RESOLUTION NO. 2017-65

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VERNON, CALIFORNIA SUBMITTING TO THE VOTERS OF THE CITY AT THE CITY’S APRIL 10, 2018, GENERAL MUNICIPAL ELECTION A UTILITY USERS’ TAX MEASURE

WHEREAS, the City has historically operated with a deficit in its general fund that has been alleviated via a transfer of funds from the electric utility each fiscal year, which transfers have been necessary for the City to provide essential services to its businesses and residents; and

WHEREAS, while this is a common practice amongst public agencies with their own utilities, it is not viewed in a favorable light by rating agencies and regulatory bodies, and as a result, it is a practice that is currently under review by the California State Supreme Court; and

WHEREAS, the City remains committed to its Good Governance reforms, including fiscal accountability and financial transparency; and

WHEREAS, the City Council of the City of Vernon (the “City Council”) has determined that without making the general fund transfer, additional sources of revenues will be necessary for the City or it will be required to make substantial reductions in its municipal services and projects; and

WHEREAS, to address the City’s revenue shortfall, there has been proposed to the City Council the submission to the voters of the City of a utility users’ tax pursuant to this Resolution (the “Utility Users’ Tax”); and

WHEREAS, the proposed increase in the City’s Utility Users’ Tax would eliminate the electric utility operating transfers and
replace them with an equivalent amount of Utility Users' Tax revenues; the Utility Users' Tax revenues would go directly to the City's general fund and serve to finance general City services; and

WHEREAS, by its Resolution No. 2017-59, adopted on November 7, 2017, the City Council called a general municipal election in the City to be held on April 10, 2018, by mail ballot only; and

WHEREAS, Section 2(b) of Article XIII C of the California Constitution permits the vote on a general tax measure to be consolidated with a regularly scheduled general election for members of the governing body of the local government; and

WHEREAS, the April 10, 2018, general municipal election is a regularly scheduled general election at which there will be elected one member of the City Council; and

WHEREAS, the City Council desires to submit to the voters of the City, at the City's April 10, 2018, general municipal election, a measure to levy the Utility Users' Tax on commercial/industrial utility users; and

WHEREAS, the City Council finds it is in the public interest to exempt from the Utility Users' Tax all residential utility users; and

WHEREAS, the proposed Utility Users' Tax is more completely described in the ordinance attached hereto as Exhibit A and incorporated herein by reference (the "Tax Ordinance").

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VERNON AS FOLLOWS:

SECTION 1: The City Council of the City of Vernon hereby finds and determines that the above recitals are true and correct.
SECTION 2: The City Council of the City of Vernon finds that this adoption of this resolution is exempt under the California Environmental Quality Act (CEQA), because it is an administrative activity of government that will not result in direct or indirect physical changes in the environment, and therefore does not constitute a "project" as defined by CEQA Guidelines section 15378.

SECTION 3: Proposal. The City Council hereby proposes the Utility Users' Tax as described in the Tax Ordinance.

SECTION 4: Election. Pursuant to Section 9222 of the California Elections Code (the "Elections Code"), the City Council hereby orders that the Tax Ordinance be submitted to the voters of the City at the City's April 10, 2018 general municipal election.

SECTION 5: Ballot Question. The measure submitted by Section 4 of this Resolution (the "Measure") shall appear on the ballot as follows:

<table>
<thead>
<tr>
<th>MEASURE R:</th>
<th>YES</th>
<th>NO</th>
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<tbody>
<tr>
<td>Shall an ordinance be adopted to authorize the levy of a 6% utility users' tax on electricity, gas, telecommunications, video and water utility services for commercial/industrial customers, with exemptions for residential services?</td>
<td></td>
<td></td>
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SECTION 6: Approval. Pursuant to Section 2(b) of Article XIII C of the California Constitution, the Measure requires approval by a majority vote of those casting ballots on the Measure.
SECTION 7: Conduct of Election; Consolidation.

(a) The Measure shall be submitted to the voters of the City at the City's April 10, 2018 general municipal election and shall be consolidated with the election for a member of the City Council and any other measures to be submitted to the voters on such election date. The City Clerk, designated as the elections official (the "Elections Official"), shall conduct such election and is required, and is hereby requested, to take all steps to hold the election in accordance with the law for the holding of a general municipal election in the City.

(b) The Elections Official shall render all services to the City relating to the election. The Elections Official is hereby authorized, instructed and directed to procure and furnish any and all official ballot notices and printed matter and all supplies and equipment that may be necessary to prepare and lawfully conduct the general municipal mail ballot only election, including the preparation of the ballot. The Elections Official shall take all steps necessary to place the Measure on the ballot and to cause the Measure to be printed, and shall act as the filing authority for arguments. The full text of the Measure shall not be printed in the ballot, but a statement shall be printed in the ballot pursuant to Section 9280 of the Elections Code advising voters that they may obtain a copy of the Measure upon request made to the Elections Official.

(c) Pursuant to Section 4101 of the Elections Code, the Elections Official shall mail the mail ballot materials not sooner than 29 days before the election date and not later than 10 days before the election date.

(d) At the next meeting of the City Council occurring after the returns of the election have been canvassed and certified by the
Elections Official, the City Council shall adopt a resolution reciting
the fact of the election and a statement of the results of the
election.

SECTION 8: Arguments and Analysis; Public Examination.

(a) The last day for submission of direct arguments for or
against the Measure shall be by 5:00 p.m. on December 19, 2017. Direct
arguments shall be submitted to the Elections Official, shall not
exceed 300 words and shall be signed by not more than five persons.

(b) The last day for submission of rebuttal arguments for or
against the Measure shall be by 5:00 p.m. on January 3, 2018. Rebuttal
arguments shall be submitted to the Elections Official, shall not
exceed 250 words and shall be signed by not more than five persons.
Those persons may be different persons than the persons who signed the
direct arguments.

(c) Pursuant to Section 9287 of the Elections Code, if more
than one argument for or more than one argument against the Measure is
submitted within the time prescribed, the Elections Official shall
select one of the arguments in favor and one of the arguments against
the measure for printing and distribution to the voters, giving
preference and priority to the arguments in the order set forth in
Section 9287 of the Elections Code. If the considerations of Section
9287 of the Elections Code are met and are equal with respect to all
timely submitted arguments, the authors of the argument(s) will be
invited to witness a random drawing by the Elections Official or a
designee to determine which argument(s) will be published.

(d) Pursuant to Section 9285 of the Elections Code, when the
Elections Official has selected the arguments for and against the
Measure, which shall be printed and distributed to the voters, the
Elections Official shall send a copy of the argument in favor of the Measure to the authors of any argument against the Measure, and a copy of the argument against the Measure to the authors of any argument in favor of the Measure. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

(e) Pursuant to Section 9280 of the Elections Code, the City Attorney is hereby requested to prepare an impartial analysis of the Measure showing the effect of the Measure on the existing law and the operation of the Measure. Said analysis shall not exceed 500 words and shall be submitted to the Elections Official by December 19, 2017. Said analysis shall be printed preceding the arguments for and against the Measure.

(f) Pursuant to Section 9295 of the Elections Code, the Elections Official shall make a copy of the arguments and analysis referred to in this Section available for public examination in the Election Official’s office for a period of ten (10) calendar days immediately following the filing deadline for the submission of such arguments and analysis. The Elections Official may charge a fee to any person obtaining a copy of such materials, but such fee may not exceed the actual cost incurred by the Elections Official in providing the copy.

