

RESOLUTION NO. 63-24

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND, CALIFORNIA, SUBMITTING TO THE VOTERS A MEASURE TO IMPOSE A BUSINESS LICENSE TAX ON THE PRIVILEGE OF CONDUCTING THE BUSINESS OF OIL REFINING IN THE CITY OF RICHMOND

WHEREAS, the City Council (the “Council”) of the City of Richmond (the “City”), within the County of Contra Costa, California (the “County”), desires to place a ballot measure before the voters at the November 5, 2024, to raise revenue for municipal purposes to imposed a business license tax on the privilege of conducting oil refining in the City at a tax rate of One Dollar (\$1.00) per barrel of feedstock refined in the City; and

WHEREAS, the City of Richmond (“City”) is authorized by law to establish business license taxes, as an excise tax, upon businesses within the City for the privilege of doing business in the City pursuant to its authority as a charter city, including, but not limited, to Section 7 of Article II of the City Charter; Cal. Const. art XI, Section 5; and Government Code Section 37101 and Business & Professions Code Section 16000 et seq. (to the extent applicable); and

WHEREAS, In 2008, the City’s voters approved Measure T, which established a business license tax wherein manufacturing businesses would pay the greater of (1) what was paid by other general businesses or (2) a flat fee of 0.250% of the value of raw materials used in the manufacturing process (“Measure T”); and

WHEREAS, a party initiated litigation against City regarding Measure T after voter approval and the City and the party ultimately entered into a settlement agreement to resolve the litigation wherein the party agreed to make certain settlement payments and, further, limited the maximum tax payment owed by the party pursuant to Chapter 13.52 of the Richmond Municipal Code (the City’s utility users’ tax) and limited the party’s business license tax obligation under Chapter 7.04 of Richmond’s Municipal Code such that it is calculated at \$234.10 plus \$46.80 per employee for the first 25 employees and \$40.10 for every employee thereafter (“Measure T Settlement”); and

WHEREAS, after June 30, 2025, certain restrictions in the Measure T Settlement will no longer be imposed upon the City, including, but not limited to, the requirement that any new or increased tax imposed upon the aforementioned party before July 1, 2025, would result in that tax amount credited against both the settlement payment and the taxes paid by that same party pursuant to the Measure T Settlement;

WHEREAS, in 2020, the City’s voters adopted Measure U, which modified the City’s business license tax such that the existing business license tax rate is 0.06% to 5.00% of the gross receipts, depending on the business type;

WHEREAS, the City continues to be burdened by impacts from the oil refining industry’s activities within the City, which include, but are not limited to the following:

- A. In 2023, it is estimated that an average of 25,000 pounds of hazardous waste was produced each day by the oil refining industry within the City.
- B. In 2022, it is estimated that 59,921 pounds of toxic chemicals were released into the surface waters of the San Francisco Bay and San Pablo Bay by the local refinery, impacting local wildlife and communities that closely interact with those waters including fishers. The refinery’s toxic releases increased significantly from the previous year in 2021, when it is estimated that 37,722 pounds of toxic chemicals were released into the surface waters of surrounding bays.
- C. Odor complaints in Point Richmond from operations at the Long Wharf, as well as other noise and odor issues in neighborhoods near the refinery, impact the quality of life of City residents.

- D. It is estimated that particulate matter from the refinery alone is linked to approximately 5 to 11 premature deaths in the City each year. Other health impacts from particulate matter, and from other contaminants such as NOx and SOx, include increased risks of infant mortality, cancer risk, and traumatic mental health effects.
- E. The City's asthma rate is at the statewide 90th percentile and the City's neighborhoods near the refinery, such as the Iron Triangle and Atchison Village, are in the 97th to 99th percentile for asthma.
- F. The preceding and other refining-related health impacts affect Richmond residents and their opportunities in life, including their income and, in turn, the economic position of the City itself.
- G. In 2012, an explosion at an oil refinery injured six employees and sent 15,000 City residents to hospitals seeking medical treatment. A diesel spill in 2021 underscored more risks inherent in oil refining. Further, in 2023, a flaring incident logged more than 100 air quality complaints to the Bay Area Air Quality Management District. These kinds of incidents require the City's Fire Department to provide emergency response and City-sponsored alert systems such as Nixle to notify residents. These incidents, including ongoing flaring, which has increased since the local refinery completed its modernization project in 2018, also take a toll on the well-being of residents; at schools near the fence line, students know to run inside from the play yard when they see the refinery start flaring.
- H. Property values in the City are suppressed by the proximity of Richmond homes and businesses to an oil refinery, impacting residents directly and the City's property tax base.
- I. The oil refining sector is volatile, and the City is vulnerable to those changes, and could one day be saddled with a toxic site with no one to pay for remediation. Refinery closures can be announced overnight as a matter of the course of business, such as the Martinez Marathon refinery's prior fate, before its course reversal and biofuel conversion, or the Philadelphia PES refinery's sudden shuttering following an on-site explosion. In the latter case, the company declared bankruptcy, leaving behind a site (half the size of the Richmond refinery) that could take more than a decade to remediate at a price of more than a billion dollars according to experts. Meanwhile, the owner and operator of the refinery in Richmond described its lack of closure and cleanup planning for refineries in its 2023 annual report, writing "no provisions are made for exit or cleanup costs that may be required when such assets reach the end of their useful lives unless a decision to sell or otherwise decommission the facility has been made, as the indeterminate settlement dates for the asset retirements prevent estimation of the fair value of the asset retirement obligation."
- J. A conversion of the local refinery from one that refines crude petroleum to one that refines alternative feedstocks or biofuels feedstocks still poses many of the same risks to the same degree, as recent local biofuel conversion projects and subsequent flaring, fires, chemical releases, and air pollution comparable to crude petroleum refining at the Rodeo Phillips 66 and the Martinez Marathon refineries demonstrate.

