

ORDINANCE NO. 1578

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF INDIO, CALIFORNIA, AMENDING CODE OF INDIO TITLE III, CHAPTER 34, SECTIONS 153, 154, 155, 156, 158, 173 AND ADDING SECTION 176, RAISING THE CITY OF INDIO'S UTILITY USERS' TAX RATE BY THREE PERCENT (3%), REQUIRING ISSUANCE OF A PUBLIC AUDIT REPORT REGARDING UTILITY USERS' TAX, AND CREATING A CITIZENS' FINANCE ADVISORY COMMISSION TO REVIEW AND MAKE RECOMMENDATIONS BASED UPON SAID REPORT

WHEREAS, the City of Indio, California ("City") levies a Utility Users' Tax ("UUT") pursuant to Title III, Chapter 34, Sections 150 through 199 of the Code of Indio, Ordinance No. 1539 passed, approved and adopted by vote of the people of the City on November 4, 2008; and

WHEREAS, over the past two years, the City has made millions of dollars in cuts from the city budget in order to operate as efficiently as possible; and

WHEREAS, the cost for essential services is still greater than existing revenues; and

WHEREAS, despite making over \$10 million in cuts, the City is still projecting more than a \$3 million annual deficit; and

WHEREAS, the City has already made budget cuts to address its deficit, by significantly reducing the total number of city employees providing service to the community, including: the early retirement of 29 employees retired, saving \$3.1 million; outright layoffs of 23 full-time service providers eliminated, saving \$2.6 million; and positions left vacant—10 positions, saving \$1.3 million; and

WHEREAS, with state funding being cut due to the \$21+ billion dollar budget deficit and the slowdown in the local economy, the City simply does not have enough money to maintain vital local services; and

WHEREAS, without additional local funds the City will be forced to make additional cuts to services, including our most costly services like public safety, which makes up 66.4% of General Fund expenditures, Public Works, which is 13.6% and Community Development which is 9.2%; and

WHEREAS, the Community has expressed clear priorities for the City of Indio, including a strong desire to:

- Retain 9-1-1 emergency dispatch operators;
- Maintain the City's ability to respond quickly and effectively to a natural disaster such as earthquakes;

- Maintain 9-1-1 emergency communications equipment, such as radios and computers;
- Maintain 9-1-1 emergency response times;
- Continue police gang and drug enforcement programs; and
- Retain experienced and preventing the City from having to lay off police officers; and

WHEREAS, studies show that as the economy gets worse, crime goes up, and the City has determined that without the additional funds provided by a local revenue source the City will have to cut the number of police officers patrolling our streets and neighborhoods and cut funding for youth gang and drug prevention programs, which are essential to keep our City safe, and stop gang members from surrounding areas from coming into our City; and

WHEREAS, recently, the City has made important community upgrades, which includes building a new neighborhood fire station, improving local streets and roads, parks, creating new programs at our local teen and senior centers, and greatly improving the availability of water to our homes and businesses and is committed to continue improving these vital Indio city services that are important to our quality of life; and

WHEREAS, all funds raised by this local measure are legally required to be spent in our City, ensuring local control of revenue and providing a guaranteed source of funding for vital City services and cannot be taken by Sacramento; and

WHEREAS, the City Council of the City of Indio, at its regular meeting scheduled for July 21, 2010, did duly and lawfully adopt a Resolution entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDIO, CALIFORNIA ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY, A MEASURE TO RAISE THE CITY OF INDIO'S UTILITY USERS' TAX RATE BY THREE PERCENT (3%), TO REQUIRE ISSUANCE OF A PUBLIC AUDIT REPORT REGARDING UTILITY USERS' TAX, AND TO CREATE A CITIZENS' FINANCE ADVISORY COMMISSION TO REVIEW AND MAKE RECOMMENDATIONS BASED UPON SAID REPORT, AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 2, 2010 AS CALLED BY RESOLUTION NO. 9410," submitting this Ordinance to the people of the City of Indio for approval.

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

SECTION 1. Chapter 34, Sections 153, 154, 155, 156, and 158 of the Code of Indio are hereby amended to change the tax rate of the City's Telecommunication Tax, Video Tax, Electricity Tax, Gas Tax, and Water Tax respectively from three percent (3%) to six percent (6%). Each reference to a three percent (3%) tax rate within these five (5) sections of the UUT Ordinance approved and adopted by the vote of the People of the City on November 4, 2008 shall be stricken

and replaced with a reference to a six percent (6%) tax rate.