SECTION 9: **Notice of Election.** The Elections Official is hereby requested to publish or post notice of the election, including notice to file arguments and of the public examination period, as required by law.

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SECTION 10: The City Clerk, or Deputy City Clerk, of the City of Vernon shall certify to the passage, approval and adoption of this resolution, and the City Clerk, or Deputy City Clerk, of the City of Vernon shall cause this resolution and the City Clerk’s, or Deputy City Clerk’s, certification to be entered in the File of Resolutions of the Council of this City.

APPROVED and ADOPTED this 5th day of December, 2017.

Name: Melissa A. Ybarra
Title: Mayor / Mayor Pro-Tem

ATTEST:
Maria E. Ayala
City Clerk / Deputy City Clerk

APPROVED AS TO FORM:
Brian Byun,
Senior Deputy City Attorney
I, Maria E. Ayala, City Clerk / Deputy City Clerk of the City of Vernon, do hereby certify that the foregoing Resolution, being Resolution No. 2017-65, was duly passed, approved and adopted by the City Council of the City of Vernon at a regular meeting of the City Council duly held on Tuesday, December 5, 2017, and thereafter was duly signed by the Mayor or Mayor Pro-Tem of the City of Vernon:

AYES: Councilmembers: Mayor Ybarra, Mayor Pro-Tem Woodruff-Perez, Davis, Lopez, Martinez

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ABSTAIN: Councilmembers: None

And thereafter was duly signed by the Mayor or Mayor Pro-Tem of the City of Vernon.

Executed this 12th day of December, 2017, at Vernon, California.

Maria E. Ayala
City Clerk / Deputy City Clerk

(SEAL)
ORDINANCE NO.


THE PEOPLE OF THE CITY OF VERNON HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Section 5.113 of Article VIII of Chapter 5 of the Vernon Municipal Code is hereby amended to read as follows:

Section 5.113. Effective Date; Maximum Rate; Sunset Date.

(a) The taxes imposed by this Article shall become effective upon certification by the City Council of the adoption by the electorare of the ordinance adding this Article to the Code (the "Effective Date"). As soon after the Effective Date as reasonably practicable, the Tax Administrator shall submit written notification to the Service Suppliers, in accordance with procedures established by the Service Suppliers, requesting that the Utility Users' Tax be collected. The Service Suppliers responsible for collecting and remitting the Utility Users' Tax shall have a reasonable period of time to install and implement necessary billing changes to effect the collection of the Utility Users' Tax, but in no event to exceed 90 days from the date of receipt of such written notification or, if 90 days from the date of receipt of such written notification is not the first day of a month, then the first day of the month following the month in which such 90th day occurs.

/ / /
(b) This Article and the Utility Users' Tax shall be of no further force and effect at 11:59 p.m. (California time) on the date that is ten years after the Effective Date; provided, however, that nothing herein shall prohibit the City from taking any action authorized under this Article after such time and date to collect any Utility Users' Tax accrued and owed as of such time and date.

SECTION 2: Section 5.114 of Article VIII of Chapter 5 of the Vernon Municipal Code is hereby amended to read as follows:

Section 5.114. Electricity Users' Tax.

(a) There is hereby imposed a tax upon every Person using electrical energy in the City at the rate of 6.0% of the Electrical Charges made for such electrical energy. The Electricity Users' Tax shall be paid by the Person paying for such electrical energy.

(b) As used in this Section, the term "using electrical energy" shall not be construed to mean (i) the storage of electrical energy by a Person in a battery that such Person owns or possesses for use in an automobile or other machinery or device apart from the premises upon which the electrical energy was received; provided, however, that the term "using electrical energy" shall include the receiving of such electrical energy for the purpose of using it in the charging of batteries, (ii) the mere receiving of electrical energy by an Electrical Corporation or governmental agency within the City for resale, or (iii) the use of electrical energy in the production or distribution of water, gas or other utility by a public utility or a governmental agency.

(c) The Electricity Users' Tax shall be collected from the Service User by the Service Supplier providing the electrical
energy or its billing agent. The amount of tax collected in each month shall be remitted by the Service Supplier or its billing agent to the Tax Administrator on or before the last day of the following month, unless the due date occurs on a weekend or a holiday, in which case the Electricity Users’ Tax shall be remitted on or before the next business day thereafter. The Electricity Users’ Tax shall be deemed remitted on the date received by the Tax Administrator, or on the date postmarked if remitted by first class United States mail with postage fully prepaid.

SECTION 3: Section 5.115 of Article VIII of Chapter 5 of the Vernon Municipal Code is hereby amended to read as follows:

SECTION 5.115. Gas Users’ Tax.

(a) There is hereby imposed a tax upon every Person using gas, including natural or manufactured gas or any alternative hydrocarbon fuel which may be substituted therefor, in the City which is delivered through mains, pipes or mobile transport at the rate of 6.0% of the Gas Charges made for such gas. The Gas Users’ Tax shall be paid by the Person paying for such gas.

(b) There shall be excluded from the base on which the Gas Users’ Tax is computed charges made for gas which is to be resold and delivered through mains, pipes or mobile transport, and charges made for gas used by a Nonutility Supplier to generate electrical energy for its own use or for sale to others, provided the electrical energy so generated is subject to tax under Section 5.114 of this Article.

(c) The Gas Users’ Tax shall be collected from the Service User by the Service Supplier providing the gas or its billing agent. The amount of tax collected in each month shall be
remitted by the Service Supplier or its billing agent to the Tax Administrator on or before the last day of the following month, unless the due date occurs on a weekend or a holiday, in which case the tax shall be remitted on or before the next business day thereafter. The Gas Users’ Tax shall be deemed remitted on the date received by the Tax Administrator, or on the date postmarked if remitted by first class United States mail with postage fully prepaid.

SECTION 4: Section 5.116 of Article VIII of Chapter 5 of the Vernon Municipal Code is hereby amended to read as follows:


(a) There is hereby imposed a tax upon every Person using water in the City at the rate of 6.0% of the Water Charges made for such water. The Water Users’ Tax shall be paid by the Person paying for such water.

(b) The Water Users’ Tax shall be collected from the Service User by the Service Supplier providing the water or its billing agent. The amount of tax collected in each month shall be remitted by the Service Supplier or its billing agent to the Tax Administrator on or before the last day of the following month, unless the due date occurs on a weekend or a holiday, in which case the tax shall be remitted on or before the next business day thereafter. The Water Users’ Tax shall be deemed remitted on the date received by the Tax Administrator, or on the date postmarked if remitted by first class United States mail with postage fully prepaid.

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SECTION 5: Section 5.117 of Article VIII of Chapter 5 of the Vernon Municipal Code is hereby amended to read as follows:

SECTION 5.117. Telecommunication Users' Tax.

(a) There is hereby imposed a tax upon every Person using Telecommunications Services at the rate of 6.0% of the Telecommunications Charges made for such Telecommunications Services. The Telecommunications Users' Tax shall be paid by the Person paying for such Telecommunications Services. There is a rebuttable presumption that Telecommunications Services, which are billed to a Billing Address or Service Address in the City, are used, in whole or in part, within the City's boundaries and such services are subject to the Telecommunications Users' Tax. 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 the Telecommunications Users' Tax.

