrial customers in the City, and the charges therefore, including those items that are mandated by State or Federal regulatory agencies as a condition of providing such gas service. The Tax Administrator, thereafter, may issue and disseminate to such gas service suppliers an administrative ruling identifying those components and items which are: i) necessary for or common to the receipt, use or enjoyment of gas service; or, ii) currently are or historically have been included in a single or bundled rate for gas service by a local distribution company to a class of retail customers. Charges for such components and items shall be subject to the tax of subsection (a) above.

(e) There shall be excluded from the calculation of the tax imposed in this section, charges made for gas which is to be resold and delivered through a pipeline distribution system.

(f) The tax on gas provided by self-production or by a non-utility service supplier not under the jurisdiction of this Chapter shall be collected and remitted in the manner set forth in § 34.157 of this Chapter. All other taxes on charges for gas imposed by this section shall be collected from the service user by the gas service supplier or its billing agent. The amount of tax collected in one (1) month shall be remitted to the Tax Administrator, and must be received by the Tax Administrator, on or before the twentieth (20th) day of the following month; or, at the option of the person required to collect and/or remit the tax, such person shall remit an estimated amount of tax measured by the tax billed in the previous month or upon the payment pattern of the service user, which must be received by the Tax Administrator on or before the twentieth (20th) day of the following month, provided that such person shall submit an adjusted payment or request for credit, as appropriate, within sixty (60) days following each calendar quarter. The credit, if approved by the Tax Administrator, may be applied against any subsequent remittance that becomes due.

§ 34.157 COLLECTION OF TAX FROM SERVICE USERS RECEIVING DIRECT PURCHASE OF GAS OR ELECTRICITY.

(a) Any service user subject to the tax imposed by § 34.155 or by § 34.156 of this Chapter, which produces gas or electricity for self-use; which receives gas or electricity, including any related supplemental services, directly from a non-utility service supplier not under the jurisdiction of this Chapter; or which, for any other reason, is not having the full tax collected and remitted by its service supplier, a non-utility service supplier, or its billing agent on the use of gas or electricity in the City, including any related supplemental services, shall report said fact to the Tax Administrator and shall remit the tax due directly to the Tax Administrator within thirty (30) days of such use. In lieu of paying said actual tax, the service user may, at its option, remit to the Tax Administrator within thirty (30) days of such use an estimated amount of tax measured by the tax billed in the previous month, or upon the payment pattern of similar customers of the service supplier using similar amounts of gas or electricity, provided that the service user shall submit an adjusted payment or request for credit, as appropriate, within sixty (60) days following each calendar quarter. The credit, if approved by the Tax Administrator in writing, may be applied against any subsequent tax bill that becomes due.

(b) The Tax Administrator may require said service user to identify its non-utility service supplier and provide, subject to audit: invoices; books of account; or other satisfactory evidence documenting the quantity of gas or electricity used, including any related supplemental services, and the cost or price thereof. If the service user is unable to provide such satisfactory evidence, or if the administrative cost of calculating the tax in the opinion of the Tax Administrator is excessive, the Tax Administrator may determine the tax by applying the tax rate to the equivalent charges the service user would have incurred if the gas or electricity used, including any related supplemental services, had been provided by the service supplier that is the primary supplier of gas or electricity within the City. Rate schedules for this purpose shall be available from the City.

§ 34.158 WATER TAX.

(a) There is imposed a tax upon every person using water in the City which is transported and delivered through a pipeline distribution system. The tax imposed by this section shall be at the rate of three percent (3%) of the charges made for such water.

(b) As used in this section, the term "charges" shall apply to all services, components and items that are: i) necessary for or common to the receipt, use or enjoyment of water service; or, ii) currently are or historically have been included in a single or bundled rate for water service by a local distribution company to a class of retail customers. The term "charges" shall include, but is not limited to, the following charges:

- (1) water commodity charges (potable and non-potable);
- (2) distribution or transmission charges;
- (3) metering charges;
- (4) customer charges, late charges, service establishment or reestablishment charges, franchise fees, franchise surcharges, annual and monthly charges, and other charges, fees and surcharges which are necessary for or common to the receipt, use or enjoyment of water service; and,
- (5) charges, fees, or surcharges for water services or programs, which are mandated by a water district or a State or Federal agency, whether or not such charges, fees, or surcharges appear on a bundled or line item basis on the customer billing.

(c) As used in this section, the term "charges" shall include the value of any other services, credits, property of every kind or nature, or other consideration provided by the service user in exchange for the water services.

(d) The Tax Administrator, from time to time, may survey the water service suppliers in the City to identify the various unbundled billing components of water retail service that they commonly provide to residential and commercial/industrial customers in the City, and the charges therefore, including those items that are mandated by a water district or a State or Federal agency as a condition of providing such water service. The Tax Administrator, thereafter, may issue and disseminate to such water service suppliers an administrative ruling identifying those components and items which are: i) necessary for or common to the receipt, use or enjoyment of water service; or, ii) currently are or historically have been included in a single or bundled rate for water service by a local distribution company to a class of retail customers. Charges for such components and items shall be subject to the tax of subsection (a) above.

(e) There shall be excluded from the base on which the tax imposed in this section is computed charges made for water which is to be resold and delivered through a pipeline distribution system; and charges made by a municipal water department, public utility or a city or municipal water district for water used and consumed by such department, public utility or water district in the conduct of the business of such department, utility or district.

The tax on water service imposed by this section shall be collected from the service user by the water service supplier or its billing agent. The amount of tax collected in one (1) month shall be remitted to the Tax Administrator, and must be received by the Tax Administrator on or before the twentieth (20th) day of the following month.

§ 34.159 BUNDLING TAXABLE ITEMS WITH NON-TAXABLE ITEMS.