WHEREAS, the ordinance, attached hereto in Exhibit A, proposes a business license tax, which is an excise tax, upon the business of conducting oil refining in the City at the rate of \$1.00 per barrel of feedstock refined in the City and is, therefore, measured by the volume of refining rather than another measurement that may be interpreted as any tax other than an excise tax, including but not limited to, a property tax, sales tax, or use tax, or other excise tax on the sale or consumption or use of feedstock or refined products; and

WHEREAS, the ordinance explicitly excludes the application of the business license tax so to apply an undue burden upon interstate commerce or violate the constitutions of the United States and its territories, and the State of California; and

WHEREAS, in order for the ordinance to become effective, it must be approved by the electorate; and

WHEREAS, on June 4, 2024, the Council adopted Resolution No. 47-24, calling for a general municipal election on November 5, 2024 (“Election”); and

WHEREAS, the City Council desires to submit the ordinance to the qualified electors of the City at that Election.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Richmond, as follows:

Section 1. The foregoing recitals are true and correct, and this Council so find and determines.

Section 2. A general municipal election has been called for the City to be held on Tuesday, November 5, 2024. The City Council hereby submits the following measure to the voters at the Election:

“To fund general City services, such as clean air and water treatment, roads, parks, fire and emergency response, toxic land cleanup, and improving community health and youth services, and for general government use, shall the measure establishing a business license tax on the privilege of conducting oil refining in the City of Richmond at the rate of \$1.00 per barrel of feedstock refined in the City of Richmond, providing approximately \$60 million to \$90 million annually for 50 years, be adopted?”

Section 3. The ordinance to be approved by the voters is set forth in Exhibit A. The City Council hereby approves submission of the ordinance to the voters of the City at the November 5, 2024, election. The ordinance specifies that the business license tax, which is an excise tax, rate shall be of One Dollar (\$1.00) per barrel of feedstock refined in the City of Richmond, as defined therein. The City Clerk is authorized to modify this resolution and/or the ordinance, as provided in Exhibit A, for the purposes of complying with applicable law. In order for this ordinance establishing a tax to become effective, it must be approved by a majority of the City’s voters voting on November 5, 2024.

Section 4. The City Clerk of the City of Richmond is hereby ordered and directed to cause said proposed measure to be printed and to mail a copy of said measure to all registered voters in the City of Richmond with sample ballots in substantially the form set forth in Exhibit A, attached hereto.

Section 5. The City Clerk of the City of Richmond is hereby authorized to sign a Notice of Election and Measure To Be Voted On in a form substantially similar to that attached hereto as Exhibit B. The Clerk of the City is hereby authorized and directed to publish said Notice of Election and Measure To Be Voted On at least one time not later than a week before the election in the EAST BAY TIMES, a newspaper of general circulation circulated within the City of Richmond, in accordance with the provisions of Section 12111 of the Elections Code of the State of California.

Section 6. The Clerk of the City is hereby authorized and directed to cause to be delivered, no later than August 9, 2024 (which date is not fewer than 88 days prior to the date set for the Election) one copy of this Resolution to the Registrar of Voters of the County.

Section 7. The City Council hereby directs the City Clerk to transmit a copy of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure, and transmit such impartial analysis to the City Clerk within thirty (30) days of the adoption of this resolution.

Section 8. The Finance Director of the City is hereby authorized and directed to prepare and file with the Registrar of Voters (through the City Clerk) an impartial analysis of the measure contained in Section 2 hereof covering its financial impact upon the City government in

accordance with Section 2.16.070 of the Municipal Code of the City, within the time established by the Registrar of Voters.

Section 9. Pursuant to Section 9282 of the Elections Code of the State of California, the legislative body of the City of Richmond, or any member or members of the legislative body authorized by the body, or any individual voter who is eligible to vote on the measure or bona fide association of citizens, or any combination of voters and associations, may file a written argument, not to exceed 300 words in length, accompanied by the printed name(s) and signature(s) of person(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers, for or against the City measure. Such arguments shall be due on the date fixed by the City Clerk.

Section 10. This tax is a general tax requiring the approval of a majority of qualified electors casting votes. The Council has complete discretion to expend the tax proceeds for any lawful purpose of the City of Richmond.

Section 11. Pursuant to California Elections Code section 9285, subdivision (b), the City Council hereby adopts the provisions of California Elections Code section 9285, subdivision (a), relating to rebuttal arguments for the measure identified in section 2 above only for the November 5, 2025, election and thereafter this section 11 shall expire.

Section 12. This resolution shall take effect immediately upon its adoption.

I certify that the foregoing resolution was passed and adopted by the Council of the City of Richmond at a regular meeting thereof held June 18, 2024, by the following vote:

AYES: Councilmembers Bana, McLaughlin, Robinson, Willis, Zepeda,
Vice Mayor Jimenez, and Mayor Martinez.

NOES: None.

ABSTENTIONS: None.

ABSENT: None.

PAMELA CHRISTIAN
CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:
EDUARDO MARTINEZ
Mayor



Approved as to form:
DAVE ALESHIRE
City Attorney

State of California }
County of Contra Costa : ss.
City of Richmond }

I certify that the foregoing is a true copy of **Resolution No. 63-24**, finally passed and adopted by the Council of the City of Richmond at a regular meeting held on June 18, 2024.