(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 Service Suppliers of Telecommunications Services, which are subject to the tax collection requirements of this Section, sourcing rules for the taxation of other Telecommunications Services, including, but not limited to, Postpaid Telecommunications Services, Prepaid Telecommunications Services and Private Telecommunications Services; provided, that, such rules are based upon custom and common practice that further administrative efficiency and minimize multi-jurisdictional taxation.
(c) To prevent actual multi-jurisdictional taxation of Telecommunications Services subject to the Telecommunications Users' Tax, 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 Telecommunications Services, shall be allowed a credit against the Telecommunications Users' Tax to the extent of the amount of such tax legally imposed in such other state or local jurisdiction; provided, however, that the amount of credit shall not exceed the Telecommunications Users' Tax owed to the City.

(d) The Tax Administrator may issue and disseminate to Service Suppliers of Telecommunications Services that are subject to the tax collection requirements of this Section, an administrative ruling identifying those telecommunications services, or charges therefor, that are subject to or not subject to the Telecommunications Users' Tax.

(e) The Telecommunications Users' Tax shall be collected from the Service User by the Service Supplier providing the Telecommunications Services or its billing agent. The amount of tax collected in each month shall be remitted by the Service Supplier or its billing agent to the Tax Administrator on or before the last day of the following month, unless the due date occurs on a weekend or a holiday, in which case the tax shall be remitted on or before the next business day thereafter. The Telecommunications Users' Tax shall be deemed remitted on the date received by the Tax Administrator, or on the date postmarked if remitted by first class United States mail with postage fully prepaid.
SECTION 6: Section 5.118 of Article VIII of Chapter 5 of the Vernon Municipal Code is hereby amended to read as follows:

SECTION 5.118. Video Users' Tax.

(a) There is hereby imposed a tax upon every Person using Video Services in the City at the rate of 6.0% of the Video Charges made for such Video Services. The Video Users' Tax shall be paid by the Person paying for such Video Services. There is a rebuttable presumption that Video Services, which are billed to a Billing Address or Service Address in the City, are used, in whole or in part, within the City's boundaries and that such Video Services are subject to the Video Users' Tax. 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 the Video Users' Tax.

(b) The Tax Administrator may issue and disseminate to Service Suppliers of Video Services that are subject to the tax collection requirements of this Section, an administrative ruling identifying those Video Services, or charges therefor, that are subject to or not subject to the Video Users' Tax.

(c) The Video Users' Tax shall be collected from the Service User by the Service Supplier providing the Video Services or its billing agent. The amount of tax collected in each month shall be remitted by the Service Supplier or its billing agent to the Tax Administrator on or before the last day of the following month, unless the due date occurs on a weekend or a holiday, in which case the tax shall be remitted on or before the next business day thereafter. The Video Users' Tax shall be deemed remitted on the date received by the Tax Administrator, or on the date
postmarked if remitted by first class United States mail with postage fully prepaid.

SECTION 7: Section 5.121 of Article VIII of Chapter 5 of the Vernon Municipal Code is hereby amended to read as follows:

SECTION 5.121. Exemptions.

(a) Nothing in this Article shall be construed as imposing a tax upon any person or upon any utility charges when the imposition of such tax upon such person or such utility charges would be in violation of a Federal or State statute, the Constitution of the United States or the Constitution of the State.

(b) The Utility Users' Tax imposed by this Article shall not be imposed upon utility charges for residential services if (i) the person paying for such utility charges for residential services resides in a residential structure that (A) with respect to Telecommunications Services, is the service address for such Telecommunications Services, or (B) with respect to all other services, is the residential structure to which services are delivered.

(c) The exemptions granted by this section shall not eliminate the duty of the Service Supplier from collecting taxes from such exempt individuals or the duty of such exempt individuals from paying such taxes to the Service Supplier, unless an exemption is granted to the Service User in accordance with the provisions of subsection (d) of this section.

(d) Any Service User who believes he/she is exempt from the taxes imposed by this chapter because of the provisions of subsection (b) above may file an application with the Tax Administrator for an exemption; provided, however, that such
requirement shall not apply to a person that is a Federal or State agency or subsection of such agency with a name commonly known to be associated with a Federal or State agency. Said application shall be made upon a form supplied by the Tax Administrator and shall state those facts, declared under penalty of perjury, which qualify the applicant for an exemption, and shall itemize each Service Supplier serving the user. The Tax Administrator shall review all such applications and certify as exempt those applicants determined to qualify therefor and shall notify all Service Suppliers affected that such exemption has been approved, stating the name of the applicant, the address to which such exempt service is being supplied, the account number, if any, and such other information as may be necessary for the Service Supplier to identify and remove the exempt Service User from its tax billing procedure. Upon receipt of such notice, the Service Supplier shall cease to bill any further tax imposed by this chapter against such exempt service user upon the earlier of a change of service address, termination of service, or until further notice by the Tax Administrator is given. The Service Supplier shall eliminate such exempt Service User from its tax billing procedure upon receipt of such notice from the Tax Administrator, but in no event later than sixty (60) days after receipt of such notice from the Tax Administrator, or as otherwise provided by law. If deemed exempt by the Tax Administrator, such Service User shall give the Tax Administrator timely written notice of any change in service suppliers so that the Tax Administrator can properly notify the new Service Supplier of the person's tax exempt status. A person that fails to comply with this Section shall not be entitled to a refund.
of taxes collected and remitted to the Tax Administrator from such person as a result of such noncompliance. The decision of the Tax Administrator may be appealed pursuant to Section 5.131 of this Article. Filing an application with the Tax Administrator and appeal to the City Administrator pursuant to Section 5.131 of this Article is a prerequisite to a suit thereon. All exemptions shall continue and be renewed automatically by the City Treasurer so long as the prerequisite facts supporting the initial qualification for exemption continue; provided, however, that the exemption shall automatically terminate with any change in the service address or residence of the exempt individual; further provided, such individual may nevertheless apply for a new exemption with each change of address or residence. Any individual deemed exempt from the tax shall notify the Tax Administrator within ten (10) days of any change in fact or circumstance which might disqualify such individual from receiving such exemption. The Tax Administrator may request re-verification of eligibility from individuals claiming an exemption annually or as deemed necessary by the Tax Administrator. It shall be a misdemeanor for any person in a household to knowingly receive the benefits of the exemptions provided by this Section when the basis for such exemption either does not exist or ceases to exist. Notwithstanding any of the provisions of this subsection, however, any Service Supplier who determines by any means that a new or non-exempt service user is receiving service through a meter or connection which was deemed by the Tax Administrator to be exempt by virtue of an exemption issued to a previous Service User or exempt user of the same meter or connection, shall immediately notify the Tax Administrator of such
fact, and the Tax Administrator shall conduct an investigation to
ascertain whether or not the provisions of this Section have been
complied with and, where appropriate, order the Service Supplier to
commence collecting the tax from the non-exempt Service User.

(e) The City Council may, by ordinance or resolution,
establish one or more classes of persons or one or more classes of
utility charges otherwise subject to payment of the Utility Users’
Tax and provide that such classes of persons or utility charges
shall be exempt, in whole or in part, from the Utility Users’ Tax
for a specified period of time.

SECTION 8: Section 5.122 of Article VIII of Chapter 5
of the Vernon Municipal Code is hereby amended to read as follows:

SECTION 5.122. Rate of Utility Users’ Tax; Termination,
Reduction or Suspension of Utility Users’ Tax.

