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EXHIBIT "A"
ORDINANCE NO. ____

1 WHEREAS, on February 13, 2018, the Rialto City Council called an election to submit to
2 the voters at a Special Municipal Election on June 5, 2018, a ballot measure to consider adopting a
3 proposed ordinance to extend the existing eight percent (8%) Utility Users Tax within the City of
4 Rialto, with no sunset clause; and

5 WHEREAS, on June 5, 2018, the voters of the City of Rialto approved by a simple
6 majority an extension of the Utility Users Tax, with no sunset clause.

7 **NOW THEREFORE, THE PEOPLE OF THE CITY OF RIALTO FIND AND**
8 **ORDAIN AS FOLLOWS:**

9 **Section 1.** The above recitals as true and correct and are hereby adopted as findings.

10 **Section 2.** That on June 5, 2018, by a simple majority of the voters, the entirety of
11 Chapter 3.16 of Title 3 of the Rialto Municipal Code was affirmed, with the exception of an
12 amendment, which extends the Utility User Tax, with no sunset clause, provided for in Section
13 3.16.230 of Chapter 3.16 of Title 3 of the Rialto Municipal Code.

14 **Section 3.** Chapter 3.16 of Title 3 of the Rialto Municipal Code is amended, as
15 indicated below (new text is identified in *bold & italics*, deleted text in ~~strike-through~~), as follows:

16 "Chapter 3.16 - UTILITY USER TAX

17 **3.16.010 - Title.**

18 This chapter shall be known as the "utility user tax ordinance of the city of Rialto."

19
20 **3.16.020 - Purpose.**

21 This chapter is enacted solely to raise revenue for the general governmental
22 purposes of the city of Rialto and is not enacted for regulatory purposes. All of the
23 proceeds from the tax imposed by this chapter shall be placed in the city's general
24 fund and used for the usual and current expenses of the city.

25
26 **3.16.030 - Definition.**

27 Whenever used in this chapter, the following words and phrases shall be construed
28 as defined in this section:

1 "City" means the city of Rialto.

2 "Electrical corporation," "gas corporation," "telephone corporation," "cable
3 television corporation," "water corporation" and "sewer system corporation" shall
4 have the same meanings as are defined in Sections 218, 222, 234, 241, and 230.6,
5 respectively, of the Public Utilities Code of the State of California. "Electrical
6 corporation," "gas corporation," "water corporation" and "sewer system
7 corporation" shall include any municipality or government agency engaged in the
8 selling or supplying of electrical power, gas, water or sewer services to a service
9 user.

10 "Month" means a calendar month.

11 "Non-utility supplier" means a service supplier, other than an electrical corporation
12 providing service within the city, which generates electrical energy for its own use
13 or for sale to others.

14 "Person" means any domestic or foreign corporation, firm, association, syndicate,
15 joint stock company, partnership of any kind, joint venture, club, Massachusetts
16 business or common law trust, society or individual.

17 "Service supplier" means any entity required to collect or self-impose and remit a
18 tax imposed by this section.

19 "Service user" means a person required to pay a tax imposed by this section.

20 "Tax administrator" means the chief financial officer of the city or his or her
21 designee.

22 "Telephone services" means and includes any telephonic quality communication
23 for the purpose of transmitting messages or information (including, but not limited
24 to, voice, telegraph, teletypewriter, data, facsimile, video, or text) by electronic,
25 radio or any other means through "interconnected service" with the "public
26 switched network" (as these terms are commonly used in the Federal
27 Communications Act and the regulations of the Federal Communications
28 Commission—see 47 USCA Section 332(d)), whether such transmission occurs by

1 wire, cable, fiber-optic, light wave, laser, microwave, broadband, computer
2 processing applications such as Voice over Internet Protocol (VOIP) service and
3 services classified by the Federal Communications Commission as "enhanced" or
4 "value added," radio wave (including, but not limited to, cellular service, wireless
5 broadband, commercial mobile service, personal communications service (PCS),
6 specialized mobile radio (SMR), and other types of personal wireless service—see
7 47 USCA Section 332(c)(7)(C)(i)—regardless of radio spectrum used), switching
8 facilities, satellite or any other technology now existing or developed after the
9 adoption of the ordinance codified in this chapter.

10
11 3.16.040 - Telephone user tax.