Pamela Christian, Clerk of the City of Richmond

EXHIBIT A

ORDINANCE NO. _____

AN ORDINANCE OF THE PEOPLE OF THE CITY OF RICHMOND ESTABLISHING A BUSINESS LICENSE TAX UPON OIL REFINING IN THE CITY OF RICHMOND BY ADDING A NEW CHAPTER 13.58 TO ARTICLE 13 OF THE RICHMOND MUNICIPAL CODE

WHEREAS, the City of Richmond (“City”) is authorized by law to establish business license taxes, as an excise tax, upon businesses within the City for the privilege of doing business in the City pursuant to its authority as a charter city, including, but not limited, to Section 7 of Article II of the City Charter; Cal. Const. art XI, Section 5; and Government Code Section 37101 and Business & Professions Code Section 16000 et seq. (to the extent applicable);

WHEREAS, in 2008, the City’s voters approved Measure T, which established a business license tax wherein manufacturing businesses would pay the greater of (1) what was paid by other general businesses or (2) a flat fee of 0.250% of the value of raw materials used in the manufacturing process (“**Measure T**”); and

WHEREAS, a party initiated litigation against City regarding Measure T after voter approval and the City and the party ultimately entered into a settlement agreement to resolve the litigation wherein the party agreed to make certain settlement payments and, further, limited the maximum tax payment owed by the party pursuant to Chapter 13.52 of the Richmond Municipal Code (the City’s utility users’ tax) and limited the party’s business license tax obligation under Chapter 7.04 of Richmond’s Municipal Code such that it is calculated at \$234.10 plus \$46.80 per employee for the first 25 employees and \$40.10 for every employee thereafter (“**Measure T Settlement**”); and

WHEREAS, after June 30, 2025, certain restrictions in the Measure T Settlement will no longer be imposed upon the City, including, but not limited to, the requirement that any new or increased tax imposed upon the aforementioned party before July 1, 2025, would result in that tax amount credited against both the settlement payment and the taxes paid by that same party pursuant to the Measure T Settlement; and

WHEREAS, in 2020, the City’s voters adopted Measure U, which modified the City’s business license tax such that the existing business license tax rate is 0.06% to 5.00% of the gross receipts, depending on the business type;

WHEREAS, the City continues to be burdened by impacts from the oil refining industry’s activities within the City, which include, but are not limited to the following:

- A. In 2023, it is estimated that an average of 25,000 pounds of hazardous waste was produced each day by the oil refining industry within the City.
- B. In 2022, it is estimated that 59,921 pounds of toxic chemicals were released into the surface waters of the San Francisco Bay and San Pablo Bay by the local refinery, impacting local wildlife and communities that closely interact with those waters including fishers. The refinery’s toxic releases increased significantly from the previous year in 2021, when it is estimated that 37,722 pounds of toxic chemicals

were released into the surface waters of surrounding bays.

- C. Odor complaints in Point Richmond from operations at the Long Wharf, as well as other noise and odor issues in neighborhoods near the refinery, impact the quality of life of City residents.
- D. It is estimated that particulate matter from the refinery alone is linked to approximately 5 to 11 premature deaths in the City each year. Other health impacts from particulate matter, and from other contaminants such as NOx and SOx, include increased risks of infant mortality, cancer risk, and traumatic mental health effects.
- E. The City's asthma rate is at the statewide 90th percentile and the City's neighborhoods near the refinery, such as the Iron Triangle and Atchison Village, are in the 97th to 99th percentile for asthma.
- F. The preceding and other refining-related health impacts affect Richmond residents and their opportunities in life, including their income and, in turn, the economic position of the City itself.
- G. In 2012, an explosion at an oil refinery injured six employees and sent 15,000 City residents to hospitals seeking medical treatment. A diesel spill in 2021 underscored more risks inherent in oil refining. Further, in 2023, a flaring incident logged more than 100 air quality complaints to the Bay Area Air Quality Management District. These kinds of incidents require the City's Fire Department to provide emergency response and City-sponsored alert systems such as Nixle to notify residents. These incidents, including ongoing flaring, which has increased since the local refinery completed its modernization project in 2018, also take a toll on the well-being of residents; at schools near the fence line, students know to run inside from the play yard when they see the refinery start flaring.
- H. Property values in the City are suppressed by the proximity of Richmond homes and businesses to an oil refinery, impacting residents directly and the City's property tax base.
- I. The oil refining sector is volatile, and the City is vulnerable to those changes, and could one day be saddled with a toxic site with no one to pay for remediation. Refinery closures can be announced overnight as a matter of the course of business, such as the Martinez Marathon refinery's prior fate, before its course reversal and biofuel conversion, or the Philadelphia PES refinery's sudden shuttering following an on-site explosion. In the latter case, the company declared bankruptcy, leaving behind a site (half the size of the Richmond refinery) that could take more than a decade to remediate at a price of more than a billion dollars according to experts. Meanwhile, the owner and operator of the refinery in Richmond described its lack of closure and cleanup planning for refineries in its 2023 annual report, writing "no provisions are made for exit or cleanup costs that may be required when such assets reach the end of their useful lives unless a decision to sell or otherwise decommission the facility has been made, as the indeterminate settlement dates for the asset

retirements prevent estimation of the fair value of the asset retirement obligation.”

- J. A conversion of the local refinery from one that refines crude petroleum to one that refines alternative feedstocks or biofuels feedstocks still poses many of the same risks to the same degree, as recent local biofuel conversion projects and subsequent flaring, fires, chemical releases, and air pollution comparable to crude petroleum refining at the Rodeo Phillips 66 and the Martinez Marathon refineries demonstrate.