(a) The City Council may, by ordinance or resolution,
adjust any of the rates of the Utility Users’ Tax; provided,
however, that such rate shall not exceed 7.0% unless approved by
the voters.

(b) The rates established by this article shall be
revised annually based upon changes in the Consumer Price Index for
All Urban Consumers (CPI-U), All Items Index, Los Angeles-Anaheim-
Riverside Area (1982-84=100) (herein-after "CPI") published by the
United States Department of Labor, Bureau of Labor Statistics. In
the event said CPI for the twelve-month period ending March 31 of
each year (the "adjustment date") is higher than said CPI for the
twelve-month period ending March 31, 2018, the tax rates set forth
in this article shall be increased by multiplying said tax rates by
a fraction, the numerator of which is the CPI on the adjustment
date and the denominator of which is the CPI for the twelve-month period ending March 31, 2018. The resulting adjusted tax rates shall then be the tax rates for the fiscal year commencing the next July 1st. There shall be no reduction in rates by operation of this provision. If, in the future, said CPI shall be changed so that the base year differs from that used as of the effective date of this article, it shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. The City Clerk shall submit a written report to the City Council setting forth the adjustments to the tax rates required by this subsection, which the City Council shall approve by resolution.

(c) Upon any such adjustment in tax rate, the Tax Administrator shall submit, as soon thereafter as reasonably practicable, written notification to the Service Suppliers, in accordance with procedures established by the Service Suppliers, of such adjustment in tax rate. The Service Suppliers responsible for collecting and remitting the Utility Users’ Tax shall have a reasonable period of time to implement such change in tax rate, but in no event to exceed sixty (60) days from the date of receipt of such written notification or, if 60 days from the date of receipt of such written notification is not on the first day of a month, then the first day of the month following the month in which such 60th day occurs.

(d) The City Council may, by ordinance or resolution, terminate or suspend the Utility Users’ Tax. Upon any such termination or suspension, the Tax Administrator shall submit, as soon thereafter as reasonably practicable, written notification to
the Service Suppliers, in accordance with procedures established by
the Service Suppliers, of such termination or suspension. The
Service Suppliers responsible for collecting and remitting the
Utility Users’ Tax shall have a reasonable period of time to
implement such termination or suspension, but in no event to exceed
sixty (60) days from the date of receipt of such written
notification or, if 60 days from the date of receipt of such
written notification is not on the first day of a month, then the
first day of the month following the month in which such 60th day
occurs.

SECTION 9: Section 5.138 of Article VIII of Chapter 5
of the Vernon Municipal Code is hereby deleted in its entirety.

SECTION 10: Any ordinance or parts of ordinances in
conflict with this Ordinance are hereby repealed.

SECTION 11: Severability. If, for any reason, any
portion of this Ordinance is rendered or declared invalid or
unenforceable by a court or an administrative body of competent
jurisdiction or by reason of any preemptive legislation, the
remaining portions of this Ordinance shall remain in full force and
effect.

SECTION 12: Book of Ordinances. The City Clerk, or
Deputy City Clerk, shall attest and certify to the adoption of
this Ordinance and shall cause this Ordinance and the City
Clerk’s, or Deputy City Clerk’s, certification to be entered in
the Book of Ordinances of the Council of this City. The City
Clerk, or Deputy City Clerk, shall cause this ordinance to be
published or posted as required by law.

// // /
SECTION 13: This Ordinance was approved and adopted by the People of the City of Vernon at the City’s April 10, 2018, general municipal election.

Name: __________________________
Title: Mayor / Mayor Pro-Tem

ATTEST:

________________________________________
City Clerk / Deputy City Clerk

APPROVED AS TO FORM:

________________________________________
Brian Byun,
Senior Deputy City Attorney
STAFF REPORT
STAFF REPORT
CITY ADMINISTRATION

DATE: December 5, 2017

TO: Honorable Mayor and City Council

FROM: Carlos R. Fandino Jr., City Administrator
Originator: Diana Figueroa, Administrative Analyst

RE: A Resolution Submitting to the Voters of the City of Vernon at the City’s April 10, 2018 General Municipal Election a Utility Users Tax Measure (Measure “R”)

Recommendation

A. Find that adoption of the proposed resolution is exempt from California Environmental Quality Act (“CEQA”) review, because it is a government funding mechanism which does not involve any commitment to any specific project which may result in any direct or indirect physical changes in the environment, and therefore does not constitute a “project” as defined by CEQA Guidelines section 15378; and

B. Adopt a Resolution Submitting to the Voters of the City of Vernon at the City’s April 10, 2018 General Municipal Election a Utility Users Tax Measure (“Measure R”); and

C. Authorize members of the City Council to prepare and file the primary written argument on behalf of the City Council in support of Measure R, pursuant to California Elections Code Section 9282(b).

Background

Measure R is being proposed to increase the current rate of the Utility Users Tax for commercial/industrial properties within the City of Vernon (the “City”) in order to generate additional revenues to stabilize the general fund. Measure R contains a “sunset” clause that discontinues the tax after a period of ten (10) years. If Measure R is approved by Vernon voters, the utility tax would be levied on commercial/industrial users of telephone, electricity, gas, water, fiber, cable, and/or video services and would exclude all residential users.

Fiscal Challenges
Vernon’s Utility Users Tax (“UUT”), the existing 1% utility tax (Measure “M”) passed by voters in 2013 (along with Special Parcel and Business License Taxes), was designed to contribute to
the City’s solvency and allow the City to maintain essential services. However, these taxes did not generate enough revenue to entirely fund the essential services provided by the City and, to this day, the City continues to rely upon its utility to transfer approximately 11.5% of its revenues (or $9 million) to the general fund to accommodate the existing shortfall. Historically, Vernon has operated with a general fund deficit that has been alleviated by a transfer from the electric utility each fiscal year. These transfers have been necessary in order for the City to provide vital services to its businesses and residents. While this is a common practice amongst public agencies with their own utilities, it is not viewed in a favorable light by rating agencies and regulatory bodies. As a result, it is a practice that is currently under review by the California State Supreme Court.

As the City ventures into the future, it is not only confronted with its traditional challenges, but it also faces a myriad of new difficulties. Two of its greatest obstacles can be identified as unfunded pension liability and Other Post-Employment Benefits (“OPEB”) liability. During the recent economic recession, the California Public Employee Retirement System (“CalPERS”) lost significant value in its investments and, as a result, is now requiring all cities in California to contribute significantly more to the retirement system to make up the difference. This has led to a major increase in the City’s labor cost over the last five (5) years and, because this cost is projected by CalPERS to continue into the future, there is uncertainty about whether the City can continue to provide the same level of public works, health, police, and fire services to the community in the coming years.

In addition to these financial obligations, the City has faced a downgrade in its credit rating and scrutiny on its practice of fund transfers from its utility to the general fund. The City’s electric utility was penalized by its credit rating agency, Moody’s, as the transfers being made by the electric utility to the general fund were deemed to be operating expenses of the utility, rather than excess revenues used to subsidize the City’s essential governmental services.

Solution

Upon evaluation of its current resources, long-term objectives, and in the interest of sustainability, the City has concluded that revenues from an increase in its Utility Users Tax would enable Vernon to maintain its infrastructure, provide essential services, and meet its forecasted financial obligations. Projections into the future show the City’s employment related monetary obligations increasing aggressively, nearly doubling by year 2028. In order to meet these needs and avoid the reduction and/or elimination of quality government services, suspended capital projects and significant permanent budget reductions, the City proposes an increase in the Utility Users Tax.