12 There is imposed on every person other than a telephone corporation, electrical
13 corporation, gas corporation, water corporation or waste hauler a tax for use of
14 intrastate, interstate and international telephone services in the city of Rialto. The
15 tax imposed by this section shall be at the rate of eight percent of the charges made
16 for such services and shall be paid by the person paying for such services. Said tax
17 shall apply to all services within the jurisdiction of the city to tax, including charges
18 billed to a telephone account having a situs in the city, irrespective of whether a
19 particular telephone service originates or terminates within the city.

20 A. The following shall be exempt from the tax imposed by this section:

21 1. Charges paid for by inserting coins in coin-operated telephones available to
22 the public with respect to local telephone service, or with respect to toll telephone
23 service if the charge for such toll telephone service is less than twenty-five cents;
24 except that where such coin-operated telephone service is furnished for a
25 guaranteed amount, the amounts paid under such guarantee plus any fixed monthly
26 or other periodic charge shall be subject to the tax;

27 2. Except with respect to local telephone service, on any charges for services
28 used in the collection of news for the public press, or a news ticker service

1 furnishing a general news service similar to that of the public press, or radio
2 broadcasting, or in the dissemination of news through the public press, or a news
3 ticker service furnishing a general news service similar to that of the public press,
4 or by means of radio broadcasting, if the charge for such service is billed in writing
5 to such person;

6 3. Charges for services furnished to an international organization or to the
7 American National Red Cross;

8 4. Charges for any toll telephone service which originates within a combat
9 zone, as defined in Section 112 of the Internal Revenue Code, from a member of
10 the Armed Forces of the United States performing service in such combat zone, as
11 determined under such section, provided a certificate, setting forth such facts as the
12 Secretary of the U.S. Treasury may by regulations prescribe, is furnished to the
13 person receiving such payment;

14 5. Charges for any long distance telephone service to the extent that the
15 amount so paid is for use by a common carrier, telephone or telegraph company, or
16 radio broadcasting station or network in the conduct of its business as such;

17 6. Amounts paid by a nonprofit hospital for services furnished to such
18 organization. For purposes of this subsection, the term "nonprofit hospital" means
19 a hospital referred to in Internal Revenue Code Section 170(b)(1)(A)(iii) which is
20 exempt from income tax under Internal Revenue Code Section 501(a);

21 7. Charges for services or facilities furnished to the government of any state,
22 or any political subdivision thereof, or the District of Columbia;

23 8. Charges paid by a nonprofit educational organization for services or
24 facilities furnished to such organization. For purposes of this subsection, the term
25 "nonprofit educational organization" means an educational organization described
26 in Internal Revenue Code Section 170(b)(1)(A)(ii) which is exempt from income
27 tax under Internal Revenue Code Section 501(a). The term also includes a school
28 operated as an activity of an organization described in Internal Revenue Code

1 Section 501(c)(3) which is exempt from income tax under Internal Revenue Code
2 Section 501(a), if such school normally maintains a regular faculty and curriculum
3 and normally has a regularly enrolled body of pupils or students in attendance at
4 the place where its educational activities are regularly carried on;

5 9. Charges for private land mobile services or maritime mobile services as
6 defined in Section 2.1 of Title 47 of the Code of Federal Regulations as such
7 section existed on January 1, 1970. Public land mobile services, as defined in
8 Section 2.1 of Title 47 of the Code of Federal Regulations as such section existed
9 on October 1, 1992, are not within the scope of this exemption;

10 10. Charges for any type of service or equipment furnished by a service
11 supplier subject to public utility regulation during any period in which the same or
12 similar services or equipment are also available for sale or lease from persons other
13 than a service supplier subject to public utility regulation.

14 B. The tax imposed by this section shall be collected from the service user by
15 the person providing the telephone services or the person receiving payment for
16 such services. The amount of the tax collected in one month shall be remitted to
17 the tax administrator on or before the last day of the following month, unless the
18 due date occurs on a weekend or a holiday, in which case the tax shall be remitted
19 on or before the next business day thereafter. Taxes shall be deemed remitted on
20 the date received by the tax administrator, or on the date postmarked if remitted by
21 first class United States mail with postage fully prepaid. With prior written
22 approval of the tax administrator, remittance of the tax may be predicated on a
23 formula based upon the payment pattern of the supplier's customers; or at the
24 option of the person required to collect and remit the tax, an estimated amount of
25 the tax collected, measured by the tax bill in the previous month.

26
27 3.16.050 - Cellular telephone user tax.
28

1 A. There is hereby imposed a tax on the amounts paid for any cellular
2 telephone communication services within the jurisdiction of the city to tax. The tax
3 imposed by this section shall be at the rate of eight percent of the total charges
4 made for such services, including but not limited to, access and basic monthly
5 charges, and shall be paid by the person paying for such services.