WHEREAS, therefore, the purpose of this Ordinance is to establish a business license tax, as an excise tax, upon the refining of oil in the City’s jurisdiction that shall be in addition to any other taxes that are imposed by the City, to the extent applicable.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF RICHMOND HEREBY ORDAIN AS FOLLOWS:

1. **New Chapter 13.58.** Chapter 13.58 is hereby added to Article 13 of the Richmond Municipal Code as follows:

13.58.010 Title

This Chapter shall be known as the “Richmond Refining Business License Tax Act.”

13.58.020 Purpose

This Chapter is enacted to establish a business license tax to raise revenue for municipal purposes and is not intended for the purpose of regulation. The taxes payable hereunder are general taxes within the meaning of Article XIIC of the California Constitution.

13.58.030 Definitions

In this Chapter, the singular number includes the plural and the plural the singular, and the masculine gender includes the other genders. The word “shall” is mandatory, “may” is permissive.

(a) “Barrel of feedstock” shall mean 42 US gallons volumetrically, irrespective of any other industry standards related to different barrel sizes for non-petroleum-based products.

(b) “Conducting oil refining” shall mean the subjecting of feedstock to the refining process.

(c) “Engage in the business” shall mean to commence, operate, manage or carry on a business and to exercise corporate or franchise powers, whether done as an owner or by means of one (1) or more officers, agents, managers, employees, servants or otherwise, within the City, whether or not the business is operated from a fixed location and whether or not such location is within the City

(d) “Feedstock” shall mean the material subjected to refining, and inclusive of:

(i) Petroleum;

(ii) Petroleum products that are pre-treated or partially refined offsite and brought onsite for the purpose of onsite refining;

(iii) Other feedstocks that supply the refining process as its base material, inclusive of biofuels feedstocks or renewable feedstocks, including but not limited to oil derived from plants, cooking oil, and tallows and animal fat-based oils.

Materials that are not actually subjected to the refining process shall be excluded from this definition and shall not be the basis of any tax liability.

(e) “Operate” or “operating” shall mean activities involved in the day to day functions of the business conducted for the purpose of generating profits.

(f) “Person” shall mean as any domestic and foreign corporations, associations, syndicates, joint stock companies, firms, partnerships of every kind, trusts, societies, and individuals.

(g) “Petroleum” shall mean the common definition of petroleum, inclusive of crude oil.

(h) “Petroleum products” shall mean materials derived from petroleum. For the purposes of this Chapter, petroleum products are any product derived from hydrocarbons, including, but not limited to, liquid petroleum gas (LPG), natural gas, gasoline, gas oil, jet fuel, diesel fuel, heavy fuels, lubricants, asphalt, bulk tar, petroleum coke, residuum, paraffins, naphtha, sulfur and petrochemicals, among others.

(i) “Refine,” “refining” and “oil refining” shall mean the process of producing gasoline, gasoline blending stocks, naphtha, distillate fuel oil including but not limited to diesels, kerosene, aviation fuel, lubricants (including but not limited to lube oil), asphalt, petrochemical feedstock, residual fuel oils, solvents, plastics, asphalt (including but not limited to bitumen), biofuels (including but not limited to ethanol, biodiesel, biogas, biomethane, or sustainable aviation fuel), or other similar products through the processing of crude oil, crude petroleum or alternative feedstocks (including but not limited to oil derived from plants, cooking oil, or tallows and other animal fat-based oils), redistillation of unfinished petroleum derivatives or unfinished biofuel derivatives, cracking, reforming, or other processes.

(j) “Tax” shall mean the tax imposed by this Chapter.

(k) “Tax certificate” shall mean the certificate issued pursuant to Section 13.58.060 to the taxpayer evidencing that the taxpayer has complied with the

requirements of this Chapter, including, but not limited to, payment of all taxes, interest, and penalties owed by the taxpayer pursuant to this Chapter.

(l) "Tax Collector" shall mean the director of finance of the City or his designee.

(m) "Taxpayer" shall mean any person required to pay the tax imposed by this Chapter.

13.58.040 Tax Certificate Required

It shall be unlawful for any person to engage in the business of conducting oil refining in the City of Richmond without first obtaining a tax certificate and paying the tax pursuant to and required by this Chapter.

13.58.050 Oil Refining Tax

In addition to any other taxes imposed by the City, every person engaged in the business of conducting oil refining in the City of Richmond shall pay a business license tax at the rate of \$1.00 per barrel of feedstock that is refined in the City of Richmond, provided that this tax is not a tax on the sale or use of gasoline or other fuels for propelling motor vehicles or upon the storage of gasoline or other fuels for use by the business doing the storage to fuel motor vehicles operated or for the benefit of that business.

13.58.060 Issuance of Tax Certificate

(a) A person subject to the tax imposed by this Chapter shall submit a tax return each calendar quarter for a tax certificate on a form provided by the Tax Collector. The tax return shall include sufficient information, including, but not limited to, information on the amount of barrels of feedstock refined in the City of Richmond, to allow computation of the tax due, as well as any other information deemed necessary by the Tax Collector for the administration of this Chapter and calculation of the tax owed. The tax return shall also be accompanied by payment of all taxes, interest, and penalties due under this Chapter.

(b) Tax returns shall be signed under penalty of perjury by one authorized to bind the taxpayer.

(c) Upon confirmation that the tax return evidences compliance with this Chapter (including, but not limited to, the payment of any tax, interest, and penalty owed pursuant to this Chapter), the Tax Collector shall issue the taxpayer a tax certificate evidencing that compliance.