The attached resolution grants authorization for a Measure R to be submitted to the voters of the City at the City of Vernon’s April 10, 2018 General Municipal Election. Specifically, the attached resolution calls for a UUT Measure that would increase the City’s UUT from 1% to 6% for commercial/industrial utility customers only, excluding residential users. A ten (10) year sunset clause will be incorporated into the measure. The revenues generated by the UUT will be utilized to pay for City services and would alleviate the City’s long-term negative prognosis. Because of the anticipated increases in employment/retiree related expenses over the next several years (as indicated by a thorough cost projection analysis), the City Council will have the ability year over year to authorize an inflationary adjustment to the UUT with the rate capped at 7% through 2028. Additionally, the City plans to implement a comprehensive rebate program to
nullify the impacts of the increased UUT to Vernon Public Utilities’ commercial/industrial customers. Users of Vernon electricity, gas, water, and fiber will receive rebates or rate reductions to offset increases, so to ensure that these utilities remain cost neutral. The City Council will have the authority to adjust rebates for customers as they see fit.

As the City remains committed to Good Governance, it is important that the City exercises more fiscal accountability and financial transparency. The proposed UUT increase would eliminate the electric utility operating transfers and replace them with an equivalent amount of general fund revenues which would serve to finance general City services. As a result, utility rates will be adjusted accordingly. Currently, electric rates account for the cost of the general fund transfer, a line item that has been built into the operational cost of the utility, which is approximately $9 million per year. After the elimination of this transfer amount, a large expense, a new rate design will be applied to reflect the true cost of the service. No longer will electric rates subsidize City services.

**Summary**

If the proposed measure is approved by a majority of the voters at the General Municipal Election and the UUT increase is levied, the revenues generated will preserve the high standards under which the City of Vernon operates, and will address the City’s general fund shortfall for this year and subsequent years. Effectually, greater stability in the general fund would be attained. The UUT revenues would:

- Eliminate the need for the City’s electric utility to transfer approximately $9 million or 6.5% of its retail sales to the general government fund
- Improve the electric utility’s financial standing in the eyes of credit rating agencies
- Enable the general government to fund the required $3 million increase in its CalPERS contribution
- Provide $1 million for deferred public works capital improvements
- Provide $1 million for future employment related costs
- Allow the City to function without sacrificing its high service levels

**Procedures**

If the City Council desires to submit Measure R to the voters of the City at the next General Municipal Election, the attached resolution must be adopted by the City Council. The Elections Official would be responsible for seeing that the Election is conducted as provided by law, including the provision of all requisite publication and notice.

Pursuant to subsection (b) of Section 2 of Article XIII C of the California Constitution and Section 53720 et. seq. of the California Government Code, the UUT would not take effect nor would it be levied, unless and until the proposed measure is approved by a majority of the votes cast by the voters of the City voting at the General Municipal Election.

At the next regular meeting of the City Council occurring after the returns of the General Municipal Election have been canvassed and certified by the elections official, the City Council will need to adopt a resolution reciting the fact of the General Municipal Election and a statement of the results of the General Municipal Election. If the proposed measure is approved by a majority of the votes cast by the voters of the City voting at the General Municipal Election, the increase in the UUT would take effect upon the adoption of such resolution.
Fiscal Impact

If Measure R is approved by a majority of the voters at the General Municipal Election and the UUT is implemented at a rate of 6%, the increase in the UUT is expected to generate approximately $9 million in revenue for the City’s general fund.

Attachment(s)

1. Resolution Submitting to the Voters of the City of Vernon at the City’s April 10, 2018 General Municipal Election a Utility Users Tax Measure
RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VERNON, CALIFORNIA SUBMITTING TO THE VOTERS OF THE CITY AT THE CITY'S APRIL 10, 2018, GENERAL MUNICIPAL ELECTION A UTILITY USERS' TAX MEASURE

WHEREAS, the City has historically operated with a deficit in its general fund that has been alleviated via a transfer of funds from the electric utility each fiscal year, which transfers have been necessary for the City to provide essential services to its businesses and residents; and

WHEREAS, while this is a common practice amongst public agencies with their own utilities, it is not viewed in a favorable light by rating agencies and regulatory bodies, and as a result, it is a practice that is currently under review by the California State Supreme Court; and

WHEREAS, the City remains committed to its Good Governance reforms, including fiscal accountability and financial transparency; and

WHEREAS, the City Council of the City of Vernon (the "City Council") has determined that without making the general fund transfer, additional sources of revenues will be necessary for the City or it will be required to make substantial reductions in its municipal services and projects; and

WHEREAS, to address the City's revenue shortfall, there has been proposed to the City Council the submission to the voters of the City of a utility users' tax pursuant to this Resolution (the "Utility Users' Tax"); and

WHEREAS, the proposed increase in the City's Utility Users' Tax would eliminate the electric utility operating transfers and
replace them with an equivalent amount of Utility Users' Tax revenues; the Utility Users' Tax revenues would go directly to the City's general fund and serve to finance general City services; and

WHEREAS, by its Resolution No. 2017-59, adopted on November 7, 2017, the City Council called a general municipal election in the City to be held on April 10, 2018, by mail ballot only; and

WHEREAS, Section 2(b) of Article XIII C of the California Constitution permits the vote on a general tax measure to be consolidated with a regularly scheduled general election for members of the governing body of the local government; and

WHEREAS, the April 10, 2018, general municipal election is a regularly scheduled general election at which there will be elected one member of the City Council; and

WHEREAS, the City Council desires to submit to the voters of the City, at the City's April 10, 2018, general municipal election, a measure to levy the Utility Users' Tax on commercial/industrial utility users; and

WHEREAS, the City Council finds it is in the public interest to exempt from the Utility Users' Tax all residential utility users; and

WHEREAS, the proposed Utility Users' Tax is more completely described in the ordinance attached hereto as Exhibit A and incorporated herein by reference (the "Tax Ordinance").

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VERNON AS FOLLOWS:

SECTION 1: The City Council of the City of Vernon hereby finds and determines that the above recitals are true and correct.
SECTION 2: The City Council of the City of Vernon finds that this adoption of this resolution is exempt under the California Environmental Quality Act (CEQA), because it is an administrative activity of government that will not result in direct or indirect physical changes in the environment, and therefore does not constitute a "project" as defined by CEQA Guidelines section 15378.

SECTION 3: Proposal. The City Council hereby proposes the Utility Users’ Tax as described in the Tax Ordinance.

SECTION 4: Election. Pursuant to Section 9222 of the California Elections Code (the "Elections Code"), the City Council hereby orders that the Tax Ordinance be submitted to the voters of the City at the City’s April 10, 2018 general municipal election.

SECTION 5: Ballot Question. The measure submitted by Section 4 of this Resolution (the "Measure") shall appear on the ballot as follows:

<table>
<thead>
<tr>
<th>MEASURE R:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shall an ordinance be adopted to authorize the levy of a 6% utility users’ tax on electricity, gas, telecommunications, video and water utility services for commercial/industrial customers, with exemptions for residential services?</td>
</tr>
<tr>
<td>YES</td>
</tr>
<tr>
<td>NO</td>
</tr>
</tbody>
</table>

SECTION 6: Approval. Pursuant to Section 2(b) of Article XIII C of the California Constitution, the Measure requires approval by a majority vote of those casting ballots on the Measure.