If any nontaxable charges are combined with and not separately stated from taxable service charges on the customer bill or invoice of a service supplier, the combined charge is subject to tax unless the service supplier identifies, by reasonable and verifiable standards, the portions of the combined charge that are nontaxable and taxable through the service supplier's books and records kept in the regular course of business, and in accordance with generally accepted accounting principles, and not created and maintained for tax purposes. The service supplier has the burden of proving the proper apportionment of taxable and non-taxable charges. If the service supplier offers a combination of taxable and non-taxable services, and the charges are separately stated, then for taxation purposes, the values assigned the taxable and non-taxable services shall be based on its books and records kept in the regular course of business and in accordance with generally accepted accounting principles, and not created and maintained for tax purposes. The service supplier has the burden of proving the proper valuation of the taxable and non-taxable services.

§ 34.160 SUBSTANTIAL NEXUS/MINIMUM CONTACTS.

For purposes of imposing a tax or establishing a duty to collect and remit a tax under this Chapter, "substantial nexus" and "minimum contacts" shall be construed broadly in favor of the imposition, collection and/or remittance of the utility users tax to the fullest extent permitted by State and Federal law, and as it may change from time to time by judicial interpretation or by statutory enactment. Any communication service (including VoIP) used by a person with a service address in the City, which service is capable of terminating a call to another person on the general telephone network, shall be subject to a rebuttable presumption that "substantial nexus/minimum contacts" exists for purposes of imposing a tax, or establishing a duty to collect and remit a tax, under this Chapter. A service supplier shall be deemed to have sufficient activity in the City for tax collection and remittance purposes if its activities include, but are not limited to, any of the following: maintains or has within the City, directly or through an agent or subsidiary, a place of business of any nature; solicits business in the City by employees, independent contractors, resellers, agents or other representatives; solicits business in the City on a continuous, regular, seasonal or systematic basis by means of advertising that is broadcast or relayed from a transmitter within the City or distributed from a location within the City; or advertises in newspapers or other periodicals printed and published within the City or through materials distributed in the City by means other than the United States mail; or if there are activities performed in the City on behalf of the service supplier that are significantly associated with the service supplier's ability to establish and maintain a market in the City for the provision of communication services that are subject to a tax under this Chapter.

§ 34.161 DUTY TO COLLECT - - PROCEDURES.

(a) **Collection by Service Suppliers.** The duty of service suppliers to collect and remit the taxes imposed by the provisions of this Chapter shall be performed as follows:

(1) The tax shall be collected by service suppliers insofar as practicable at the same time as, and along with, the collection of the charges made in accordance with the regular billing practice of the service supplier. Where the amount paid by a service user to a service supplier is less than the full amount of the charge and tax which was accrued for the billing period, a proportionate share of both the charge and the tax shall be deemed to have been paid. In those cases where a service user has notified the service supplier of refusal to pay the tax imposed on said charges, § 34.165 shall apply.

(2) The duty of a service supplier to collect the tax from a service user shall commence with the beginning of the first regular billing period applicable to the service user where all charges normally included in such regular billing are subject to the provisions of this Chapter. Where a service user receives more than one billing, one or more being for different periods than another, the duty to collect shall arise separately for each billing period.

(b) **Filing Return and Payment.** Each person required by this Chapter to remit a tax shall file a return to the Tax Administrator, on forms approved by the Tax Administrator, on or before the due date. The full amount of the tax collected shall be included with the return and filed with the Tax Administrator. The Tax Administrator is authorized to require such additional information as he or she deems necessary to determine if the tax is being levied, collected, and remitted in accordance with this Chapter. Returns are due immediately upon cessation of business for any reason. Pursuant to *Revenue and Tax Code Section 7284.6*, the Tax Administrator, and its agents, shall maintain such filing returns as confidential information that is exempt from the disclosure provisions of the Public Records Act.

§ 34.162 COLLECTION PENALTIES – SERVICE SUPPLIERS.

(a) Taxes collected by service supplier from a service user are delinquent if not received by the Tax Administrator on or before the due date. Should the due date occur on a weekend or legal holiday, the return must be received by the Tax Administrator on the first regular working day following the weekend or legal holiday. A direct deposit, including electronic fund transfers and other similar methods of electronically exchanging monies between

financial accounts, made by a service supplier in satisfaction of its obligations under this subsection shall be considered timely if the transfer is initiated on or before the due date, and the transfer settles into the City's account on the following business day.

(b) If the person required to collect and/or remit the utility users' tax fails to collect the tax (by failing to properly assess the tax on one or more services or charges on the customer's billing) or fails to remit the tax collected on or before the due date, the Tax Administrator shall attach a penalty for such delinquencies or deficiencies at the rate of fifteen (15%) percent of the total tax that is delinquent or deficient in the remittance, and shall pay interest at the rate of and 75/100ths (0.75%) percent per month, or any fraction thereof, on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent, until paid.

(c) The Tax Administrator shall have the power to impose additional penalties upon persons required to collect and remit taxes pursuant to the provisions of this Chapter for fraud or gross negligence in reporting or remitting at the rate of fifteen (15%) percent of the amount of the tax collected and/or required to be remitted, or as recomputed by the Tax Administrator.

(d) For collection purposes only, every penalty imposed and such interest that is accrued under the provisions of this section shall become a part of the tax herein required to be paid.

(e) Notwithstanding the foregoing, the Tax Administrator may, in his or her discretion, modify the due dates of this Chapter to be consistent with any uniform standards or procedures that are mutually agreed upon by other public agencies imposing a utility users' tax, or otherwise legally established, to create a central payment location or mechanism.

§ 34.163 ACTIONS TO COLLECT.

Any tax required to be paid by a service user under the provisions of this Chapter shall be deemed a debt owed by the service user to the City. Any such tax collected from a service user which has not been remitted to the Tax Administrator shall be deemed a debt owed to the City by the person required to collect and remit and shall no longer be a debt of the service user. Any person owing money to the City under the provisions of this Chapter shall be liable to an action brought in the name of the City for the recovery of such amount, including penalties and interest as provided for in this Chapter, along with any collection costs incurred by the City as a result of the person's noncompliance with this Chapter, including, but not limited to, reasonable attorneys fees. Any tax required to be collected by a service supplier or owed by a service user is an unsecured priority excise tax obligation under 11 U.S.C.A. Section 507(a)(8)(C).

§ 34.164 DEFICIENCY DETERMINATION AND ASSESSMENT – TAX APPLICATION ERRORS.

(a) The Tax Administrator shall make a deficiency determination if he or she determines that any service supplier or service user required to pay, collect, and/or remit taxes pursuant to the provisions of this Chapter has failed to pay, collect, and/or remit the proper amount of tax by improperly or failing to apply the tax to one or more taxable services or charges. Nothing herein shall require that the Tax Administrator institute proceedings under this § 34.164 if, in the opinion of the Tax Administrator, the cost of collection or enforcement likely outweighs the tax benefit.

(b) The Tax Administrator shall mail a notice of such deficiency determination to the person or entity allegedly owing the tax, which notice shall refer briefly to the amount of the taxes owed, plus interest at the rate of 75/100ths (0.75%) percent per month, or any fraction thereof, on the amount of the tax from the date on which the tax should have been received by the City. Within fourteen (14) calendar days after the date of service of such notice, the person or entity allegedly owing the tax may request in writing to the Tax Administrator for a hearing on the matter.

(c) If the person or entity allegedly owing the tax fails to request a hearing within the prescribed time period, the amount of the deficiency determination shall become a final assessment, and shall immediately be due and owing to the City. If the person requests a hearing, the Tax Administrator shall cause the matter to be set for hearing, which shall be scheduled within thirty (30) days after receipt of the written request for hearing. Notice of the time and place of the hearing shall be mailed by the Tax Administrator to such person or entity at least ten (10) calendar days prior to the hearing, and, if the Tax Administrator desires said person or entity to produce specific records at such hearing, such notice may designate the records requested to be produced.

(d) At the time fixed for the hearing, the Tax Administrator shall hear all relevant testimony and evidence, including that of any other interested parties. At the discretion of the Tax Administrator, the hearing may be continued from time to time for the purpose of allowing the presentation of additional evidence. Within a reasonable time following the conclusion of the hearing, the Tax Administrator shall issue a final assessment (or non-assessment), thereafter, by confirming, modifying or rejecting the original deficiency determination, and shall mail a copy of such final assessment to person or entity owing the tax. The decision of the Tax Administrator may be appealed pursuant to § 34.169 of this Chapter. Filing an application with the Tax Administrator and appeal to the City Manager pursuant to § 34.169 of this Chapter is a prerequisite to a suit thereon.

(e) Payment of the final assessment shall become delinquent if not received by the Tax Administrator on or before the thirtieth (30th) day following the date of receipt of the notice of final assessment. The penalty for delinquency shall be fifteen percent (15%) on the total amount of the assessment, along with interest at the rate of 75/100ths (0.75%) percent per month, or any fraction thereof, on the amount of the tax, exclusive of penalties, from the date of delinquency, until paid. The applicable statute of limitations regarding a claim by the City seeking payment of a tax assessed under this Chapter shall commence from the date of delinquency as provided in this subsection (e).

(f) All notices under this section may be sent by regular mail, postage prepaid, and shall be deemed received on the third calendar day following the date of mailing, as established by a proof of mailing.

§ 34.165 ADMINISTRATIVE REMEDY – NON-PAYING SERVICE USERS.

(a) Whenever the Tax Administrator determines that a service user has deliberately withheld the amount of the tax owed by the service user from the amounts remitted to a person required to collect the tax, or whenever the Tax Administrator deems it in the best interest of the City, he or she may relieve such person of the obligation to collect the taxes due under this Chapter from certain named service users for specific billing periods. To the extent the service user has failed to pay the amount of tax owed for a period of two (2) or more billing periods, the service supplier shall be relieved of the obligation to collect taxes due. The service supplier shall provide the City with the names and addresses of such service users and the amounts of

taxes owed under the provisions of this Chapter. Nothing herein shall require that the Tax Administrator institute proceedings under this § 34.165 if, in the opinion of the Tax Administrator, the cost of collection or enforcement likely outweighs the tax benefit.

(b) In addition to the tax owed, the service user shall pay a delinquency penalty at the rate of fifteen percent (15%) of the total tax that is owed, and shall pay interest at the rate of 75/100ths (0.75%) percent per month, or any fraction thereof, on the amount of the tax, exclusive of penalties, from the due date, until paid.

(c) The Tax Administrator shall notify the non-paying service user that the Tax Administrator has assumed the responsibility to collect the taxes due for the stated periods and demand payment of such taxes, including penalties and interest. The notice shall be served on the service user by personal delivery or by deposit of the notice in the United States mail, postage prepaid, addressed to the service user at the address to which billing was made by the person required to collect the tax; or, should the service user have a change of address, to his or her last known address.

(d) If the service user fails to remit the tax to the Tax Administrator within thirty (30) days from the date of the service of the notice upon him or her, the Tax Administrator may impose an additional penalty of fifteen percent (15%) of the amount of the total tax that is owed.

§ 34.166 Additional Powers and Duties of the Tax Administrator.

(a) The Tax Administrator shall have the power and duty, and is hereby directed, to enforce each and all of the provisions of this Chapter.

(b) The Tax Administrator may adopt administrative rules and regulations consistent with provisions of this Chapter for the purpose of interpreting, clarifying, carrying out and enforcing the payment, collection and remittance of the taxes herein imposed. A copy of such administrative rules and regulations shall be on file in the Tax Administrator's office. To the extent that the Tax Administrator determines that the tax imposed under this chapter shall not be collected in full for any period of time from any particular service supplier or service user, that determination shall be considered an exercise of the Tax Administrator's discretion to settle disputes and shall not constitute a change in taxing methodology for purposes of *Government Code Section 53750* or otherwise. The Tax Administrator is not authorized to amend the City's methodology for purposes of *Government Code Section 53750* and the City does not waive or abrogate its ability to impose the communication users' tax in full as a result of promulgating administrative rulings or entering into agreements.

(c) Upon a proper showing of good cause, the Tax Administrator may make administrative agreements, with appropriate conditions, to vary from the strict requirements of this Chapter and thereby: (1) conform to the billing procedures of a particular service supplier so long as said agreements result in the collection of the tax in conformance with the general purpose and scope of this Chapter; or, (2) to avoid a hardship where the administrative costs of collection and remittance greatly outweigh the tax benefit. A copy of each such agreement shall be on file in the Tax Administrator's office, and are voidable by the Tax Administrator or the City at any time.

(d) The Tax Administrator may conduct an audit, to ensure proper compliance with the requirements of this Chapter, of any person required to collect and/or remit a tax pursuant to this Chapter. The Tax Administrator shall notify said person of the initiation of an audit in writing. In the absence of fraud or other intentional misconduct, the audit period of review shall not exceed a period of three (3) years next preceding the date of receipt of the written notice by said person from the Tax Administrator. Upon completion of the audit, the Tax Administrator may make a deficiency determination pursuant to § 34.164 of this Chapter for all taxes (and applicable penalties and interest) owed and not paid, as evidenced by information provided by such person to the Tax Administrator. If said person is unable or unwilling to provide sufficient records to enable the Tax Administrator to verify compliance with this Chapter, the Tax Administrator is authorized to make a reasonable estimate of the deficiency. Said reasonable estimate shall be entitled to a rebuttable presumption of correctness.

(e) Upon receipt of a written request of a taxpayer, and for good cause, the Tax Administrator may extend the time for filing any statement required pursuant to this Chapter for a period of not to exceed forty-five (45) days, provided that the time for filing the required statement has not already passed when the request is received. No penalty for delinquent payment shall accrue by reason of such extension. Interest shall accrue during said extension at the rate of 75/100ths (0.75%) percent per month, prorated for any portion thereof.

(f) The Tax Administrator shall determine the eligibility of any person who asserts a right to exemption from, or a refund of, the tax imposed by this Chapter.

(g) Notwithstanding any provision in this Chapter to the contrary, the Tax Administrator may waive any penalty or interest imposed upon a person required to collect and/or remit for failure to collect the tax imposed by this Chapter if the non-collection occurred in good faith. In determining whether the non-collection was in good faith, the Tax Administrator shall take into consideration industry practice or other precedence.

§ 34.167 Records.

(a) It shall be the duty of every person required to collect and/or remit to the City any tax imposed by this Chapter to keep and preserve, for a period of at least three (3) years, all records as may be necessary to determine the amount of such tax as he/she may have been liable for the collection of and remittance to the Tax Administrator, which records the Tax Administrator shall have the right to inspect at a reasonable time.

(b) The City, through the City Council, may issue an administrative subpoena to compel a person to deliver, to the Tax Administrator, copies of all records deemed necessary by the Tax Administrator to establish compliance with this Chapter, including the delivery of records in a common electronic format on readily available media if such records are kept electronically by the person in the usual and ordinary course of business. As an alternative to delivering the subpoenaed records to the Tax Administrator on or before the due date provided in the administrative subpoena, such person may provide access to such records outside the City on or before the due date, provided that such person shall reimburse the City for all reasonable travel expenses incurred by the City to inspect those records, including travel, lodging, meals, and other similar expenses, but excluding the normal salary or hourly wages of those persons designated by the City to conduct the inspection.

(c) The Tax Administrator is authorized to execute a non-disclosure agreement approved by the City Attorney to protect the confidentiality of customer information pursuant to *California Revenue and Tax Code Sections 7284.6 and 7284.7*.

(d) If a service supplier uses a billing agent or billing aggregator to bill, collect, and/or remit the tax, the service supplier shall: i) provide to the Tax Administrator the name, address and telephone number of each billing agent and billing aggregator currently authorized by the service supplier to bill, collect, and/or remit the tax to the City; and, ii) upon request of the Tax Administrator, deliver, or effect the delivery of, any information or records in the possession of such billing agent or billing aggregator that, in the opinion of the Tax Administrator, is necessary to verify the proper application, calculation, collection and/or remittance of such tax to the City.

(e) If any person subject to record-keeping under this section unreasonably denies the Tax Administrator access to such records, or fails to produce the information requested in an administrative subpoena within the time specified, then the Tax Administrator may impose a penalty of \$500 on such person for each day following: i) the initial date that the person refuses to provide such access; or, ii) the due date for production of records as set forth in the administrative subpoena. This penalty shall be in addition to any other penalty imposed under this Chapter.

§ 34.168 Refunds.

Whenever the amount of any tax has been overpaid or paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this Chapter from a service user or service supplier, it may be refunded as provided in this section:

(a) The Tax Administrator may refund any tax that has been overpaid or paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this Chapter from a service user or service supplier, provided that no refund shall be paid under the provisions of this section unless the claimant or his or her guardian, conservator, executor, or administrator has submitted a written claim to the Tax Administrator within one year of the overpayment or erroneous or illegal collection of said tax. Such claim must clearly establish claimant's right to the refund by written records showing entitlement thereto. Nothing herein shall permit the filing of a claim on behalf of a class or group of taxpayers unless each member of the class has submitted a written claim under penalty of perjury as provided by this subsection.

(b) The Tax Administrator, where the claim is less than the City Manager purchasing authority established in Section 33.116(C)(2) of this Code, or the City Council where the claim is in excess of that amount, shall act upon the refund claim within forty-five (45) days of the initial receipt of the refund claim. Said decision shall be final. If the Tax Administrator/City Council fails or refuses to act on a refund claim within the forty-five (45) day period, the claim shall be deemed to have been rejected by the Tax Administrator/City Council on the forty-fifth (45th) day. The Tax Administrator shall give notice of the action in a form which substantially complies with that set forth in *Government Code Section 913*.

(c) The filing of a written claim pursuant to *Government Code Section 935* is a prerequisite to any suit thereon. Any action brought against the City pursuant to this section shall be subject to the provisions of *Government Code Sections 945.6 and 946*.

(d) Notwithstanding the notice provisions of subsection (a) of this Section, the Tax Administrator may, at his or her discretion, give written permission to a service supplier, who has collected and remitted any amount of tax in excess of the amount of tax imposed by this Chapter, to claim credit for such overpayment against the amount of tax which is due the City upon a subsequent monthly return(s) to the Tax Administrator, provided that: i) such credit is claimed in a return dated no later than one year from the date of overpayment or erroneous collection of said tax; ii) the Tax Administrator is satisfied that the underlying basis and amount of such credit has been reasonably established; and, iii) in the case of an overpayment by a service user to the service supplier that has been remitted to the City, the Tax Administrator has received proof, to his or her satisfaction, that the overpayment has been refunded by the service supplier to the service user in an amount equal to the requested credit.

(e) Notwithstanding subsections (a) through (d) above, a service supplier shall be entitled to take any overpayment as a credit against an underpayment whenever such overpayment has been received by the City within the three (3) years next preceding a deficiency determination or assessment by the Tax Administrator in connection with an audit instituted by the Tax Administrator pursuant to § 34.166(d). A service supplier shall not be entitled to said credit unless it clearly establishes the right to the credit by written records showing entitlement thereto. Under no circumstances shall an overpayment taken as a credit against an underpayment pursuant to this subsection qualify a service supplier for a refund to which it would not otherwise be entitled under the one-year written claim requirement of this section.

§ 34.169 Appeals.

(a) The provisions of this section apply to any decision (other than a decision relating to a refund pursuant to § 34.168 of this Chapter), deficiency determination, assessment, or administrative ruling of the Tax Administrator. Any person aggrieved by any decision (other than a decision relating to a refund pursuant to § 34.168 of this Chapter), deficiency determination, assessment, or administrative ruling of the Tax Administrator, shall be required to comply with the appeals procedure of this section. Compliance with this section shall be a prerequisite to a suit thereon. [See *Government Code Section 935(b)*]. Nothing herein shall permit the filing of a claim or action on behalf of a class or group of taxpayers.

(b) If any person is aggrieved by any decision (other than a decision relating to a refund pursuant to § 34.168 of this Chapter), deficiency determination, assessment, or administrative ruling of the Tax Administrator; he or she may appeal to the City Manager by filing a notice of appeal with the City Clerk within fourteen (14) days of the date of the decision, deficiency determination, assessment, or administrative ruling of the Tax Administrator which aggrieved the service user or service supplier.

(c) The matter shall be scheduled for hearing before an independent hearing officer selected by the City Manager, no more than thirty (30) days from the receipt of the appeal. The appellant shall be served with notice of the time and place of the hearing, as well as any relevant materials, at least five (5) calendar days prior to the hearing. The hearing may be continued from time to time upon mutual consent. At the time of the hearing, the appealing party, the Tax Administrator, and any other interested person may present such relevant evidence as he or she may have relating to the determination from which the appeal is taken.

(d) Based upon the submission of such evidence and the review of the City's files, the hearing officer shall issue a written notice and order upholding, modifying or reversing the determination from which the appeal is taken. The notice shall be given within fourteen (14) days after the conclusion of the hearing and shall state the reasons for the decision. The notice shall specify that the decision is final and that any petition for judicial review shall be filed within ninety (90) days from the date of the decision in accordance with *Code of Civil Procedure Section 1094.6*.

(e) All notices under this section may be sent by regular mail, postage prepaid, and shall be deemed received on the third calendar day following the date of mailing, as established by a proof of mailing.

§ 34.170 No Injunction/Writ of Mandate.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this City or against any officer of the City to prevent or enjoin the collection under this Chapter of any tax or any amount of tax required to be collected and/or remitted.

§ 34.171 Notice of changes to ordinance.

If a tax under this Chapter is added repealed, increased, reduced, or the tax base is changed, the Tax Administrator shall follow the notice requirements of *California Public Utilities Code Section 799*.

§ 34.172 Effect of State and Federal Reference/Authorization.

Unless specifically provided otherwise, any reference to a State or Federal statute in this Chapter shall mean such statute as it may be amended from time to time, provided that such reference to a statute herein shall not include any subsequent amendment thereto, or to any subsequent change of interpretation thereto by a State or Federal agency or court of law with the duty to interpret such law, to the extent that such amendment or change of interpretation would require voter approval under California law, or to the extent that such change would result in a tax decrease (as a result of excluding all or a part of a communication service, or charge therefore, from taxation). Only to the extent voter approval would otherwise be required or a tax decrease would result, the prior version of the statute (or interpretation) shall remain applicable; for any application or situation that would not require voter approval or result in a decrease of a tax, provisions of the amended statute (or new interpretation) shall be applicable to the maximum possible extent.

To the extent that the City's authorization to collect or impose any tax imposed under this Chapter is expanded or limited as a result of changes in State or Federal law, no amendment or modification of this Chapter shall be required to conform the tax to those changes, and the tax shall be imposed and collected to the full extent of the authorization up to the full amount of the tax imposed under this Chapter.

§ 34.173 Independent Audit of Tax Collection, Exemption, Remittance, and Expenditure.

The City shall annually verify that the taxes owed under this Chapter have been properly applied, exempted, collected, and remitted in accordance with this Chapter, and properly expended according to applicable municipal law. The annual verification shall be performed by a qualified independent third party and the review shall employ reasonable, cost-effective steps to assure compliance, including the use of sampling audits. The verification shall not be required of tax remitters where the cost of the verification may exceed the tax revenues to be reviewed.

§ 34.174 Remedies Cumulative.

All remedies and penalties prescribed by this Chapter or which are available under any other provision of law or equity, including but not limited to the California False Claims Act (*Government Code Section 12650 et seq.*) and the California Unfair Practices Act (*Business and Professions Code Section 17070 et seq.*), are cumulative. The use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this Chapter, including the penalty specified in Section 34.199.

§ 34.175 Interaction with Prior Tax.

(a) Collection of Tax by Service Providers. Service providers shall begin to collect the tax imposed by this Chapter 34 (Sections 150 through 199) as soon as feasible after the effective date of the Chapter, but in no event later than permitted by *Section 799* of the *California Public Utilities Code*.

(b) Satisfaction of Tax Obligation by Service Users. Prior to April 1, 2009, any person who pays the tax levied pursuant to Chapter 53 (Sections 53.01 through 53.99) of this Code, as it existed prior to its amendment as provided herein, with respect to any charge for a service shall be deemed to have satisfied his or her obligation to pay the tax levied pursuant to this Chapter 34 (Sections 34.150 through 34.199), with respect to that charge. The intent of this paragraph is to prevent the imposition of multiple taxes upon a single utility charge during the transition period from the prior Utility Users' Tax ordinance to the amended Utility Users' Tax ordinance (which transition period ends April 1, 2009) and to permit service providers or other persons with an obligation to remit the tax hereunder, during that transition period, to satisfy their collection obligations by collecting either tax.

(c) Judicial Determinations. In the event that a final court order should determine that the election enacting this Chapter 34 (Sections 34.150 through 34.199) is invalid for whatever reason, or that any tax imposed under this Chapter 34 (Sections 34.150 through 34.199) is invalid in whole or in part, then the tax imposed under Chapter 53 (Sections 53.01 through 53.99), unless repealed, shall automatically continue to apply with respect to any service for which the tax levied pursuant to this Chapter has been determined to be invalid. Such automatic continuation shall be effective beginning as of the first date of service (or billing date) for which the tax imposed by this Chapter is not valid. However, in the event of an invalidation, any tax (other than a tax that is ordered refunded by the court or is otherwise refunded by the City) paid by a person with respect to a service and calculated pursuant to this Chapter shall be deemed to satisfy the tax imposed under Chapter 53 (Sections 53.01 through 53.99) on that service, so long as the tax is paid with respect to a service provided no later than six months subsequent to the date on which the final court order is published.

§34.176 - §34.198 *Reserved*

§34.199 Penalty, Criminal.

Any person, service supplier or service user violating any provision of this Chapter shall be guilty of a misdemeanor. Each day the violation exists shall be deemed a separate offense. This section 34.199 is intended to be cumulative to, and not in place of, other rights and remedies available to the City pursuant to this Chapter.

SECTION 2. Effective Date. This chapter shall become effective immediately upon the date that this Ordinance is approved by the voters of the City of Indio at the Election of November 4, 2008.

SECTION 3. Amendment or Repeal. Except as precluded by applicable Federal and State law, Chapter 34 (Sections 34.150 through 34.199) of the Municipal Code may be repealed or amended by the City Council without a vote of the people.

SECTION 4. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The City Council and voters of the City of Indio hereby declare that they would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

SECTION 5. Ratification of Prior Tax. The voters of the City of Indio hereby ratify and approve Chapter 53 (Sections 53.01 through 53.99) of the Municipal Code as it existed prior to the effective date of this Ordinance, and the past collection of the Utility Users' Tax thereunder.

SECTION 6. Execution. The Mayor of the City Council is hereby authorized to attest to the adoption of this Ordinance by the voters of the City by signing where indicated below.

PASSED, APPROVED, and ADOPTED by vote of the People of the City of Indio on the 4th day of November 2008.

Dated: _____

LUPE RAMOS WATSON, MAYOR

ATTEST:

CYNTHIA HERNANDEZ, CMC
CITY CLERK

IMPARTIAL ANALYSIS OF MEASURE “K”

Measure “K” relates to the City of Indio’s existing utility user’s tax on electricity, gas, water, telecommunication services, and video services. It does not relate to the rate of the tax. The measure continues the exemption for senior and disabled persons eligible to receive Supplemental Security Income (“SSI”) via the Social Security Administration and updates numerous definitions and technical tax provisions.

The City approved the existing utility user’s tax ordinance in 1985, before the introduction and popularity of many new communications technologies and before several changes to federal law, namely, the Mobile Telecommunications Sourcing Act of 2000 and the recent change in the IRS interpretation of the federal excise tax on long distance service. Utility taxes in other California cities containing language similar to that in the Indio’s current ordinance have been the subject of legal controversy.