13.58.070 Administration; Gann Limit Override

(a) The Tax Collector shall be responsible for issuing tax certificates pursuant to this Chapter and otherwise for its administration and enforcement. The

people of the City of Richmond intend this Chapter to be enforced consistently with the Municipal Code and any rule or regulation promulgated under the Municipal Code except as expressly provided to the contrary in this Chapter or a regulation adopted pursuant to this Chapter.

(b) Pursuant to California Constitution, Article XIII B, the appropriation limit for the City is increased to the maximum extent over the maximum period of time allowed under law to allow the City to spend the revenues generated by the taxes and fee imposed by this Chapter to fund City services and for other lawful purposes of the City.

13.58.080 Tax Certificate Expiration; Renewal

Tax certificates shall expire at the end of each calendar quarter.

13.58.090 Calculation of Initial Business License Tax

A taxpayer paying an initial business license tax under this Chapter shall report on the tax return required by Section 13.58.060 the amount of barrels of feedstock refined in the City of Richmond in the calendar quarter immediately prior to the date of the tax return to allow calculation of the tax imposed by this Chapter. For the purposes of clarification, this tax shall not be imposed upon any refining occurring prior to July 1, 2025.

13.58.100 Calculation of Renewal Business License Tax

Upon expiration of a tax certificate issued under this Chapter, the taxpayer shall report on the tax return required by Section 13.58.060 the amount of barrels of feedstock refined in the City of Richmond during the previous calendar quarter to allow calculation of the tax imposed by this Chapter.

13.58.110 Tax Certificate Not Transferable – Duties upon Transfer of Business

(a) No tax certificate issued under this Chapter may be transferred to any other person.

(b) Whenever any person required to pay a tax pursuant to this Chapter shall quit business or dispose of a business required to pay taxes under this Chapter, any tax payable under this Chapter shall be immediately due and payable.

(c) Whenever any person required to pay a tax pursuant to this Chapter transfers a business required to pay taxes under this Chapter to another person, the transferor and transferee of such business shall be jointly and severally liable for any tax, interest and penalties due from that business under this Chapter. No tax certificate may issue to the transferee until such tax, interest and penalties are paid.

(d) Successor and Assignee Responsibility.

1. If any person, while liable for any amount under this Chapter, sells, assigns or otherwise transfers half (1/2) or more of a business subject to the tax imposed by this Chapter, whether voluntarily or involuntarily, the person's successor, assignee or other transferee, or other person or entity obtaining ownership or control of the business ("transferee") shall pay that amount when due. A transferee shall notify the Tax Collector of a transfer thirty (30) days before the transfer date; or if the agreement to sell, transfer, or otherwise dispose of the business is made less than thirty (30) days before the date of transfer, on the first business day after the transfer.

2. A transferee shall be deemed to have satisfied an unpaid liability if the transferee complies with the requirements of California Revenue and Taxation Code Section 7283.5 and this section by withholding from the purchase price, for the benefit of the City, an amount sufficient to cover the liability, or by otherwise paying the liability and obtaining from the Tax Collector a "tax clearance certificate" showing that all outstanding liability has been paid through the date of transfer.

3. Within ninety (90) days of receiving a written request from a transferee, the Tax Collector may issue a "tax clearance certificate" stating either the amount due as to the business under this Chapter, or stating that there is no liability due for the business through a stated date. The Tax Collector may also request records from the transferor to audit the amount due under this Chapter. The Tax Collector shall issue a tax clearance certificate within thirty (30) days of completing the audit, stating any amount owed, unless the Tax Collector determines the records provided for audit are insufficient to determine whether taxes, fees, penalties and/or interest are due and in what amounts. If so, the Tax Collector may rely on available information to estimate any amount due and shall issue a tax clearance certificate stating that amount

13.58.120 Due dates; delinquency, interest and penalties for fraud and negligence

(a) **Payment Deadline.** The tax imposed under this Chapter is due and payable according to the following schedule:

1. For refining conducted from January 1 to March 31 of that same year, the tax payment shall be due on April 1 and shall become delinquent on April 30 of that same year.

2. For refining conducted from April 1 to June 30 of that same year, the tax payment shall be due on July 1 and shall become delinquent on July 31 of that same year.

3. For refining conducted from July 1 to September 30 of that same year, the tax payment shall be due on October 1 and shall become

delinquent on October 31 of that same year.

4. For refining conducted from October 1 to December 31 of that same year, the tax payment shall be due on January 1 of the next year and shall become delinquent on January 31 of the next year.

(b) Should the due date occur on a weekend or legal holiday, the return may be postmarked on the first regular working day following a Saturday/Sunday or legal holiday.

(c) Every new business subject to this Chapter shall file a tax return and pay any tax due prior to the first day of operation (to the extent any tax is owed), and the tax shall become delinquent ninety (90) days thereafter and the penalties of Sections 13.58.120(d) and 13.58.120(e) shall then attach, to the extent applicable.

(d) In the event that the tax is not paid prior to becoming delinquent, a delinquency penalty of ten percent (10%) of the amount of tax due shall accrue. In the event a portion of the tax is unpaid prior to becoming delinquent, the penalty shall only accrue as to the portion remaining unpaid. An additional penalty of fifteen percent (15%) shall accrue if the tax remains unpaid on the 90th day following the date of the original delinquency. Interest (simple) shall accrue at the rate of one percent (1%) each month, or fraction thereof, on the amount of tax from the date the tax becomes delinquent to the date of payment or date of lien. Interest and penalty accrued shall become part of the tax.

(e) The Tax Collector shall have the power to impose additional penalties upon persons required to remit taxes pursuant to the provisions of this Chapter for fraud and negligence in reporting or remitting the tax owed at the rate of fifteen percent (15%) of the difference between the tax amount as computed by the taxpayer and the tax amount as recomputed by the Tax Collector.