/ / / 
/ / /
SECTION 7: Conduct of Election; Consolidation.

(a) The Measure shall be submitted to the voters of the City at the City’s April 10, 2018 general municipal election and shall be consolidated with the election for a member of the City Council and any other measures to be submitted to the voters on such election date. The City Clerk, designated as the elections official (the "Elections Official"), shall conduct such election and is required, and is hereby requested, to take all steps to hold the election in accordance with the law for the holding of a general municipal election in the City.

(b) The Elections Official shall render all services to the City relating to the election. The Elections Official is hereby authorized, instructed and directed to procure and furnish any and all official ballot notices and printed matter and all supplies and equipment that may be necessary to prepare and lawfully conduct the general municipal mail ballot only election, including the preparation of the ballot. The Elections Official shall take all steps necessary to place the Measure on the ballot and to cause the Measure to be printed, and shall act as the filing authority for arguments. The full text of the Measure shall not be printed in the ballot, but a statement shall be printed in the ballot pursuant to Section 9280 of the Elections Code advising voters that they may obtain a copy of the Measure upon request made to the Elections Official.

(c) Pursuant to Section 4101 of the Elections Code, the Elections Official shall mail the mail ballot materials not sooner than 29 days before the election date and not later than 10 days before the election date.

(d) At the next meeting of the City Council occurring after the returns of the election have been canvassed and certified by the
Elections Official, the City Council shall adopt a resolution reciting the fact of the election and a statement of the results of the election.

SECTION 8: **Arguments and Analysis; Public Examination.**

(a) The last day for submission of direct arguments for or against the Measure shall be by 5:00 p.m. on December 19, 2017. Direct arguments shall be submitted to the Elections Official, shall not exceed 300 words and shall be signed by not more than five persons.

(b) The last day for submission of rebuttal arguments for or against the Measure shall be by 5:00 p.m. on January 3, 2018. Rebuttal arguments shall be submitted to the Elections Official, shall not exceed 250 words and shall be signed by not more than five persons. Those persons may be different persons than the persons who signed the direct arguments.

(c) Pursuant to Section 9287 of the Elections Code, if more than one argument for or more than one argument against the Measure is submitted within the time prescribed, the Elections Official shall select one of the arguments in favor and one of the arguments against the measure for printing and distribution to the voters, giving preference and priority to the arguments in the order set forth in Section 9287 of the Elections Code. If the considerations of Section 9287 of the Elections Code are met and are equal with respect to all timely submitted arguments, the authors of the argument(s) will be invited to witness a random drawing by the Elections Official or a designee to determine which argument(s) will be published.

(d) Pursuant to Section 9285 of the Elections Code, when the Elections Official has selected the arguments for and against the Measure, which shall be printed and distributed to the voters, the
Elections Official shall send a copy of the argument in favor of the Measure to the authors of any argument against the Measure, and a copy of the argument against the Measure to the authors of any argument in favor of the Measure. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

(e) Pursuant to Section 9280 of the Elections Code, the City Attorney is hereby requested to prepare an impartial analysis of the Measure showing the effect of the Measure on the existing law and the operation of the Measure. Said analysis shall not exceed 500 words and shall be submitted to the Elections Official by December 19, 2017. Said analysis shall be printed preceding the arguments for and against the Measure.

(f) Pursuant to Section 9295 of the Elections Code, the Elections Official shall make a copy of the arguments and analysis referred to in this Section available for public examination in the Election Official’s office for a period of ten (10) calendar days immediately following the filing deadline for the submission of such arguments and analysis. The Elections Official may charge a fee to any person obtaining a copy of such materials, but such fee may not exceed the actual cost incurred by the Elections Official in providing the copy.

SECTION 9: **Notice of Election.** The Elections Official is hereby requested to publish or post notice of the election, including notice to file arguments and of the public examination period, as required by law.

/ / / 
/ / /
SECTION 10: The City Clerk, or Deputy City Clerk, of the City of Vernon shall certify to the passage, approval and adoption of this resolution, and the City Clerk, or Deputy City Clerk, of the City of Vernon shall cause this resolution and the City Clerk's, or Deputy City Clerk's, certification to be entered in the File of Resolutions of the Council of this City.

APPROVED and ADOPTED this 5th day of December, 2017.

______________________________

Name: _________________________

Title: Mayor / Mayor Pro-Tem

ATTEST:

______________________________

City Clerk / Deputy City Clerk

APPROVED AS TO FORM:

______________________________

Brian Byun,
Senior Deputy City Attorney
STATE OF CALIFORNIA          )
COUNTY OF LOS ANGELES        ) ss

I, ________________________, City Clerk / Deputy City Clerk of the City of Vernon, do hereby certify that the foregoing Resolution, being Resolution No. ________, was duly passed, approved and adopted by the City Council of the City of Vernon at a regular meeting of the City Council duly held on Tuesday, December 5, 2017, and thereafter was duly signed by the Mayor or Mayor Pro-Tem of the City of Vernon:

AYES:         Councilmembers:

NOES:        Councilmembers:

ABSENT:      Councilmembers:

ABSTAIN:     Councilmembers:

And thereafter was duly signed by the Mayor or Mayor Pro-Tem of the City of Vernon.

Executed this ___ day of December, 2017, at Vernon, California.

________________________________________

City Clerk / Deputy City Clerk

(SEAL)
ORDINANCE NO.


THE PEOPLE OF THE CITY OF VERNON HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Section 5.113 of Article VIII of Chapter 5 of the Vernon Municipal Code is hereby amended to read as follows:

Section 5.113. Effective Date; Maximum Rate; Sunset Date.

(a) The taxes imposed by this Article shall become effective upon certification by the City Council of the adoption by the electorate of the ordinance adding this Article to the Code (the "Effective Date"). As soon after the Effective Date as reasonably practicable, the Tax Administrator shall submit written notification to the Service Suppliers, in accordance with procedures established by the Service Suppliers, requesting that the Utility Users’ Tax be collected. The Service Suppliers responsible for collecting and remitting the Utility Users’ Tax shall have a reasonable period of time to install and implement necessary billing changes to effect the collection of the Utility Users’ Tax, but in no event to exceed 90 days from the date of receipt of such written notification or, if 90 days from the date of receipt of such written notification is not the first day of a month, then the first day of the month following the month in which such 90th day occurs.

// //
(b) This Article and the Utility Users' Tax shall be of no further force and effect at 11:59 p.m. (California time) on the date that is ten years after the Effective Date; provided, however, that nothing herein shall prohibit the City from taking any action authorized under this Article after such time and date to collect any Utility Users' Tax accrued and owed as of such time and date.

SECTION 2: Section 5.114 of Article VIII of Chapter 5 of the Vernon Municipal Code is hereby amended to read as follows:

Section 5.114. Electricity Users' Tax.

(a) There is hereby imposed a tax upon every Person using electrical energy in the City at the rate of 6.0% of the Electrical Charges made for such electrical energy. The Electricity Users' Tax shall be paid by the Person paying for such electrical energy.