6 B. As used in this section, the term "charges" does not include charges for
7 services paid for by inserting coins in coin-operated cellular telephones except that
8 where such coin-operated service is furnished for a guaranteed amount, the
9 amounts paid under such guarantee plus any fixed monthly or other periodic charge
10 shall be included in the base for computing the amount of tax due; nor does the
11 term "charges" include charges for any type of service or equipment furnished by a
12 service supplied subject to public utility regulation during any period in which the
13 same or similar services or equipment are also available for sale or lease from
14 persons other than a service supplier subject to public utility regulations. The term
15 "cellular telephone communication services" refers to that service which, by means
16 of portable or fixed cellular, digital or other similar radio telephones, provides
17 access to a telephone system and the privilege of telephone-quality communication
18 with substantially all persons having telephone stations which are part of such
19 telephone systems. The term "cellular telephone communication services" also
20 includes public aeronautical mobile service, public land mobile service, public
21 maritime mobile service and public mobile-satellite services, as defined in Section
22 2.1 of Title 47 of the Code of Federal Regulations, as it existed on October 1, 1992.
23 The cellular telephone users tax is intended to, and does, apply to all charges within
24 the jurisdiction of the city to tax, including charges billed to a cellular telephone
25 account having a billing address in the city, irrespective of whether a particular
26 communication service originates or terminates within the city.

27 C. This section is included in addition to Section 3.16.040 to eliminate any
28 ambiguity as to the application of the telephone user tax to cellular telephony. The

1 specification of this aspect of the telephone user tax shall not, however, raise any
2 implication that other forms of telephony are not within the scope of the telephone
3 user tax. The telephone user tax is to be construed to reach to the full breadth of
4 the city's constitutional power to tax and without respect to the technology or
5 means by which telephone services are provided.

6
7 3.16.060 - Electricity user tax.

8 A. There is hereby imposed a tax on every person other than a telephone
9 corporation, electrical corporation, gas corporation, water corporation, or sewer
10 service corporation using electrical energy in the city. The tax imposed by this
11 section shall be at the rate of eight percent of the charges made for such energy and
12 shall be paid by the person paying for such energy. The tax applicable to electrical
13 energy provided by a non-utility supplier shall be determined by applying the tax
14 rate to the equivalent charge the service user would have incurred if the energy had
15 been provided by the electrical corporation franchised by the city. The tax
16 administrator shall make available rate schedules for this purpose. Non-utility
17 suppliers shall install, maintain and use an appropriate metering system to enable
18 compliance with this section. "Charges," as used in this section, shall include
19 charges made for metered energy and charges for service, including customer
20 charges, service charges, standby charges, charges for temporary services, demand
21 charges, annual and monthly charges and any other charge authorized by the
22 California Public Utilities Commission or the Federal Energy Regulatory
23 Commission.

24 B. As used in this section, the term "using electrical energy" shall not be
25 construed to mean the storage of such energy by a person in a battery owned or
26 possessed by him or her for use in an automobile or other machinery or device
27 apart from the premises upon which the energy was received, provided, however,
28 that the term shall include the receiving of such energy for the purpose of using it

1 in the charging of batteries; nor shall the term include the mere receiving of such
2 energy by an electric public utility or governmental agency at a point within the
3 city for resale; nor shall the term include the use of such energy in the production
4 or distribution of water by a public utility or a governmental agency.

5 C. The tax imposed in this section shall be collected from the service user by
6 the person supplying such energy. The amount of tax collected in one month shall
7 be remitted to the tax administrator on or before the last day of the following
8 month, unless the due date occurs on a weekend or a holiday, in which case the tax
9 shall be remitted on or before the next business day thereafter. Taxes shall be
10 deemed remitted on the date received by the tax administrator, or on the date
11 postmarked, if remitted by first class United States mail with postage fully prepaid.
12 With prior written approval of the tax administrator, remittance of taxes may be
13 predicated on a formula based upon the payment pattern of the supplier's
14 customers.

15
16 3.16.070 - Gas user tax.