This measure treats all technology the same, and protects Indio from potential legal challenges that might otherwise impact tax revenue on long distance services, including cellular and any bundled services. Similarly, the measure applies the tax to all calls and private communication services, e.g., T-1, paging, and text messaging, whether within California, or to other states or countries. Internet services such as e-mail or digital downloads (e.g., music, games, and ringtones) will not be taxed.

Like the existing utility user’s tax, the tax per Measure “K” would be a general tax, with its proceeds deposited into the City’s general fund to allow the City to fund general governmental purposes and programs. For example, the revenue produced by Measure “K” will help the City to fund police, fire, road and park construction and maintenance and youth and senior programs.

The voters’ choice is whether to modernize the utility user’s tax as summarized here and eliminate potential challenges to continued collections under the 1985 ordinance, or not. A majority “yes” vote approves the modernization presented in Measure “K,” while a majority “no” vote preserves the utility user’s tax ordinance approved in 1985. Measure “K” does not effect the utility user’s tax rate.

Measure “K” preserves and clarifies the utility user’s tax exemption for seniors and the disabled. It adds a requirement, not contained in the current tax, of annual third party auditor verification that all tax has been properly collected and expended. It also contains a procedure for tax refund claims through which utility service users and suppliers secure refunds of tax paid in error through a one year period.

A “yes” vote means that you favor adopting the measure summarized above, while a “no” vote means that you are against its adoption. A majority of “yes” votes is required for the measure to be enacted.

By: Edward Kotkin
City Attorney

ARGUMENT IN FAVOR OF MEASURE “K”

Indio’s Utility User Tax (UUT) was originally adopted in 1985. It’s a 23-year-old ordinance dealing with technology that needs to be updated and modernized to recognize technological advances. A “yes” vote on Measure “K” will not change the rate of the tax which is currently 3%.

UUT revenue is a major source of funding for city services such as public safety, street and park maintenance, and youth and senior programs. The UUT has greatly improved the safety and character of the City of Indio for its residents and is a key component to its revitalization.

Measure “K” clarifies the UUT’s application to the vast range of technology that we use daily. The measure applies the tax to private communication services, typically a T-1 line or other updated technology, (which replaces a traditional telephone line, and is used for voice, data, and video, usually between a corporate headquarters and its branch offices). Cellular phone service is currently subject to the UUT and Measure “K” does not change that. Internet services like e-mail and digital downloads (e.g., music, games, and ringtones) are not and will not be taxed.

Measure “K” preserves and clarifies the existing Utility User’s Tax exemption for seniors aged 62 and the disabled who receive Supplemental Security Income (“SSI”) through the Social Security Administration.

The measure contains a refund provision to insure that errors within a one-year tax period are addressed. It also adds a new requirement not in the current ordinance that an outside auditor will annually verify the UUT has been properly collected and spent.

Measure “K” ensures all new and existing technologies are treated equally and protects the UUT as a vital revenue source for the continuation of Indio’s public safety services, street and park maintenance, and youth and senior programs.

Vote Yes on Measure “K”!

By: Patrick Swarthout, Indio Chamber

William Diaz, AYSO Region 813 Regional Commissioner

Sean Roby, Indio Youth Sports Assoc. President

Henrigus Peeters, President-Indio Police Command Unit

Darren Hoopingarner, CDF Firefighters Riverside Deputy Director

NO ARGUMENT FILED AGAINST MEASURE “K”



Important Dates!

OCTOBER 6TH
FIRST DAY YOU CAN VOTE

OCTOBER 20TH
CLOSE OF REGISTRATION

OCTOBER 28TH
LAST DAY TO REQUEST A
VOTE-BY-MAIL BALLOT



NOVEMBER 4TH ELECTION DAY
VOTE AT YOUR POLLING PLACE
DROP OFF YOUR BALLOT AT ANY POLLING PLACE
VOTE AT THE REGISTRAR OF VOTERS OFFICE BY 8:00 P.M.

Frequently Asked Questions



Q — Who may vote?

A —U.S. citizens, 18 years or older, and who are registered to vote in Riverside County on or before the close of registration.

Q — My 18th birthday is after the close of registration but on or before Election Day. May I vote in this election?

A —Yes, if your birthday is on or before Election Day, but after the close of registration, you can register to vote on or before the close of registration and vote in this election even though you were not 18 at the time you registered to vote.

Q — If I was arrested or convicted of a crime may I still vote?

A —You can vote as long as you are not on parole or incarcerated for a felony conviction.

Q — I have just become a U.S. citizen. May I vote in this election?

A —If you became a U.S. citizen on or before the close of registration you may vote in the election, but you must register to vote by the close of registration.

OR

If you became a U.S. citizen after the close of registration, but on or before the 7 days before the election, you may register and vote at the Registrar of Voters' office with proof of citizenship and proof of Riverside County residency.

Q — I have moved within the county but have not re-registered. May I vote in this election?

A —Yes, you may vote provisionally at the polling place assigned to your new address.

Q — When and where may I vote?

A —You may vote at the polls on Election Day from 7 a.m. to 8 p.m. Your polling place is listed on the Sample Ballot and Information Pamphlet mailed to you. You may also find it on the Registrar of Voters website www.voteinfo.net or by calling 1-800-773-VOTE (8683)

Q — What do I do if my polling place is not open?

A —Check the label on the back of your Sample Ballot and Information Pamphlet to make sure you have gone to the right place. Polling places can change. If you are at the right place, call the Registrar of Voters' office at 1-800-773-VOTE to let us know that the polling place is not open.

Q — If I don't know what to do when I get to my polling place, is there someone there to help me?

A —Yes, the Election Officers at the polling place will help you.

Q — May I take my Sample Ballot or my own written list into the voting booth?