(b) As used in this Section, the term "using electrical energy" shall not be construed to mean (i) the storage of electrical energy by a Person in a battery that such Person owns or possesses for use in an automobile or other machinery or device apart from the premises upon which the electrical energy was received; provided, however, that the term "using electrical energy" shall include the receiving of such electrical energy for the purpose of using it in the charging of batteries, (ii) the mere receiving of electrical energy by an Electrical Corporation or governmental agency within the City for resale, or (iii) the use of electrical energy in the production or distribution of water, gas or other utility by a public utility or a governmental agency.

(c) The Electricity Users' Tax shall be collected from the Service User by the Service Supplier providing the electrical
energy or its billing agent. The amount of tax collected in each month shall be remitted by the Service Supplier or its billing agent to the Tax Administrator on or before the last day of the following month, unless the due date occurs on a weekend or a holiday, in which case the Electricity Users' Tax shall be remitted on or before the next business day thereafter. The Electricity Users' Tax shall be deemed remitted on the date received by the Tax Administrator, or on the date postmarked if remitted by first class United States mail with postage fully prepaid.

SECTION 3: Section 5.115 of Article VIII of Chapter 5 of the Vernon Municipal Code is hereby amended to read as follows:

SECTION 5.115. Gas Users' Tax.

(a) There is hereby imposed a tax upon every Person using gas, including natural or manufactured gas or any alternative hydrocarbon fuel which may be substituted therefor, in the City which is delivered through mains, pipes or mobile transport at the rate of 6.0% of the Gas Charges made for such gas. The Gas Users' Tax shall be paid by the Person paying for such gas.

(b) There shall be excluded from the base on which the Gas Users' Tax is computed charges made for gas which is to be resold and delivered through mains, pipes or mobile transport, and charges made for gas used by a Nonutility Supplier to generate electrical energy for its own use or for sale to others, provided the electrical energy so generated is subject to tax under Section 5.114 of this Article.

(c) The Gas Users' Tax shall be collected from the Service User by the Service Supplier providing the gas or its billing agent. The amount of tax collected in each month shall be
remitted by the Service Supplier or its billing agent to the Tax Administrator on or before the last day of the following month, unless the due date occurs on a weekend or a holiday, in which case the tax shall be remitted on or before the next business day thereafter. The Gas Users’ Tax shall be deemed remitted on the date received by the Tax Administrator, or on the date postmarked if remitted by first class United States mail with postage fully prepaid.

SECTION 4: Section 5.116 of Article VIII of Chapter 5 of the Vernon Municipal Code is hereby amended to read as follows:


(a) There is hereby imposed a tax upon every Person using water in the City at the rate of 6.0% of the Water Charges made for such water. The Water Users’ Tax shall be paid by the Person paying for such water.

(b) The Water Users’ Tax shall be collected from the Service User by the Service Supplier providing the water or its billing agent. The amount of tax collected in each month shall be remitted by the Service Supplier or its billing agent to the Tax Administrator on or before the last day of the following month, unless the due date occurs on a weekend or a holiday, in which case the tax shall be remitted on or before the next business day thereafter. The Water Users’ Tax shall be deemed remitted on the date received by the Tax Administrator, or on the date postmarked if remitted by first class United States mail with postage fully prepaid.
SECTION 5: Section 5.117 of Article VIII of Chapter 5 of the Vernon Municipal Code is hereby amended to read as follows:

SECTION 5.117. Telecommunication Users’ Tax.

(a) There is hereby imposed a tax upon every Person using Telecommunications Services at the rate of 6.0% of the Telecommunications Charges made for such Telecommunications Services. The Telecommunications Users’ Tax shall be paid by the Person paying for such Telecommunications Services. There is a rebuttable presumption that Telecommunications Services, which are billed to a Billing Address or Service Address in the City, are used, in whole or in part, within the City’s boundaries and such services are subject to the Telecommunications Users’ Tax. 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 the Telecommunications Users’ Tax.

(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 Service Suppliers of Telecommunications Services, which are subject to the tax collection requirements of this Section, sourcing rules for the taxation of other Telecommunications Services, including, but not limited to, Postpaid Telecommunications Services, Prepaid Telecommunications Services and Private Telecommunications Services; provided, that, such rules are based upon custom and common practice that further administrative efficiency and minimize multi-jurisdictional taxation.
(c) To prevent actual multi-jurisdictional taxation of Telecommunications Services subject to the Telecommunications Users' Tax, 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 Telecommunications Services, shall be allowed a credit against the Telecommunications Users' Tax to the extent of the amount of such tax legally imposed in such other state or local jurisdiction; provided, however, that the amount of credit shall not exceed the Telecommunications Users' Tax owed to the City.

(d) The Tax Administrator may issue and disseminate to Service Suppliers of Telecommunications Services that are subject to the tax collection requirements of this Section, an administrative ruling identifying those telecommunications services, or charges therefor, that are subject to or not subject to the Telecommunications Users' Tax.

(e) The Telecommunications Users' Tax shall be collected from the Service User by the Service Supplier providing the Telecommunications Services or its billing agent. The amount of tax collected in each month shall be remitted by the Service Supplier or its billing agent to the Tax Administrator on or before the last day of the following month, unless the due date occurs on a weekend or a holiday, in which case the tax shall be remitted on or before the next business day thereafter. The Telecommunications Users' Tax shall be deemed remitted on the date received by the Tax Administrator, or on the date postmarked if remitted by first class United States mail with postage fully prepaid.
SECTION 6: Section 5.118 of Article VIII of Chapter 5 of the Vernon Municipal Code is hereby amended to read as follows:

SECTION 5.118. Video Users' Tax.

(a) There is hereby imposed a tax upon every Person using Video Services in the City at the rate of 6.0% of the Video Charges made for such Video Services. The Video Users' Tax shall be paid by the Person paying for such Video Services. There is a rebuttable presumption that Video Services, which are billed to a Billing Address or Service Address in the City, are used, in whole or in part, within the City's boundaries and that such Video Services are subject to the Video Users' Tax. 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 the Video Users' Tax.

(b) The Tax Administrator may issue and disseminate to Service Suppliers of Video Services that are subject to the tax collection requirements of this Section, an administrative ruling identifying those Video Services, or charges therefor, that are subject to or not subject to the Video Users' Tax.

(c) The Video Users' Tax shall be collected from the Service User by the Service Supplier providing the Video Services or its billing agent. The amount of tax collected in each month shall be remitted by the Service Supplier or its billing agent to the Tax Administrator on or before the last day of the following month, unless the due date occurs on a weekend or a holiday, in which case the tax shall be remitted on or before the next business day thereafter. The Video Users' Tax shall be deemed remitted on the date received by the Tax Administrator, or on the date
postmarked if remitted by first class United States mail with postage fully prepaid.

SECTION 7: Section 5.121 of Article VIII of Chapter 5 of the Vernon Municipal Code is hereby amended to read as follows:

SECTION 5.121. Exemptions.

(a) Nothing in this Article shall be construed as imposing a tax upon any person or upon any utility charges when the imposition of such tax upon such person or such utility charges would be in violation of a Federal or State statute, the Constitution of the United States or the Constitution of the State.

(b) The Utility Users' Tax imposed by this Article shall not be imposed upon utility charges for residential services if (i) the person paying for such utility charges for residential services resides in a residential structure that (A) with respect to Telecommunications Services, is the service address for such Telecommunications Services, or (B) with respect to all other services, is the residential structure to which services are delivered.