17 A. There is hereby imposed a tax on every person other than a telephone
18 corporation, electrical corporation, gas corporation, water corporation or sewer
19 service corporation using in the city gas which is delivered through mains or pipes.
20 The tax imposed by this section shall be at the rate of eight percent of the charges
21 made for such gas and shall be paid by the person paying for such gas. "Charges,"
22 as used in this section, shall include charges made for metered gas and charges for
23 service, including customer charges, service charges and annual and monthly
24 charges and any other charge authorized by the California Public Utilities
25 Commission or the Federal Energy Regulatory Commission.

26 B. There shall be excluded from the base on which the tax imposed in this
27 section is computed:
28

1 (1) Charges made for gas which is to be resold and delivered through mains or
2 pipes;

3 (2) Charges made for gas sold for use in the generation of electrical energy or
4 for the production or distribution of water by a public utility or governmental
5 agency;

6 (3) Charges made for natural gas used in the propulsion of a motor vehicle, as
7 that phrase is defined in the Vehicle Code of the State of California; and,

8 (4) Charges made for gas used by a non-utility supplier to generate electrical
9 energy for its own use or for sale to others, provided the electricity so generated is
10 subject to tax under Section 3.16.060 of this chapter.

11 C. The tax imposed by this section shall be collected from the service user by
12 the person providing the gas. The amount of tax collected in one month shall be
13 remitted to the tax administrator on or before the last day of the following month,
14 unless the due date occurs on a weekend or a holiday, in which case the tax shall be
15 remitted on or before the next business day thereafter. Taxes shall be deemed
16 remitted on the date received by the tax administrator, or on the date postmarked, if
17 remitted by first class United States mail with postage fully prepaid. With prior
18 written approval of the tax administrator, remittance of tax may be predicated on a
19 formula based upon the payment pattern of the supplier's customers.
20

21 3.16.080 - Sewer service user tax.

22 A. There is hereby imposed a tax on every person other than a telephone
23 corporation, electrical corporation, gas corporation, water corporation or sewer
24 service corporation using in the city the services of a sewer service corporation for
25 the disposal of sewage into a "sewer system," as that term is defined in Section
26 230.5 of the Public Utilities Code of the State of California. The tax imposed by
27 this section shall be at the rate of eight percent of the charges made for such
28 services and shall be paid by the person paying for such services. "Charges," as

1 used in this section, shall include charges for service, including customer charges,
2 service charges and annual and monthly charges and any other charge authorized
3 by this code, a franchise or collection services agreement granted pursuant to that
4 Code, or the law of the State of California.

5 B. The tax imposed by this section shall be collected from the service user by
6 the person providing the services. The amount of tax collected in one month shall
7 be remitted to the tax administrator on or before the last day of the following
8 month, unless the due date occurs on a weekend or a holiday, in which case the tax
9 shall be remitted on or before the next business day thereafter. Taxes shall be
10 deemed remitted on the date received by the tax administrator, or on the date
11 postmarked, if remitted by first class United States mail with postage fully prepaid.
12 With prior written approval of the tax administrator, remittance of tax may be
13 predicated on a formula based upon the payment pattern of the supplier's
14 customers.

15
16 3.16.090 - Water user tax.

17 A. There is hereby imposed a tax on every person other than a telephone
18 corporation, electrical corporation, gas corporation, water corporation or sewer
19 service corporation using water which is delivered through mains or pipes. The tax
20 imposed by this section shall be at the rate of eight percent of the charges made for
21 such water and shall be paid by the person paying for such water. "Charges," as
22 used in this section, shall include charges made for metered water and charges for
23 service, including customer charges, service charges and annual and monthly
24 charges and any other charge authorized by law.

25 B. Charges made for water which is to be resold and delivered through mains
26 or pipes shall be excluded from the base on which the tax imposed by this section is
27 computed.
28

1 C. The tax imposed by this section shall be collected from the service user by
2 the person supplying the water. The amount of tax collected in one month shall be
3 remitted to the tax administrator on or before the last day of the following month,
4 unless the due date occurs on a weekend or a holiday, in which case the tax shall be
5 remitted on or before the next business day thereafter. Taxes shall be deemed
6 remitted on the date received by the tax administrator, or on the date postmarked, if
7 remitted by first class United States mail with postage fully prepaid. With prior
8 written approval of the tax administrator, remittance of tax may be predicated on a
9 formula based upon the payment pattern of the supplier's customers.

10
11 3.16.100 - Cable television users' tax.

12 A. There is hereby imposed a tax upon every person in the city other than a
13 telephone corporation, electrical corporation, gas corporation, water corporation or
14 sewer service corporation using cable television service in the city. The tax
15 imposed by this section shall be at the rate of eight percent of the charges made for
16 such service and shall be paid by the person paying for such service.

17 B. As used in this section, the term "charges" includes, but is not limited to,
18 charges for installation and programming, whether the programming is a cable
19 transmission of broadcast channels, transmission of cable-only programming, "pay-
20 per-view" programming or any other programming.

21 C. The tax imposed in this section shall be collected from the service user by
22 the person providing the cable television service. The amount of the tax collected
23 in one month shall be remitted to the tax administrator on or before the last day of
24 the following month, unless the due date occurs on a weekend or a holiday, in
25 which case the tax shall be remitted on or before the next business day thereafter.
26 Taxes shall be deemed remitted on the date received by the tax administrator, or on
27 the date postmarked if remitted by first class United States mail with postage fully
28 prepaid. With prior written approval of the tax administrator, remittance of tax

1 may be predicated on a formula based upon the payment pattern of the supplier's
2 customers; or at the option of the person required to collect and remit the tax, an
3 estimated amount of tax collected, measured by the tax bill in the previous month.
4

5 3.16.110 - Interest and penalty.

6 A. Taxes collected from a service user that are not remitted to the tax
7 administrator on or before the due dates provided in this section are delinquent and
8 are subject to penalties and interest.

9 B. Any person who fails to remit taxes collected in the time required by this
10 section shall pay a penalty of five percent of the amount of the tax owed, and if not
11 remitted within two working days after the date of delinquency, shall pay a penalty
12 of twenty percent of the amount of tax owed. Such penalty shall attach to the
13 amount of tax due and shall be paid by the person required to collect and remit the
14 tax.

15 C. When fraud or gross negligence in reporting and remitting tax collections is
16 discovered, the tax administrator shall have power to impose additional penalties of
17 twenty percent of taxes owed upon persons required to collect and remit taxes
18 under the provisions of this section.

19 B Any person required to remit to the tax administrator delinquent taxes as
20 required in this section, shall pay interest at the rate of one and one-half percent per
21 month or portion thereof, on the amount of tax owed exclusive of penalties, from
22 the date on which the tax first became delinquent until paid.

23 E. Notwithstanding the provisions of subsections 2 and 4 of this section, no
24 penalty or interest shall be applied if delinquencies are the result of natural disasters
25 or other phenomena beyond the control of the person charged with collecting and
26 remitting the tax, provided the person obliged to remit tax notifies the tax
27 administrator as soon as normal communications permit.
28

1 3.16.120 - Actions to collect.

2 Any tax required to be paid by a service user under the provisions of this section
3 shall be deemed a debt owed by the service user to the city. Any such tax collected
4 from a service user which has not been remitted to the tax administrator shall be
5 deemed a debt owed to the city by the person who collected the tax. Any person
6 owing money to the city under the provisions of this section shall be liable in an
7 action brought in the name of the city for the recovery of such amount.

8
9 3.16.130 - Duty to collect—Procedures.

10 The duty to collect and remit the taxes imposed by this section shall be performed
11 as follows:

12 A. The tax shall be collected insofar as practicable at the same time as, and
13 along with, the collection of charges made in accordance with the regular billing
14 practices of the service supplier. Where the amount paid by a service user is less
15 than the full amount of the charge and the tax which has accrued for a billing
16 period, such payment and any subsequent payments may be first applied to the
17 charge until such charge has been fully satisfied. Any remaining balance shall be
18 applied to the taxes due, except where a service user pays the full amount of the
19 charges but notifies the service supplier of a refusal to pay the tax imposed on such
20 charges, in which case the service supplier may be relieved of the duty to collect
21 the tax pursuant to Section 3.16.150 of this code.

22 B. The duty to collect the tax from a service user shall commence with the
23 beginning of the first regular billing period applicable to that service use which
24 begins on or after July 1, 2003. Where a person is billed separately for distinct
25 periods, the duty to collect shall arise separately for each billing period.

26
27 3.16.140 - Additional powers and duties of tax administrator.

1 A. The tax administrator shall have the power and duty, and is hereby directed,
2 to enforce each and all of the provisions of this section.

3 B. The tax administrator shall have the power to adopt rules and regulations
4 not inconsistent with provisions of this section for the purpose of carrying out and
5 enforcing the payment, collection and remittance of the taxes herein imposed. A
6 copy of such rules and regulations shall be on file in the tax administrator's office.

7 C. The tax administrator may make administrative agreements to vary the strict
8 requirements of this section so that collection of any tax imposed hereby may be
9 made in conformance with the billing procedures of a particular service supplier so
10 long as said agreements result in collection of the tax in conformance with the
11 general purpose and scope of this section. A copy of each such agreement shall be
12 on file in the tax administrator's office.

13 D. The tax administrator shall have authority to retain an independent auditor
14 to audit the charges and/or tax collections and remittances of any service supplier
15 or service user, as such times and in such manner as the tax administrator may
16 deem to be in the best interests of the city.

17 E. Annually, within thirty days after the conclusion of each fiscal year which
18 this chapter is in effect, the tax administrator shall retain an independent auditor to
19 review the deposits and expenditures of the tax proceeds collected by the city
20 pursuant to this chapter for the purpose of obtaining a report as to whether such tax
21 proceeds have been expended in compliance with the laws affecting the city's
22 expenditure of general fund revenues.

23

24 3.16.150 - Assessment—Administrative remedy.

25 A. The tax administrator may assess a service user for taxes not paid to a
26 service supplier.

27 B. Whenever the tax administrator determines that a service user has
28 deliberately withheld the amount of the tax owed from the amounts remitted to a

1 service supplier, or that a service user has refused to pay the amount of tax to a
2 service supplier, or whenever the tax administrator otherwise deems it in the best
3 interest of the city, he or she may relieve a service supplier of the obligation to
4 collect taxes due under this section from certain named service users for specified
5 billing periods.

6 C. Service suppliers shall inform the city of amounts which services users have
7 failed to pay, along with the names, service and mailing addresses, and any reasons
8 of the service users refusing to pay the tax imposed under this section of which the
9 service supplier has knowledge. Whenever a service user has failed to pay tax for
10 two or more consecutive billing periods, the tax administrator may relieve the
11 service supplier of the obligation to collect taxes due pursuant to subsection B of
12 this section.

13 D. The tax administrator shall notify the service user that he or she has
14 assumed responsibility to collect the taxes due for stated periods and shall demand
15 payment of such taxes. The notice shall be served on the service user by personal
16 delivery or by deposit in the United States mail, postage prepaid, addressed to the
17 service user at the address to which billing was made by the service supplier or to
18 his or her last known address. If a service user fails to remit the tax to the tax
19 administrator within fifteen days from the date of the service of the notice, which
20 shall be deemed to be the date of mailing if personal service is not accomplished, a
21 penalty of twenty-five percent of the amount of the tax set forth in the notice shall
22 be imposed, but shall in no event be less than five dollars. The penalty shall
23 become part of the tax herein required to be paid.

24
25 3.16.160 - Records.

26 It shall be the duty of every person required to collect and remit to the city any tax
27 imposed by this section to keep and preserve, for a period of three years, all records
28 necessary to determine the amount of tax that person was obliged to collect and

1 remit to the city. The tax administrator or his or her designee shall have the right to
2 inspect such records at all reasonable times.

3
4
5 3.16.170 - Refunds.

6 A. Any tax that has been overpaid, paid more than once, or erroneously or
7 illegally collected or received by the tax administrator under this section may be
8 refunded as provided in this section.

9 B. A service supplier may, with prior written approval from the tax
10 administrator, claim a refund or take as credit against taxes collected and remitted
11 an amount overpaid, paid more than once, or erroneously or illegally collected or
12 received when it is established that the service user from whom the tax has been
13 collected did not owe the tax; provided however, that neither a refund nor a credit
14 shall be allowed unless the amount of the tax so collected has either been refunded
15 or credited to the service user. A service supplier that has collected any amount of
16 tax in excess of the amount of tax imposed by this section may refund such amount
17 to the service user and may, with prior written approval of the tax administrator,
18 claim credit for such overpayment against the amount of tax which is due to the
19 city, provided such credit is claimed no later than one year from the date of
20 overpayment.

21 C. No refund shall be paid unless the claimant produces written records which
22 establish the right to the claimed refund.

23 D. Notwithstanding any other provision of this section, whenever a service
24 supplier, pursuant to an order of the California Public Utilities Commission or a
25 court of competent jurisdiction, makes a refund to service users of charges for past
26 utility services, the taxes paid pursuant to this chapter on the amount of such
27 refunded charges shall also be refunded to service users, and the service supplier
28 may, with prior written approval of the tax administrator, take a credit for such

1 refunded taxes against the amount of tax which is due upon the next monthly
2 returns. In the event this subsection is repealed, the amounts of any refundable
3 taxes will be borne by the city.

4
5 3.16.180 - Schedule of implementation.

6 A. Each service supplier shall immediately implement collection procedures in
7 accordance with the effective dates contained in this section.

8 B. Notwithstanding the provisions of subsection A of this section, the tax
9 administrator may grant a service supplier an extension of time to implement tax
10 collection procedures to a date not later than September 30, 2003, provided that
11 within ten days of the effective date of this chapter the service supplier certifies in
12 writing to the tax administrator that operational limitations prevent the service
13 supplier from implementing tax collection procedures in accordance with the
14 effective dates contained in this chapter.

15 C. Notwithstanding anything in this chapter to the contrary, if a service
16 supplier has been granted an extension of time to implement tax collection
17 procedures, taxes accrued for the period of time prior to implementation shall be
18 due and collected in the first regular billing following the implementation of tax
19 collection procedures, or in accordance with a collection schedule authorized by the
20 tax administrator pursuant to subsection D of this section.

21 D. The tax administrator may enter into an agreement with any service supplier
22 to provide for reimbursement, within the limits set forth herein, of the service
23 supplier's actual costs incurred in implementing procedures to collect the tax
24 accrued from the time the tax became effective to the time the service supplier
25 implements tax collection procedures in accordance with the requirements of this
26 chapter. Any agreement entered into pursuant to this subsection D shall provide
27 that the service supplier will be reimbursed by retaining up to ten percent of such
28 accrued taxes collected, but not to exceed (i) two hundred thousand dollars if all or

1 a part of the previously accrued tax is included in all customer billings issued not
2 later than July 30, 2003 ; (ii) one hundred fifty thousand dollars if all or a part of
3 the previously accrued tax is included in all customer billings issued after July 30,
4 2003 but on or before August 31, 2003, or (iii) one hundred thousand dollars if all
5 or a part of the previously accrued tax is included in all customer billings issued
6 after August 31, 2003, but on or before September 30, 2003.

7 E. In any agreement entered into pursuant to subsection D of this section, the
8 tax administrator may authorize the service supplier to collect previously accrued
9 taxes over a period of two or more months, provided that all such taxes are
10 collected and remitted to the tax administrator no later than December 31, 2003.

11
12 3.16.190 - Reduction, termination or suspension of utility user tax.

13 The service supplier shall, upon notification by the city, reduce, terminate or
14 suspend any utility user tax as to each service user commencing with the first full
15 billing period applicable to such user which occurs after the effective day of such
16 action by the city.

17
18 3.16.200 - Constitutional exemptions.

19 Nothing in this section shall be construed as imposing a tax upon any person or
20 transaction if that imposition would violate the Constitution of the United States,
21 the Constitution of the State of California, or any California statute.

22
23 3.16.210 - Other exemptions.

24 A. The taxes imposed by this section shall not apply to any service user who is
25 the head of a household and either:

26 (1) Sixty-five years old or older; or
27
28

1 (2) A member of a "very low income household" as that term is defined in
2 Health and Safety Code Section 50105, as it now exists or may hereafter be
3 amended.

4 B. The exemption granted by this section shall not eliminate the duty of the
5 service supplier from collecting taxes from such exempt individuals or the duty of
6 such exempt individuals from paying such taxes to the service supplier unless the
7 service user applies for, and the tax administrator grants, an exemption in
8 accordance with the provisions of subsection C of this section.

9 C. Any person claiming an exemption from the taxes imposed by this chapter
10 shall file a verified statement of exemption on a form prescribed by, and
11 accompanied by such evidence as may be reasonably required by, the tax
12 administrator prior to September 1, 2003 or June 30th of any subsequent year.

13 (1) The tax administrator shall, within sixty days of receipt of an application for
14 exemption, determine whether the applicant is entitled to an exemption, and if so,
15 notify the service supplier.

16 (2) An exemption granted pursuant to this section shall become effective at the
17 beginning of the first regular billing period which commences after the tax
18 administrator has notified the service supplier that an exemption has been granted.

19 (3) The tax administrator shall notify the service supplier of the termination of
20 any person's right to exemption hereunder, or the change of any address to which
21 service is supplied to any exempt person.

22
23 3.16.220 - Segregation of nontaxable charges.