SECTION 2. Chapter 34, Section 173 of the Code of Indio is hereby amended, adding the language that appears below in boldface type.

§ 34.173 Independent Audit of Tax Collection, Exemption, Remittance, and Expenditure, **Annual Public Report.**

The City shall annually verify that the taxes owed under this Chapter have been properly applied, exempted, collected, and remitted in accordance with this Chapter, and properly expended according to applicable municipal law. The annual verification shall be performed by a qualified independent third party and the review shall employ reasonable, cost-effective steps to assure compliance, including the use of sampling audits. The verification shall not be required of tax remitters where the cost of the verification may exceed the tax revenues to be reviewed. The substance of the annual verification shall be reduced to writing and issued as a public report to be reviewed and analyzed by the Citizens' Finance Advisory Commission established per Section 34.176, and ultimately received and filed by the City Council at a regularly scheduled public meeting. This annual public report shall directly and succinctly document the City's activity per this Chapter, subject to limitation only per California Revenue and Taxation Code Sections 7284.6 and 7284.7 and other applicable authority.

SECTION 3. Chapter 34, Section 167 of the Code of Indio is hereby amended, adding the language that appears below in boldface type.

§ 34.167 Records.

(f) The independent third party performing the tax audit and preparing the annual public report required by Section 34.173 shall verify that all City records generated and maintained per this Chapter comply with Generally Accepted Accounting Principles established by the Governmental Accounting Standards Board, or shall report otherwise to the Citizens' Finance Advisory Commission established by Section 34.176.

SECTION 4. Chapter 34, Section 176 is hereby added to the Code of Indio as follows in boldface type.

§34.176 Citizens' Finance Advisory Commission.

(a) A permanent "Citizens' Finance Advisory Commission" shall be established. This commission shall receive, review and analyze the annual public report issued by the City's auditor per Section 34.173. Within forty-five (45) days of completing this analysis, this commission shall present the annual public report to the City Council with its recommendation to receive and file same. The commission's recommendation shall include but not be limited to identification of City Council action warranted to address any irregularities noted in the annual public report.

(b) The Citizens' Finance Advisory Commission shall consist of five (5) citizen members, each appointed by a member of the City Council and serving on the commission in a manner consistent with Section 32.01, and as that section may be amended from time to time. Appointees shall be residents of the City; however, no member of the commission shall be an elected official, an employee of the City, or a vendor, contractor or consultant doing business with the City.

(c) Notwithstanding Section 32.01(E) or any other provision of law, Commission members shall serve without compensation.

(d) The Citizens' Finance Advisory Commission shall meet at least once per calendar year. All commission action, including but not limited to the setting, conduct and notice of meetings, shall be subject to the Brown Act codified at California Government Code Section 54950 *et seq.* The City Manager or his/her designee shall provide such reasonable administrative or technical assistance as may be required by the Commission.

(e) The City Manager shall ensure that Citizens' Finance Advisory Commission members receive all reports and other documents provided to the City Council relating to the administration of this Chapter, excluding attorney-client privileged communications. In addition, the City Manager shall, upon written request of any Citizens' Finance Advisory Commission member, provide said member with a copy of any specific document prepared by the Tax Administrator per this Chapter.

SECTION 5. Chapter 34, Section 154, Subdivision (f) of the Code of Indio is hereby added to the Code of Indio as follows in boldface type.

(f) Notwithstanding the six percent (6%) tax rate imposed upon persons using video services and collected by video service suppliers in the City specified in Subdivision (a) above, the tax imposed upon service users that obtain video services through a supplier of cable television shall be at the rate of three percent (3%) of the charges made for such services, and shall be collected from the service user by the supplier of cable television or its billing agent.

SECTION 6. Effective Date. This Chapter shall become effective immediately upon the date that this Ordinance is approved by the voters of the City of Indio at the Election of November 2, 2010.

SECTION 7. Amendment or Repeal. Except as precluded by applicable Federal and State law, the provisions of this Ordinance may be repealed or amended by the City Council without a vote of the people.

SECTION 8. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The City Council and voters of the City of

Indio hereby declare that they would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

SECTION 9. Execution. The Mayor is hereby authorized to attest to the adoption of this Ordinance by the voters of the City by signing where indicated below.

PASSED, APPROVED, and ADOPTED by vote of the People of the City of Indio, California on the 2nd day of November 2010.



GENE GILBERT, MAYOR

ATTEST:



**CYNTHIA HERNANDEZ, CMC
CITY CLERK**

Handwritten signature or scribble.