(c) The exemptions granted by this section shall not eliminate the duty of the Service Supplier from collecting taxes from such exempt individuals or the duty of such exempt individuals from paying such taxes to the Service Supplier, unless an exemption is granted to the Service User in accordance with the provisions of subsection (d) of this section.

(d) Any Service User who believes he/she is exempt from the taxes imposed by this chapter because of the provisions of subsection (b) above may file an application with the Tax Administrator for an exemption; provided, however, that such
requirement shall not apply to a person that is a Federal or State agency or subsection of such agency with a name commonly known to be associated with a Federal or State agency. Said application shall be made upon a form supplied by the Tax Administrator and shall state those facts, declared under penalty of perjury, which qualify the applicant for an exemption, and shall itemize each Service Supplier serving the user. The Tax Administrator shall review all such applications and certify as exempt those applicants determined to qualify therefor and shall notify all Service Suppliers affected that such exemption has been approved, stating the name of the applicant, the address to which such exempt service is being supplied, the account number, if any, and such other information as may be necessary for the Service Supplier to identify and remove the exempt Service User from its tax billing procedure. Upon receipt of such notice, the Service Supplier shall cease to bill any further tax imposed by this chapter against such exempt service user upon the earlier of a change of service address, termination of service, or until further notice by the Tax Administrator is given. The Service Supplier shall eliminate such exempt Service User from its tax billing procedure upon receipt of such notice from the Tax Administrator, but in no event later than sixty (60) days after receipt of such notice from the Tax Administrator, or as otherwise provided by law. If deemed exempt by the Tax Administrator, such Service User shall give the Tax Administrator timely written notice of any change in service suppliers so that the Tax Administrator can properly notify the new Service Supplier of the person's tax exempt status. A person that fails to comply with this Section shall not be entitled to a refund
of taxes collected and remitted to the Tax Administrator from such person as a result of such noncompliance. The decision of the Tax Administrator may be appealed pursuant to Section 5.131 of this Article. Filing an application with the Tax Administrator and appeal to the City Administrator pursuant to Section 5.131 of this Article is a prerequisite to a suit thereon. All exemptions shall continue and be renewed automatically by the City Treasurer so long as the prerequisite facts supporting the initial qualification for exemption continue; provided, however, that the exemption shall automatically terminate with any change in the service address or residence of the exempt individual; further provided, such individual may nevertheless apply for a new exemption with each change of address or residence. Any individual deemed exempt from the tax shall notify the Tax Administrator within ten (10) days of any change in fact or circumstance which might disqualify such individual from receiving such exemption. The Tax Administrator may request re-verification of eligibility from individuals claiming an exemption annually or as deemed necessary by the Tax Administrator. It shall be a misdemeanor for any person in a household to knowingly receive the benefits of the exemptions provided by this Section when the basis for such exemption either does not exist or ceases to exist. Notwithstanding any of the provisions of this subsection, however, any Service Supplier who determines by any means that a new or non-exempt service user is receiving service through a meter or connection which was deemed by the Tax Administrator to be exempt by virtue of an exemption issued to a previous Service User or exempt user of the same meter or connection, shall immediately notify the Tax Administrator of such
fact, and the Tax Administrator shall conduct an investigation to ascertain whether or not the provisions of this Section have been complied with and, where appropriate, order the Service Supplier to commence collecting the tax from the non-exempt Service User.

(e) The City Council may, by ordinance or resolution, establish one or more classes of persons or one or more classes of utility charges otherwise subject to payment of the Utility Users' Tax and provide that such classes of persons or utility charges shall be exempt, in whole or in part, from the Utility Users' Tax for a specified period of time.

SECTION 8: Section 5.122 of Article VIII of Chapter 5 of the Vernon Municipal Code is hereby amended to read as follows:

SECTION 5.122. Rate of Utility Users' Tax; Termination, Reduction or Suspension of Utility Users' Tax.

(a) The City Council may, by ordinance or resolution, adjust any of the rates of the Utility Users' Tax; provided, however, that such rate shall not exceed 7.0% unless approved by the voters.

(b) The rates established by this article shall be revised annually based upon changes in the Consumer Price Index for All Urban Consumers (CPI-U), All Items Index, Los Angeles-Anaheim-Riverside Area (1982-84=100) (herein-after "CPI") published by the United States Department of Labor, Bureau of Labor Statistics. In the event said CPI for the twelve-month period ending March 31 of each year (the "adjustment date") is higher than said CPI for the twelve-month period ending March 31, 2018, the tax rates set forth in this article shall be increased by multiplying said tax rates by a fraction, the numerator of which is the CPI on the adjustment
date and the denominator of which is the CPI for the twelve-month period ending March 31, 2018. The resulting adjusted tax rates shall then be the tax rates for the fiscal year commencing the next July 1st. There shall be no reduction in rates by operation of this provision. If, in the future, said CPI shall be changed so that the base year differs from that used as of the effective date of this article, it shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. The City Clerk shall submit a written report to the City Council setting forth the adjustments to the tax rates required by this subsection, which the City Council shall approve by resolution.

(c) Upon any such adjustment in tax rate, the Tax Administrator shall submit, as soon thereafter as reasonably practicable, written notification to the Service Suppliers, in accordance with procedures established by the Service Suppliers, of such adjustment in tax rate. The Service Suppliers responsible for collecting and remitting the Utility Users' Tax shall have a reasonable period of time to implement such change in tax rate, but in no event to exceed sixty (60) days from the date of receipt of such written notification or, if 60 days from the date of receipt of such written notification is not on the first day of a month, then the first day of the month following the month in which such 60th day occurs.

(d) The City Council may, by ordinance or resolution, terminate or suspend the Utility Users' Tax. Upon any such termination or suspension, the Tax Administrator shall submit, as soon thereafter as reasonably practicable, written notification to
the Service Suppliers, in accordance with procedures established by
the Service Suppliers, of such termination or suspension. The
Service Suppliers responsible for collecting and remitting the
Utility Users’ Tax shall have a reasonable period of time to
implement such termination or suspension, but in no event to exceed
sixty (60) days from the date of receipt of such written
notification or, if 60 days from the date of receipt of such
written notification is not on the first day of a month, then the
first day of the month following the month in which such 60th day
occurs.

SECTION 9: Section 5.138 of Article VIII of Chapter 5
of the Vernon Municipal Code is hereby deleted in its entirety.

SECTION 10: Any ordinance or parts of ordinances in
conflict with this Ordinance are hereby repealed.

SECTION 11: Severability. If, for any reason, any
portion of this Ordinance is rendered or declared invalid or
unenforceable by a court or an administrative body of competent
jurisdiction or by reason of any preemptive legislation, the
remaining portions of this Ordinance shall remain in full force and
effect.

SECTION 12: Book of Ordinances. The City Clerk, or
Deputy City Clerk, shall attest and certify to the adoption of
this Ordinance and shall cause this Ordinance and the City
Clerk’s, or Deputy City Clerk’s, certification to be entered in
the Book of Ordinances of the Council of this City. The City
Clerk, or Deputy City Clerk, shall cause this ordinance to be
published or posted as required by law.

// /
SECTION 13: This Ordinance was approved and adopted by the People of the City of Vernon at the City's April 10, 2018, general municipal election.

Name: ________________________

Title: Mayor / Mayor Pro-Tem

ATTEST:

______________________________

City Clerk / Deputy City Clerk

APPROVED AS TO FORM:

______________________________

Brian Byun,  
Senior Deputy City Attorney