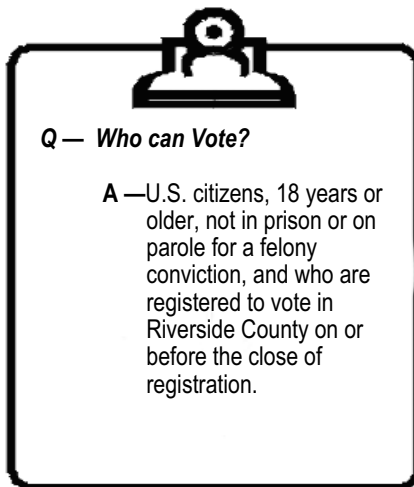
A —Yes. Making your selections before you get to the polls will expedite your time at the polls.

Q — May a worker at the polling place ask me to take any test?

A —No.

Q — Is there any way to vote besides going to the polling place on Election Day?

A —Yes, you can vote before Election Day if you:



Q — Who can Vote?

A —U.S. citizens, 18 years or older, not in prison or on parole for a felony conviction, and who are registered to vote in Riverside County on or before the close of registration.

Fill out and mail the Vote-by-Mail Ballot Application printed on the back cover of your Sample Ballot and Information Pamphlet. Within three days after we receive your request, a Vote-by-Mail ballot will be sent to you. Your request must be received by the Registrar of Voters no later than 7 days prior to the election.

OR

Vote at the Registrar of Voters' office, October 6-November 3, Monday through Friday 8:00 a.m. to 5:00 p.m. and Saturdays, 9:00 a.m. to 4:00 p.m.; and Election Day November 4, 7:00 a.m. to 8:00 p.m.

Q — If I don't use an application form, may I get a Vote-by-Mail ballot some other way?

A —You may fax or send a written request to the Registrar of Voters. This request must include: the name of the election in which you wish to vote, your printed home address, the address where you want your ballot to be mailed, your birth date, your printed name and your signature. Your request must be received by the Registrar of Voters no later than 7 days prior to election day.



NOTICE TO THE VOTER WITH SPECIAL NEEDS:

A "YES" or "NO" printed under the disabled symbol/arrow on the back cover of this pamphlet indicates whether or not your assigned polling place is accessible to physically disabled voters. You are hereby advised of your right to vote in the following alternate ways:

- By mail. You may request a vote-by-mail ballot. Simply complete the application on the back cover of this pamphlet. The application must be mailed to reach the Registrar of Voters' Office by the deadline given.
- On Election Day outside the Polling Place. If you are unable to enter the polling place because of a physical disability, you may vote in a place that is as near as possible to the polling place and that is accessible to the physically disabled.
- Early Voting. You may vote at the Registrar of Voters' office located at 2724 Gateway Drive, Riverside, October 6 - November 3, Monday through Friday, 8:00 a.m. to 5:00 p.m.; Saturdays, 9:00 a.m. to 4:00 p.m.; and Election Day, November 4, 7:00 a.m. to 8:00 p.m.

33-AV-4 (REVISED 11-04-08)

FROM — REMITE



**FIRST
CLASS
POSTAGE**

PLACE STAMP HERE
PONGA ESTAMPILLA AQUI

DID YOU SIGN YOUR APPLICATION?
¿FIRMO USTED SU SOLICITUD?

**REGISTRAR OF VOTERS
2724 GATEWAY DRIVE
RIVERSIDE CA 92507-0923**



REGISTRAR OF VOTERS
2724 GATEWAY DRIVE
RIVERSIDE, CA 92507-0918



NONPROFIT
U.S. POSTAGE
PAID
Registrar of Voters
Riverside

✓ **You May Cast Your Vote Early**



At

THE REGISTRAR OF VOTERS OFFICE
2724 Gateway Drive, Riverside, CA

October 6 through November 3

Monday thru Friday, 8:00 a.m. to 5:00 p.m.
Saturdays, 9:00 a.m. to 4:00 p.m.

Election Day November 4
7:00 a.m. to 8:00 p.m.

OR

VOTE EARLY

October 18 through October 26

At a location near you.

See page three for the hours and locations.

VOTE EARLY

IT'S QUICK

IT'S EASY

IT'S CONVENIENT

GET OUT OF LINE ON ELECTION DAY!

VOTE-BY-MAIL

LOCATION OF YOUR POLLING PLACE

↓ **UBICACION DE SU URNA DE VOTACION** ↓



VOTE-BY-MAIL BALLOT APPLICATION
SOLICITUD PARA UNA BALOTA PARA VOTAR POR CORREO

APPLICATION MUST BE RECEIVED NO LATER THAN OCTOBER 28, 2008

APLICACION TIENE QUE SER RECIBIDA NO MAS TARDE DEL 28 DE OCTUBRE DE 2008

BALLOT TYPE 192

I hereby request a ballot for the Consolidated General Election, November 4, 2008.

Por la presente solicito una balota para la Elección General Consolidada, 4 de noviembre de 2008.

PLEASE PRINT:

NAME AS REGISTERED Imprima el nombre como está registrado

RESIDENCE ADDRESS AS REGISTERED/Imprima la dirección de su residencia como registrado

CITY Ciudad STATE Estado ZIP Zona Postal

I declare, under penalty of perjury that the information provided is true and correct to the best of my knowledge. / Declaro bajo pena del perjurio que la información proporcionada es verdad y correcta al mejor de mi conocimiento.

SIGNATURE REQUIRED
FIRMA REQUERIDA

SIGNATURE OF VOTER Firma de votar

DATE Fecha

↓ **POSTMASTER DELIVER TO** ↓



Check this box to request PERMANENT VOTE-BY-MAIL status.

Marque esta caja para solicitar y ser un votante permanente de votar-por-correo.