(f) The City Council may modify the percentages provided in Sections 13.58.120(d) and 13.58.120(e) by resolution.

13.58.130 Constitutional apportionment

(a) The tax provided for by this Chapter shall not be so applied so as to occasion an undue burden upon interstate commerce or be violative of the constitutions of the United States and/or the State of California.

(b) When, by reason of the provisions of the Constitution of the United States or the Constitution of California, the tax imposed by this Chapter cannot be enforced without there being an apportionment according to the amount of business done in the City of Richmond, or in the State of California, as the case may be, rules and regulations for apportionment of the tax shall be established as follows:

(1) The City Council from time to time may adopt by resolution general guidelines for apportionment.

(2) The Tax Collector, with the approval of the City Attorney, may make such rules and regulations for the apportionment of the tax as are necessary and desirable to overcome the constitutional objections and which are consistent with any general apportionment guidelines adopted by resolution of the City Council.

(c) Notice of any rule or regulation adopted pursuant to this section shall be given pursuant to Section 13.58.150(c) and such rules and regulations shall be effective as provided in Section 13.58.150(c).

13.58.140 Records

(a) It shall be the duty of every person required to remit to the City any tax imposed by this Chapter to keep and preserve, for a period of at least three (3) years, all records as may be necessary to determine the amount of such tax as he may have been liable for the remittance to the Tax Collector, which records the Tax Collector shall have the right to inspect at a reasonable time for the purpose of conducting an audit pursuant to Section 13.58.170 or verifying a refund claim pursuant to Section 13.58.160.

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

(c) The Tax Collector is authorized, but is not required, to execute a nondisclosure agreement, subject to the City Attorney's approval as to form, to protect the confidentiality of taxpayer information pursuant to state or federal law including but not limited to California Civil Code section 3426 et seq.

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

13.58.150 Rules and regulations for enforcement

(a) The Tax Collector is authorized to make such rules and regulations as may be necessary to aid or assist in enforcement of the provisions of this Chapter.

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

(c) The Tax Collector shall give notice of such rules and regulations in the manner by publishing such rules and regulations once in a newspaper of general circulation within the City. If there is no newspaper of general circulation within the City, then the Tax Collector may instead post such rules and regulations in the same locations as where the agendas are posted for regular meeting agendas of the City Council. Such rules and regulations shall be effective 10 days after such posting or publication.

13.58.160 Refunds

No tax, penalty or interest shall be refunded unless it is determined by the Tax Collector that it has been paid in error, computed incorrectly, overpaid, or collected illegally. No refund shall be made unless a request is received in writing by the Tax Collector within one (1) year of the payment of the tax, interest, or penalty to be refunded as provided in this section. Such request shall include any information or documentation required by the Tax Collector.

13.58.170 Audits and Adjustments

(a) Upon request of the Tax Collector, any person engaged in a business subject to this tax shall provide the necessary records to substantiate the tax paid or due for such business. If, upon audit of such records, the Tax Collector determines the tax imposed by this Chapter has not been paid in full, the Tax Collector shall notify the taxpayer of the balance due, including any accrued penalties and interest. Such amount shall be paid within thirty (30) days after notice is issued by the Tax Collector.

(b) If an audit reveals an underpayment of two (2) percent or greater, the taxpayer shall reimburse the City for the full reasonable costs incurred by the City in conducting the audit and enforcing this Chapter, including all legal fees and payment for necessary consultants to conduct the audit.

(c) If an audit reveals an overpayment, the Tax Collector shall notify the taxpayer of the amount overpaid. Unless the taxpayer in writing requests a refund of the overpayment within thirty (30) days after notice is issued by the Tax Collector, the overpayment shall be applied as a credit against the next tax due.

(d) If an audit reveals an underpayment of \$100.00 or less, the Tax Collector shall take no action to collect the underpayment. The Tax Collector may adjust this figure for inflation on January 1st of each year using the consumer price index for all urban consumers for the San Francisco Area that is promulgated by the U.S. Bureau of Labor Statistics. In the event that such consumer price index is

no longer being calculated by the U.S. Bureau of Labor Statistics, then the Tax Collector may utilize any appropriate successor consumer price index.

(e) Rather than request information and conduct an audit, the Tax Collector may request that a taxpayer file a corrected tax return. If such a tax return is filed and the Tax Collector is satisfied with its accuracy, the existence of any underpayment or overpayment under this Chapter shall be determined with reference to that corrected tax return. If a taxpayer fails to file a corrected tax return or if the Tax Collector is not satisfied with a corrected tax return, the Tax Collector may conduct an audit under this section.

13.58.180 Appeals

(a) Initiation – Contents of Notice of Appeal. Any person may appeal any decision of the Tax Collector made under this Chapter within fifteen (15) days of the decision. The City Council delegates its authority to conduct the hearing on such appeals to an independent hearing officer. The compensation of the independent hearing officer shall not depend on any particular outcome of the appeal. The independent hearing officer shall have full authority and duty to preside over the hearing on the matter appealed in the manner set forth herein and as required by law. Any such appeal shall be made by filing it with the City Clerk and any such appeal shall be in writing and shall include all of the following:

1. The name and address of appellant.
2. The matter being appealed.
3. A statement of the grounds of appeal.
4. If the appeal relates to the taxes due, then such appeal shall include all of the following:
 - (i) Payment of any tax due under this Chapter and whether such payment is done under protest.
 - (ii) Whether the whole tax is claimed to be void, or, if only a part, what part.
5. Any other information required by Section 1.10.010.