24 As used in this chapter, the term "charges" means and includes the value of all
25 consideration provided by a service user in exchange for utility services. If a
26 nontaxable service and a taxable service are billed together under a single charge,
27 the entire charge shall be deemed taxable unless the service supplier identifies, by
28 verifiable data, based upon its books and records that are kept in the regular course

1 of business, in a manner that is consistent with generally accepted accounting
2 principles, the nontaxable component of the charge. A service supplier has the
3 burden to prove the proper apportionment of taxable and nontaxable charges.
4

5 3.16.230 - Effective date and sunset.

6 The taxes imposed by this shall become effective July 1, 2003. The tax imposed
7 under this shall apply to services furnished from the beginning of the first regular
8 billing period commencing on or after July 1, 2003. This chapter shall be *effective*
9 *until it is repealed* ~~of no further force and effect at eleven fifty nine p.m. on June~~
10 ~~30, 2018.~~

11
12 3.16.240 - Jurisdiction of the California Public Utilities Commission.

13 Nothing contained in this section is intended to conflict with tariffs of any service
14 supplier subject to the jurisdiction of the California Public Utilities Commission or
15 with any applicable rules or regulations of that Commission. In the event any such
16 conflict arises, the provisions of said rules, regulations and tariffs shall control.
17

18
19 3.16.250 - Administrative determinations—Appeal procedures.

20 The tax administrator shall administer this chapter. Appeals of any determination
21 of the tax administrator shall be submitted in writing to the city clerk not later than
22 December 1st of the fiscal year for which the tax is imposed. The city
23 administrator or his or her designee shall consider the appeal and issue a final
24 decision to the appellant in writing.
25

26 3.16.260 - Amendment of ordinance.

27 This chapter may be repealed or amended by the city council without a vote of the
28 people except as follows: as required by Propositions 62 and 218, any amendment

1 to this chapter that increases the amount or rate of tax beyond the levels authorized
2 by this chapter may not take effect unless approved by a vote of the people. The
3 city council may impose the taxes authorized by this chapter in any amount or rate
4 which does not exceed the rate approved by the voters of the city.

5
6 3.16.270 - Severability.

7 If any section, sentence, clause, phrase or portion of this chapter is for any reason
8 held to be invalid or unenforceable by a court of competent jurisdiction, the
9 remaining sections, sentences, clauses, phrases or portions of this chapter shall
10 nonetheless remain in full force and effect. The people of the city of Rialto hereby
11 declare that they would have adopted each section, sentence, clause, phrase or
12 portion of this chapter, irrespective of the fact that any one or more sections,
13 sentences, clauses, phrases or portions of this chapter be declared invalid or
14 unenforceable.”

15 Section 4. This Ordinance may be repealed or amended by the city council without a
16 vote of the people except as follows: as required by Propositions 62 and 218, any amendment to
17 this Ordinance that increases the amount or rate of tax beyond the levels authorized by this
18 Ordinance may not take effect unless approved by a vote of the people. The city council may
19 impose the taxes authorized by this Ordinance in any amount or rate that does not exceed the rate
20 approved by the voters of the city.

21 Section 5. This measure to be submitted to the voters adopts a general tax to fund any
22 lawful purpose of the City. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a
23 project within the meaning of CEQA because it creates a government funding mechanism that
24 does not involve any commitment to any specific project that may result in a potentially
25 significant impact on the environment. Therefore, under CEQA Guidelines section 15060, review
26 under CEQA is not required.

27 Section 6. The provisions of this ordinance are severable and if any provision, clause,
28 sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any

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

4 **Section 7.** After its adoption by the voters, this Ordinance shall be in full force and
5 effect ten (10) days after the vote is declared by the City Council of the City of Rialto, pursuant to
6 the provisions of Election Code Sections 9217 and 15400 and as provided by law.

7 **Section 8.** The City Clerk of the City of Rialto shall cause this ordinance to be posted
8 in the manner required by law.

9 **Section 9.** The Mayor of the City of Rialto is hereby authorized and ordered to attest to
10 the adoption of the Ordinance by the voters of the City of Rialto by signing where indicated
11 below.

12
13 I hereby certify that the foregoing Ordinance was PASSED, APPROVED and ADOPTED
14 by the People of the City of Rialto, California voting on the 5th day of June, 2018.

15
16
17 _____
18 Mayor

19 ATTEST:
20 _____
21 City Clerk

22 APPROVED AS TO FORM:
23 _____
24 City Attorney

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CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, _____, City Clerk of the City of Rialto, California, do hereby attest to and certify that the above Ordinance No. _____ was Passed, Approved, and Adopted by the People of the City of Rialto, California, voting on the 5th day of June, 2018.

City Clerk, City of Rialto