(b) Notice of Deficiency. If the City Clerk finds a notice of appeal to be deficient, the City Clerk shall deliver or mail or cause to be mailed to the appellant by certified mail addressed to the appellant at the address of the appellant shown on the notice of appeal a notice of deficiency specifying the particulars in which the notice of appeal is deficient. If such deficiency is corrected by the appellant within seven (7) days after mailing of a notice of deficiency by filing with the City Clerk a sufficient amendment to the notice of appeal, the notice of appeal shall be deemed to be withdrawn.

(c) **Appeal Hearing and Hearing Officer's Decision.**

1. The appeal hearing will be held by the independent hearing officer within sixty (60) days after the timely filing of an appeal pursuant to this section, unless the 60 day time limit is waived by the appellant, or unless the independent hearing officer continues the appeal hearing date for good cause and upon written notification to the appellant. Notice of the appeal hearing shall be provided to the appellant at least 10 days before the date of the appeal hearing, unless waived by the appellant.

2. The independent hearing officer shall review the facts of the matter, written documents submitted for review (including, but not limited to, the appeal filed with the City Clerk), testimony, argument and evidence submitted in writing or orally, and the basis for the Tax Collector's decision; and determine whether and to what extent to grant or deny the appeal. Such determination by the independent hearing officer shall be done in writing.

3. The independent hearing officer's decision shall be final as to the City, but subject to judicial review pursuant to Code of Civil Procedure Section 1094.5.

(d) **Notice of Decision.** The independent hearing officer shall cause notice of his or her decision to be given to the appellant. Such notice shall be given in the manner required by this section for a notice of deficiency. Any amount found to be due shall be immediately due and payable upon the service of notice.

13.58.190 Exhaustion of Administrative Remedies

Prior to seeking judicial relief on any matter under this Chapter, a taxpayer must fully exhaust all administrative remedies provided under this Chapter, including, but not limited to, the requirements of Section 13.58.160 and Section 13.58.180. Further any litigation filed by such taxpayer shall be limited to the subject matter of the appeal filed pursuant to Section 13.58.180.

13.58.200 Refining Tax an excise tax

The payment of any amount under this Chapter measured by volume is not a tax on such property, but is an excise tax on the privilege of engaging in the business of conducting oil refining in the City measured by the amount of refining undertaken by volume. Further, the tax imposed by this Chapter is akin to (but not duplicative of) a tax upon the privilege of conducting business within the City of Richmond. It is not a sales tax or a use tax, or other excise tax on the sale, consumption or use of feedstock or refined products.

13.58.210 Notice

Any notice to a taxpayer under this Chapter shall be sufficient if deposited with postage prepaid in the United States mail and addressed to the address provided on

the taxpayer's most recent tax return unless a change of address notice has been received, in which case notice is sufficient if mailed to the most recent address of which the Tax Collector has been informed.

13.58.220 Violations

It is a violation of this Chapter, punishable as a misdemeanor, to knowingly or intentionally misrepresent to any officer or employee of the City any material fact, relative to any tax imposed under the provisions of this Chapter. Notwithstanding the foregoing, any provision of this Chapter may be enforced by any action at law or equity or by any other remedy authorized by this Code.

13.58.230 Suit for recovery of unpaid sums; tax owed a debt to the City

Any tax, fee, penalty, or interest imposed pursuant to this Chapter shall be deemed a debt to the City and any person who engages in the business of conducting oil refining within the City without payment of the tax provided in this Chapter shall be liable in an action by and in the name of the City in any court of competent jurisdiction for recovery of any such sum.

13.58.240 Remedies Cumulative

The conviction and punishment of any person for failure to comply with this Chapter shall not relieve such person from paying any tax, fee, penalty, or interest due and unpaid at the time of such conviction, nor shall payment prevent prosecution of a violation of this Chapter. All remedies shall be cumulative, and the use of one (1) or more remedies by the City to enforce this Chapter shall not bar the use of any other remedy.

13.58.250 Annual Audit; Deposit in City's General Fund

The proceeds resulting from the tax established by this Chapter shall be deposited into the City's General Fund and become subject to the same independent annual audit requirements as other General Fund revenues. In addition, the City shall cause an independent auditor to complete an audit report regarding the collection of this tax and the expenditure of the revenues collected, provided that such report may be combined with the City's independent annual audit requirements as described above. Such report shall be due on the same date as the City's independent annual audit of the City's General Fund and shall inform the public as follows: (i) attest to the inspection of records that establish compliance with this Chapter by the Tax Collector; (ii) state the total revenue generated by this Chapter during the period covered by the audit report; and (iii) affirm where the tax revenue generated under this Chapter is allocated, and if the Tax Collector cannot trace the funds beyond their allocation to the General Fund, a description of that fact by the Tax Collector shall suffice. In complying with this section, the Tax Collector shall not divulge any confidential business information. Noncompliance with this section by the City shall in no way affect the validity, applicability, or enforceability of this Chapter to

any person liable for tax payment under this Chapter; noncompliance with this section shall not affect a person's liability or payment schedule under this Chapter.

13.58.260 Operative Date; Expiration Date

This Chapter shall be operative on July 1, 2025, such that it shall not be imposed upon any person engaged in the business of conducting oil refining in the City of Richmond prior to July 1, 2025, and no tax shall be due prior to July 1, 2025. This Chapter shall expire 50 years after July 1, 2025.

13.58.270 Construction

It is the intent of the people of the City of Richmond that the tax imposed by this Chapter be limited to the taxing power of the City and not to tax activity outside the tax jurisdiction of the City or to disfavor intercity or interstate commerce. It shall be construed in light of that intent.

13.58.280 City Council Authority to Amend

The City Council has the right and authority to amend this Chapter, to further its purposes and intent (including but not limited to amendment for more efficient administration as determined by the City Council), in any manner that does not increase a tax rate, or otherwise constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution, pursuant to Section 9217 of the California Elections Code. However, the City Council shall not have the authority to decrease the tax imposed by this Chapter and any such decrease in the tax imposed by this Chapter shall require the approval of a majority of the City's voters voting on such a measure.

13.58.300 Severability

If any section, subsection, sentence, clause, phrase or portion of this Chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of the Chapter. The people of the City hereby declare that they would have adopted this Chapter and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

2. **City Council Authority To Amend.** This is a City Council sponsored initiative Ordinance which otherwise would only be subject to amendment by the voters of the City of Richmond. However, pursuant to Section 9217 of the California Elections Code, the City Council expressly reserves the right and authority to amend the Ordinance in any manner that does not increase a tax rate, or otherwise constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution. However, the City Council shall not have the authority to decrease the tax imposed by this Chapter and any such decrease in the tax imposed by this Chapter shall require the approval of a majority of the City's voters voting on such a measure.

3. **Appropriations Limit.** Pursuant to Article XIII B of the California Constitution, the appropriations limit for the City of Richmond is increased to the maximum extent over the maximum period of time allowed under the law consistent with the revenues generated by this tax.
4. **CEQA.** This measure to be submitted to the voters adopts a general tax to fund any lawful purpose of the City. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant impact on the environment. Therefore, under CEQA Guidelines section 15060, review under CEQA is not required.
5. **Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance. The people of the City hereby declare that they would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.
6. **Effective Date; Operative Date; Expiration Date.** If approved by a majority (50%+1) of the voters of the City of Richmond at the November 5, 2024, General Municipal Election, then this Ordinance shall become a valid and binding ordinance of the City of Richmond, and shall be considered as adopted upon the date that the vote is declared and by the City Council, and this Ordinance shall go into effect ten (10) days after that date, pursuant to Election Code Section 9217, and shall be operative on July 1, 2025. This Ordinance shall expire 50 years after its operative date of July 1, 2025.
7. **Execution.** The Mayor of the City of Richmond is hereby authorized and ordered to attest to the adoption of the Ordinance by the voters of the City of Richmond by signing where indicated below.

[SIGNATURES ON FOLLOWING PAGE]

I hereby certify that the foregoing Ordinance was PASSED, APPROVED and ADOPTED by a majority vote of the People of the City of Richmond, California voting on the 5th day of November, 2024.

Eduardo Martinez, Mayor

ATTEST:

Pamela Christian, City Clerk

EXHIBIT B
Notice of Election and Measure To Be Voted On

CITY OF RICHMOND

**NOTICE OF GENERAL MUNICIPAL ELECTION
AND MEASURE TO BE VOTED ON**

NOTICE IS HEREBY GIVEN that a General Municipal Election will be held in the City of Richmond on Tuesday, November 5, 2024, at which there will be submitted to the voters the following measure:

Said Election has been consolidated with the Statewide General Election to be held in the City of Richmond on November 5, 2024. The election precincts within the City of Richmond for said Election shall be the regular election precincts established for said Statewide General Election, and the polling places and officers of election within the City of Richmond for said Election shall be the same as those selected and designated or to be selected and designated for said Statewide General Election.

NOTICE IS FURTHER GIVEN pursuant to Article 4, Section 9282 of the Elections Code of the State of California, the legislative body of the City of Richmond, or any member or members of the legislative body authorized by the body, or any individual voter who is eligible to vote on the measure or bona fide association of citizens, or any combination of voters and associations, may file a written argument, not to exceed 300 words in length, accompanied by the printed name(s) and signature(s) of the person(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers, for or against the City measures.

NOTICE IS FURTHER GIVEN that, based upon the time reasonably necessary to prepare and print the arguments and sample ballots for the election, the City Clerk has fixed Wednesday, August 21, 2024, during normal office hours, 8:30 a.m. to 5:00 p.m., as the date after which no arguments for or against the City measure may be submitted to the Clerk for printing and distribution to the voters as provided in Article 4. Arguments shall be submitted to the City Clerk, accompanied by the printed name(s) and signature(s) of the person(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument, at the Richmond City Hall, 450 Civic Center Plaza, Suite 300, Richmond, California. No more than five signatures may appear on the argument.

NOTICE IS FURTHER GIVEN that the City Council of the City of Richmond has determined that rebuttal arguments, not to exceed 250 words in length, as submitted by the authors of the opposing direct arguments, may be filed with the City Clerk by Monday, August 26, 2024, during normal office hours, 8:30 a.m. to 5:00 p.m., accompanied by the printed name(s) and signature(s) of the person(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers. No more than five signatures may appear on the rebuttal.

NOTICE IS FURTHER GIVEN that any ordinance, impartial analysis, or direct argument filed under the authority of the Elections Code will be available for public examination in the City Clerk's office from Tuesday, August 27, 2024, to Thursday, September 5, 2024. Any rebuttal argument filed under the authority of the Elections Code will be available for public examination in the City Clerk's Office from Tuesday, August 27, 2024, to Thursday, September 5, 2024.

The polls will be open on Election Day between the hours of 7:00 a.m. and 8:00 p.m.

Pamela Christian
Clerk of the City of Richmond
City Elections Official

NOTA:

Si desea obtener información en Español de este aviso legal, puede llamar a la Oficina de la Secretaria Municipal, (510) 620-6513.

Dated:

Publish: