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**EXHIBIT "A"**

**ORDINANCE NO. 08-\_\_**

**AN ORDINANCE OF THE CITY OF INGLEWOOD ADDING ARTICLE  
15 TO CHAPTER 9 OF THE INGLEWOOD MUNICIPAL CODE WITH  
RESPECT TO A COMMUNICATION USERS' TAX.**

**THE PEOPLE OF THE CITY OF INGLEWOOD DO ORDAIN AS  
FOLLOWS:**

**SECTION 1:** Article 15 is hereby added to Chapter 9 of  
the Inglewood Municipal Code, and it shall read as follows:

Article 15

COMMUNICATION USERS' TAX

- 9-330 Short Title.
- 9-331 Definitions.
- 9-332 Constitutional, Statutory, and Other Exemptions.
- 9-333 Communication Users' Tax.
- 9-334 Bundling Taxable Items with Non-taxable Items
- 9-335 Substantial Nexus / Minimum Contacts.
- 9-336 Duty to collect--Procedures.
- 9-337 Collection Penalties - Service Suppliers.
- 9-338 Actions to Collect.
- 9-339 Deficiency Determination and Assessment - Tax  
Application Errors.
- 9-340 Administrative Remedy - Non-Paying Service Users.
- 9-341 Additional powers and duties of the Tax  
Administrator.
- 9-342 Records.

- 1 9-343 Refunds.
- 2 9-344 Refunds for Senior Citizens.
- 3 9-345 Appeals.
- 4 9-346 Notice No Injunction/Writ of Mandate.
- 5 9-347 Notice of Changes to Ordinance.
- 6 9-348 Future Amendment to Cited Statute.
- 7 9-349 Use of Tax Proceeds
- 8 9-350 Independent Audit of Tax Collection, Exemption,
- 9 Remittance, and Expenditure.
- 10 9-351 Interaction with Prior Tax
- 11 9-352 No Increase in Tax Percentage or Change in Methodology
- 12 Without Voter Approval

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15 **9-330 Short Title**

16 This Article shall be known as the "Communication Users'  
17 Tax Law" of the City.

18

19 **9-331 Definitions.**

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

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

26 (1) "Conference bridging service" means an  
27 ancillary service that links two or more  
28 participants of an audio or video conference call

1 and may include the provision of a telephone  
2 number. Conference bridging service does not  
3 include the telecommunications services used to  
4 reach the conference bridge.

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

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

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

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

25 (b) "Ancillary video services" means services that  
26 are associated with or incidental to the provision or  
27 delivery of video services, including but not limited to  
28 electronic program guide services, recording and search

1 functions, or other interactive services or communications  
2 that are associated with or incidental to the provision,  
3 use or enjoyment of video services.

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

7 (d). "City" shall mean the City of Inglewood.

8 (e). "Communication Services" means:  
9 "telecommunication services", "ancillary telecommunication  
10 services", "video services" and "ancillary video services".

11 (f). "Mobile Telecommunications Service" has the same  
12 meaning and usage as set forth in the Mobile  
13 Telecommunications Sourcing Act (4 U.S.C. Section 124) and  
14 the regulations thereunder, and California Public Utilities  
15 Code Section 247.1(c) (5).

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

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

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

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

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

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

21           (m). "Private telecommunication service" means a  
22 telecommunication service that entitles the customer to  
23 exclusive or priority use of a communications channel or  
24 group of channels between or among termination points,  
25 regardless of the manner in which such channel or channels  
26 are connected, and includes switching capacity, extension  
27 lines, stations, and any other associated services that are  
28 provided in connection with the use of such channel or

1 channels. A communications channel is a physical or  
2 virtual path of communications over which signals are  
3 transmitted between or among customer channel termination  
4 points (i.e., the location where the customer either inputs  
5 or receives the communications).

6 (n). "Service Address" means either:

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

12 (2) If the location in subsection (1) of this  
13 definition is unknown (e.g., mobile  
14 telecommunications service or VoIP service), the  
15 service address means the location of the service  
16 user's place of primary use.

17 (3) For prepaid telecommunication service,  
18 "service address" means the location associated  
19 with the service number.

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

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

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

26 (r) "Streamlined Sales and Use Tax Agreement shall mean the  
27 multi-state agreement commonly known and referred to as the  
28

1 Streamlined Sales and Use Tax Agreement, and as it is amended  
2 from time to time.

3 (s). "Tax Administrator" means the finance director of  
4 the city or his or her designee.

5 (t). "Telecommunications services" means the transmission,  
6 conveyance, or routing of voice, data, audio, video, or any other  
7 information or signals to a point, or between or among points,  
8 whatever the technology used. The term "telecommunications  
9 services" includes such transmission, conveyance, or routing in  
10 which computer processing applications are used to act on the  
11 form, code or protocol of the content for purposes of  
12 transmission, conveyance or routing without regard to whether  
13 such services are referred to as voice over internet protocol  
14 (VoIP) services or are classified by the Federal  
15 Telecommunications Commission as enhanced or value added, and  
16 includes video and/or data services that is functionally  
17 integrated with "telecommunication services".

18 "Telecommunications services" include, but are not limited to the  
19 following services, regardless of the manner or basis on which  
20 such services are calculated or billed: ancillary  
21 telecommunication services; mobile telecommunications service;  
22 prepaid telecommunication service; post-paid telecommunication  
23 service; private telecommunication service; paging service; VoIP,  
24 800 service; and 900 service.

25 (u) "Video Programming" means those programming  
26 services commonly provided to subscribers by a "video  
27 service supplier" including but not limited to basic  
28 services, premium services, audio services, video games,  
29 pay-per-view services, video on demand, origination  
30 programming, or any other similar services, regardless of

1 the content of such video programming, or the technology  
2 used to deliver such services, and regardless of the manner  
3 or basis on which such services are calculated or billed.

4  
5 (v) "Video Services" means "video programming" and any and  
6 all services related to the providing, recording, delivering, use  
7 or enjoyment of "video programming" (including origination  
8 programming and programming using Internet Protocol, e.g., IP-TV  
9 and IP-Video) using one or more channels by a "video service  
10 supplier", regardless of the technology used to deliver, store or  
11 provide such services, and regardless of the manner or basis on  
12 which such services are calculated or billed, and includes  
13 ancillary video services, data services, "telecommunication  
14 services", or interactive communication services that are  
15 functionally integrated with "video services".

16 (w) "Video Service Supplier" means any person,  
17 company, or service which provides or sells one or more  
18 channels of video programming, or provides or sells the  
19 capability to receive one or more channels of video  
20 programming, including any communications that are  
21 ancillary, necessary or common to the provision, use or  
22 enjoyment of the video programming, to or from a business  
23 or residential address in the City, where some fee is paid,  
24 whether directly or included in dues or rental charges for  
25 that service, whether or not public rights-of-way are  
26 utilized in the delivery of the video programming or  
27 communications. A "video service supplier" includes, but  
28 is not limited to, multichannel video programming  
distributors [as defined in 47 U.S.C.A. Section 522(13)];

1 open video systems (OVS) suppliers; and suppliers of cable  
2 television; master antenna television; satellite master  
3 antenna television; multichannel multipoint distribution  
4 services (MMDS); video services using internet protocol  
5 (e.g., IP-TV and IP-Video, which provide, among other  
6 things, broadcasting and video on demand), direct broadcast  
7 satellite to the extent federal law permits taxation of its  
8 video services, now or in the future; and other suppliers  
9 of video programming or communications (including two-way  
10 communications), whatever their technology.

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

14  
15 (y) "800 service" means a "telecommunications service"  
16 that allows a caller to dial a toll-free number without  
17 incurring a charge for the call. The service is typically  
18 marketed under the name "800", "855", "866", "877", and "888"  
19 toll-free calling, and any subsequent numbers designated by the  
20 Federal Communications Commission.

21 (z) "900 service" means an inbound toll  
22 "telecommunications service" purchased by a subscriber that  
23 allows the subscriber's customers to call in to the subscriber's  
24 prerecorded announcement or live service. "900 service" does not  
25 include the charge for: collection services provided by the  
26 seller of the "telecommunications services" to the subscriber,  
27 or service or product sold by the subscriber to the subscriber's  
28 customer. The service is typically marketed under the name "900"

1 service, and any subsequent numbers designated by the Federal  
2 Communications Commission.

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4 **9-332 Constitutional, statutory, and other exemptions.**

5 (a) Nothing in this Article shall be construed as  
6 imposing a tax upon any person or service when the  
7 imposition of such tax upon such person or service would be  
8 in violation of a federal or state statute, the  
9 Constitution of the United States or the Constitution of  
10 the State.

11 (b) Any service user that is exempt from the tax  
12 imposed by this Article pursuant to subsection (a) of this  
13 section shall file an application with the Tax  
14 Administrator for an exemption; provided, however, this  
15 requirement shall not apply to a service user that is a  
16 state or federal agency or subdivision with a commonly  
17 recognized name for such service. Said application shall be  
18 made upon a form approved by the Tax Administrator and  
19 shall state those facts, declared under penalty of perjury,  
20 which qualify the applicant for an exemption, and shall  
21 include the names of all communication service suppliers  
22 serving that service user. If deemed exempt by the Tax  
23 Administrator, such service user shall give the Tax  
24 Administrator timely written notice of any change in  
25 communication service suppliers so that the Tax  
26 Administrator can properly notify the new communication  
27 service supplier of the service user's tax exempt status. A  
28 service user that fails to comply with this section shall

1 not be entitled to a refund of communication users' taxes  
2 collected and remitted to the Tax Administrator from such  
3 service user as a result of such noncompliance.

4 The decision of the Tax Administrator may be appealed  
5 pursuant to Section 9-345 of this Article. Filing an  
6 application with the Tax Administrator and appeal to the  
7 City Administrator pursuant to Section 9-345 of this  
8 Article is a prerequisite to a suit thereon.

9 (c). The City Council may, by resolution, establish  
10 one or more classes of persons or one or more classes of  
11 communication service otherwise subject to payment of a tax  
12 imposed by this Article and provide that such classes of  
13 persons or service shall be exempt, in whole or in part  
14 from such tax for a specified period of time.

15  
16 **9-333 Communication Users' Tax.**

17 (a). There is hereby imposed a tax upon every person  
18 in the City using communication services. The maximum tax  
19 imposed by this section shall be at the rate of eight  
20 percent (8%) of the charges made for such services and  
21 shall be collected from the service user by the  
22 communication services supplier or its billing agent.  
23 There is a rebuttable presumption that communication  
24 services, which are billed to a billing or service address  
25 in the City, are used, in whole or in part, within the  
26 City's boundaries, and such services are subject to  
27 taxation under this Article. If the billing address of the  
28 service user is different from the service address, the

1 service address of the service user shall be used for  
2 purposes of imposing the tax. As used in this Section,  
3 the term "charges" shall include the value of any other  
4 services, credits, property of every kind or nature, or  
5 other consideration provided by the service user in  
6 exchange for the communication services.

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

20 (c). The Tax Administrator may issue and disseminate  
21 to communication service suppliers, which are subject to  
22 the tax collection requirements of this Article, an  
23 administrative ruling identifying those communication  
24 services, or charges therefor, that are subject to or not  
25 subject to the tax of subsection (a) above.

26 (d). As used in this section, the term "telecommunication  
27 services" shall include, but are not limited to charges for:  
28 connection, reconnection, termination, movement, or change of

1 telecommunication services; late payment fees; detailed billing;  
2 central office and custom calling features(including but not  
3 limited to call waiting, call forwarding, caller identification  
4 and three-way calling); voice mail and other messaging services;  
5 directory assistance; access and line charges; universal service  
6 charges; regulatory, administrative and other cost recovery  
7 charges; local number portability charges; and text and instant  
8 messaging. "Telecommunication services" shall not include  
9 digital downloads that are not "ancillary telecommunications  
10 services", such as books, music, ringtones, games, and similar  
11 digital products.

12 (e) Charges for communication services (video) shall  
13 include, but are not limited to, charges for the following:

- 14 (1) regulatory fees and surcharges, franchise  
15 fees and access fees (PEG);
- 16 (2) initial installation of equipment necessary  
17 for provision and receipt of communication  
18 services;
- 19 (3) late fees, collection fees, bad debt  
20 recoveries, and return check fees;
- 21 (4) activation fees, reactivation fees, and  
22 reconnection fees;
- 23 (5) video programming and video services;
- 24 (6) ancillary programming services (e.g.,  
25 electronic program guide services, recording and  
26 search functions, or other interactive services  
27 or communications that are ancillary, necessary  
28 or common to the use or enjoyment of the video  
programming);

1 (7) equipment leases (e.g., converters and remote  
2 devices); and,  
3 (8) service calls, service protection plans,  
4 name changes, changes of services, and special  
5 services.

6 (f). To prevent actual multi-jurisdictional taxation  
7 of communication services subject to tax under this  
8 section, any service user, upon proof to the Tax  
9 Administrator that the service user has previously paid the  
10 same tax in another state or city on such communication  
11 services, shall be allowed a credit against the tax imposed  
12 to the extent of the amount of such tax legally imposed in  
13 such other state or city; provided, however, the amount of  
14 credit shall not exceed the tax owed to the City under this  
15 section.

16 (g). The tax on communication services imposed by this  
17 section shall be collected from the service user by the  
18 service supplier. The amount of tax collected in one (1)  
19 month shall be remitted to the Tax Administrator, and must  
20 be received by the Tax Administrator on or before the  
21 twentieth (20th) day of the following month.  
22

23 **9-334 Bundling Taxable Items with Non-Taxable Items.**  
24 If any nontaxable charges are combined with and not separately  
25 stated from taxable service charges on the customer bill or  
26 invoice of a service supplier, the combined charge is subject to  
27 tax unless the service supplier identifies, by reasonable and  
28 verifiable standards, the portions of the combined charge that

1 are nontaxable and taxable through the service supplier's books  
2 and records kept in the regular course of business, and in  
3 accordance with generally accepted accounting principles, and  
4 not created and maintained for tax purposes. The service  
5 supplier has the burden of proving the proper apportionment of  
6 taxable and non-taxable charges. If the service supplier offers  
7 a combination of taxable and non-taxable services, and the  
8 charges are separately stated, then for taxation purposes, the  
9 values assigned the taxable and non-taxable services shall be  
10 based on its books and records kept in the regular course of  
11 business and in accordance with generally accepted accounting  
12 principles, and not created and maintained for tax purposes.  
13 The service supplier has the burden of proving the proper  
14 valuation of the taxable and non-taxable services.

15 **9-335 Substantial Nexus / Minimum Contacts.**

16 For purposes of imposing a tax or establishing a duty to  
17 collect and remit a tax under this Article, "substantial  
18 nexus" and "minimum contacts" shall be construed broadly in  
19 favor of the imposition, collection and/or remittance of  
20 the utility users tax to the fullest extent permitted by  
21 state and federal law, and as it may change from time to  
22 time by judicial interpretation or by statutory enactment.  
23 Any communication service (including VoIP) used by a person  
24 with a service address in the City, which service is  
25 capable of terminating a call to another person on the  
26 general telephone network, shall be subject to a rebuttable  
27 presumption that "substantial nexus/minimum contacts"  
28 exists for purposes of imposing a tax, or establishing a

1 duty to collect and remit a tax, under this Article. A  
2 service supplier shall be deemed to have sufficient  
3 activity in the City for tax collection and remittance  
4 purposes if its activities include, but are not limited to,  
5 any of the following: maintains or has within the City,  
6 directly or through an agent or subsidiary, a place of  
7 business of any nature; solicits business in the City by  
8 employees, independent contractors, resellers, agents or  
9 other representatives; solicits business in the City on a  
10 continuous, regular, seasonal or systematic basis by means  
11 of advertising that is broadcast or relayed from a  
12 transmitter with the City or distributed from a location  
13 with the City; or advertises in newspapers or other  
14 periodicals printed and published within the City or  
15 through materials distributed in the City by means other  
16 than the United States mail.

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19 **9-336 Duty to Collect--Procedures.**

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

24 (1) The tax shall be collected by service  
25 suppliers insofar as practicable at the same time  
26 as, and along with, the collection of the charges  
27 made in accordance with the regular billing  
28 practice of the service supplier. Where the

1 amount paid by a service user to a service  
2 supplier is less than the full amount of the  
3 charge and tax which was accrued for the billing  
4 period, a proportionate share of both the charge  
5 and the tax shall be deemed to have been paid. In  
6 those cases where a service user has notified the  
7 service supplier of refusal to pay the tax  
8 imposed on said charges, Section 9-340 shall  
9 apply.

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

20 (b) Filing Return and Payment. Each person required  
21 by this Article to remit a tax shall file a return to the  
22 Tax Administrator, on forms approved by the Tax  
23 Administrator, on or before the due date. The full amount  
24 of the tax collected shall be included with the return and  
25 filed with the Tax Administrator. The Tax Administrator is  
26 authorized to require such additional information as he or  
27 she deems necessary to determine if the tax is being  
28 levied, collected, and remitted in accordance with this

1 Article. Returns are due immediately upon cessation of  
2 business for any reason. Pursuant to Revenue and Tax Code  
3 Section 7284.6, the Tax Administrator, and its agents,  
4 shall maintain such filing returns as confidential  
5 information that is exempt from the disclosure provisions  
6 of the Public Records Act.

7  
8 **9-337 Collection Penalties - Service Suppliers.**

9 (a) Taxes collected from a service user are delinquent  
10 if not received by the Tax Administrator on or before the  
11 due date. Should the due date occur on a weekend or legal  
12 holiday, the return must be received by the Tax  
13 Administrator on the first regular working day following  
14 the weekend or legal holiday. A direct deposit, including  
15 electronic fund transfers and other similar methods of  
16 electronically exchanging monies between financial  
17 accounts, made by a service supplier in satisfaction of its  
18 obligations under this subsection shall be considered  
19 timely if the transfer is initiated on or before the due  
20 date, and the transfer settles into the City's account on  
21 the following business day.

22 (b) If the person required to collect and/or remit the  
23 utility users' tax fails to collect the tax (by failing to  
24 properly assess the tax on one or more services or charges  
25 on the customer's billing) or fails to remit the tax  
26 collected on or before the due date, the Tax Administrator  
27 shall attach a penalty for such delinquencies or  
28 deficiencies at the rate of fifteen (15%) percent of the

1 total tax that is delinquent or deficient in the  
2 remittance, and shall pay interest at the rate of and  
3 75/100ths (0.75%) percent per month, or any fraction  
4 thereof, on the amount of the tax, exclusive of penalties,  
5 from the date on which the remittance first became  
6 delinquent, until paid.

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

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

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

25  
26 **9-338 Actions to Collect.**

27 Any tax required to be paid by a service user under the  
28 provisions of this Article shall be deemed a debt owed by

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

16

17 **9-339 Deficiency Determination and Assessment - Tax**

18 **Application Errors.**

19 (a) The Tax Administrator shall make a deficiency  
20 determination if he or she determines that any service user or  
21 service supplier required to pay or collect taxes pursuant to the  
22 provisions of this Article has failed to pay, collect, and/or  
23 remit the proper amount of tax by improperly or failing to apply  
24 the tax to one or more taxable services or charges. Nothing  
25 herein shall require that the Tax Administrator institute  
26 proceedings under this Section 9-339 if, in the opinion of the  
27 Tax Administrator, the cost of collection or enforcement likely  
28 outweighs the tax benefit.

(b) The Tax Administrator shall mail a notice of such  
deficiency determination to the person or entity allegedly owing

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

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

21 (d) At the time fixed for the hearing, the Tax Administrator  
22 shall hear all relevant testimony and evidence, including that of  
23 any other interested parties. At the discretion of the Tax  
24 Administrator, the hearing may be continued from time to time for  
25 the purpose of allowing the presentation of additional evidence.  
26 Within a reasonable time following the conclusion of the hearing,  
27 the Tax Administrator shall issue a final assessment (or non-  
28 assessment), thereafter, by confirming, modifying or rejecting  
the original deficiency determination, and shall mail a copy of  
such final assessment to person or entity owing the tax. The  
decision of the Tax Administrator may be appealed pursuant to  
Section 9-345 of this Article. Filing an application with the

1 Tax Administrator and appeal to the City Administrator pursuant to  
2 Section 9-345 of this Article is a prerequisite to a suit thereon.

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

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

19 **9-340 Administrative Remedy - Non-Paying Service Users.**

20 (a) Whenever the Tax Administrator determines that a service  
21 user has deliberately withheld the amount of the tax owed by the  
22 service user from the amounts remitted to a person required to  
23 collect the tax, or whenever the Tax Administrator deems it in  
24 the best interest of the City, he or she may relieve such person  
25 of the obligation to collect the taxes due under this Article  
26 from certain named service users for specific billing periods.  
27 To the extent the service user has failed to pay the amount of  
28 tax owed for a period of two (2) or more billing periods, the  
service supplier shall be relieved of the obligation to collect

1 taxes due. The service supplier shall provide the City with the  
2 names and addresses of such service users and the amounts of  
3 taxes owed under the provisions of this Article. Nothing herein  
4 shall require that the Tax Administrator institute proceedings  
5 under this Section 9-340 if, in the opinion of the Tax  
6 Administrator, the cost of collection or enforcement likely  
7 outweighs the tax benefit.

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

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

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

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**9-341 Additional Powers and Duties of the Tax Administrator.**

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

(b) The Tax Administrator may adopt administrative rules and regulations consistent with provisions of this Article for the purpose of interpreting, clarifying, carrying out and enforcing the payment, collection and remittance of the taxes herein imposed. The administrative ruling shall not impose a new tax, revise an existing tax methodology as stated in this Section, or increase an existing tax, except as allowed by California Government Code Section 53750(h)(2). To the extent that the Tax Administrator determines that the tax imposed under this article shall not be collected in full for any period of time from any particular service suppliers or Service Users, that determination shall be considered an exercise of the Tax Administrator's discretion to settle disputes and shall not constitute a change in taxing methodology for purposes of Government Code section 53750 or otherwise. The Tax Administrator is not authorized to amend the City's methodology for purposes of Government Code section 53750 and the City does not waive or abrogate its ability to impose the communications users' tax in full as a result of promulgating administrative rulings or entering into agreements. A copy of such administrative rulings and agreements shall be on file in the Tax Administrator's office.

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

13           (d) The Tax Administrator may conduct an audit, to  
14 ensure proper compliance with the requirements of this  
15 Article, of any person required to collect and/or remit a  
16 tax pursuant to this Article. The Tax Administrator shall  
17 notify said person of the initiation of an audit in  
18 writing. In the absence of fraud or other intentional  
19 misconduct, the audit period of review shall not exceed a  
20 period of three (3) years next preceding the date of  
21 receipt of the written notice by said person from the Tax  
22 Administrator. Upon completion of the audit, the Tax  
23 Administrator may make a deficiency determination pursuant  
24 to Section 9-339 of this Article for all taxes (and  
25 applicable penalties and interest) owed and not paid, as  
26 evidenced by information provided by such person to the Tax  
27 Administrator. If said person is unable or unwilling to  
28 provide sufficient records to enable the Tax Administrator

1 to verify compliance with this Article, the Tax  
2 Administrator is authorized to make a reasonable estimate  
3 of the deficiency. Said reasonable estimate shall be  
4 entitled to a rebuttable presumption of correctness.

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

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

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

26  
27 **9-342 Records.**

28

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

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

26 (c) The Tax Administrator is authorized to execute a  
27 non-disclosure agreement approved by the City Attorney to  
28 protect the confidentiality of customer information

1 pursuant to California Revenue and Tax Code Sections 7284.6  
2 and 7284.7.

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

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

26  
27 **9-343 Refunds.**

28

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

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

22 (b) The filing of a written claim pursuant to  
23 Government Code Section 935 is a prerequisite to any suit  
24 thereon. Any action brought against the City pursuant to  
25 this section shall be subject to the provisions of  
26 Government Code Sections 945.6 and 946. The Tax  
27 Administrator, or the City Council where the claim is in  
28 excess of five thousand dollars (\$5,000), shall act upon

1 the refund claim within the time period set forth in  
2 Government Code Section 912.4. If the Tax  
3 Administrator/City Council fails or refuses to act on a  
4 refund claim within the time prescribed by Government  
5 Section 912.4, the claim shall be deemed to have been  
6 rejected by the City Council on the last day of the period  
7 within which the City Council was required to act upon the  
8 claim as provided in Government Code Section 912.4. The Tax  
9 Administrator shall give notice of the action in a form  
10 which substantially complies with that set forth in  
11 Government Code Section 913.

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

(d) Notwithstanding subsections (a) through (c) above, a  
service supplier shall be entitled to take any overpayment as a

1 credit against an underpayment whenever such overpayment has been  
2 received by the City within the three (3) years next preceding a  
3 deficiency determination or assessment by the Tax Administrator  
4 in connection with an audit instituted by the Tax Administrator  
5 pursuant to Section 9-341(d). A service supplier shall not be  
6 entitled to said credit unless it clearly establishes the right  
7 to the credit by written records showing entitlement thereto.  
8 Under no circumstances shall an overpayment taken as a credit  
9 against an underpayment pursuant to this subsection qualify a  
10 service supplier for a refund to which it would not otherwise be  
11 entitled under the one-year written claim requirement of this  
12 section.

13 **9-344 Refunds - Senior Citizens.**

14 (a) The tax imposed by this Article 15 on charges  
15 made for communication services to the personal residence  
16 of any person who is sixty-two years of age or older shall  
17 be subject to refund following payment provided that:

18 (1) The gross annual income of such person during  
19 the year such taxes were paid was less than  
20 sixteen thousand dollars (\$16,000.00), or in the  
21 case of a husband and wife living together in  
22 such residence, their combined gross annual  
23 income was less than sixteen thousand dollars  
24 (\$16,000.00).

25 (2) If applicant resides in a duplex or in a  
26 multiple dwelling and a utility billing involves  
27 service to more units than the one occupied by  
28 the applicant, then the refund shall be limited

1 pro rata to the portion attributable to such unit  
2 utilized as applicant's residence.

3 (3) If applicant has shared a residence with  
4 parents or adult sons or daughters during the  
5 entire period subject to said utility tax,  
6 applicant shall be eligible for a pro rata refund  
7 of the utility tax levied on utility service to  
8 such residence computed upon the basis of the  
9 applicant's total income in relation to the total  
10 income of all such related persons.

11 (b) Persons eligible for refund of utility taxes  
12 pursuant to Section 9-88.0 may make application for refund  
13 of such taxes paid during the immediately preceding year by  
14 duly completing an application form provided by the Finance  
15 Department. Each application shall contain a declaration  
16 under penalty of perjury as to the truthfulness of the  
17 following:

18 (1) Name and address of applicant and parent,  
19 adult son or daughter residing with applicant  
20 during the entire period subject to the utility  
21 tax;

22 (2) Birth date of applicant;

23 (3) Amount of utility taxes paid each month of  
24 the calendar year period;

25 (4) The source, amount of all income received by  
26 applicant, parents, adult sons or daughters  
27 during the entire period for which refund is  
28 claimed; and,

1           (5) Such other information or data (including  
2           income tax returns) as may be required by the  
3           Finance Director.

4           (c) Refunds shall be made on a fiscal year basis on  
5           applications duly submitted to the Finance Director after  
6           July 1st of each year and before June 30th of the next  
7           preceding year.

8

9           **9-345 Appeals.**

10           (a) The provisions of this section apply to any  
11           decision (other than a decision relating to a refund  
12           pursuant to Section 9-343 or 9-344 of this Article),  
13           deficiency determination, assessment, or administrative  
14           ruling of the Tax Administrator. Any person aggrieved by  
15           any decision (other than a decision relating to a refund  
16           pursuant to Section 9-343 or 9-344 of this Article),  
17           deficiency determination, assessment, or administrative  
18           ruling of the Tax Administrator, shall be required to  
19           comply with the appeals procedure of this section.  
20           Compliance with this section shall be a prerequisite to a  
21           suit thereon. [See Government Code Section 935(b)].  
22           Nothing herein shall permit the filing of a claim or action  
23           on behalf of a class or group of taxpayers.

24           (b) If any person is aggrieved by any decision (other  
25           than a decision relating to a refund pursuant to Section 9-  
26           343 or 9-344 of this Article), deficiency determination,  
27           assessment, or administrative ruling of the Tax  
28           Administrator; he or she may appeal to the City

1 Administrator by filing a notice of appeal with the City  
2 Clerk within fourteen (14) days of the date of the  
3 decision, deficiency determination, assessment, or  
4 administrative ruling of the Tax Administrator which  
5 aggrieved the service user or service supplier.

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

18 (d) Based upon the submission of such evidence and the  
19 review of the City's files, the hearing officer shall issue  
20 a written notice and order upholding, modifying or  
21 reversing the determination from which the appeal is taken.  
22 The notice shall be given within fourteen (14) days after  
23 the conclusion of the hearing and shall state the reasons  
24 for the decision. The notice shall specify that the  
25 decision is final and that any petition for judicial review  
26 shall be filed within ninety (90) days from the date of the  
27 decision in accordance with Code of Civil Procedure Section  
28 1094.6.

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

5  
6 **9-346 No Injunction/Writ of Mandate.**

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

13  
14 **9-347 Notice of changes to ordinance.**

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

19  
20 **9-348 Future Amendment to Cited Statute.**

21 Unless specifically provided otherwise, any reference to a state  
22 or federal statute in this Article shall mean such statute as it  
23 may be amended from time to time, provided that such reference to  
24 a statute herein shall not include any subsequent amendment  
25 thereto, or to any subsequent change of interpretation thereto by  
26 a state or federal agency with the duty to interpret such law, or  
27 by a court of law, to the extent that such amendment or change of  
28 interpretation would result in an increased tax that would  
require voter approval under California law.

1 **9-349 Use of Tax Proceeds**

2 Proceeds of the tax imposed pursuant to this Article shall  
3 be deposited in the general fund of the City and be  
4 available for any legal purpose.

5  
6 **9-350 Independent Audit of Tax Collection, Exemption,  
7 Remittance, and Expenditure.**

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

19  
20 **9-351 Interaction with Prior Tax**

21 (a). Satisfaction of Tax Obligation by Service Users.  
22 Any person who pays the tax levied pursuant to Section 9-  
23 333 of this Article 15 with respect to any charge for a  
24 communication service shall be deemed to have satisfied his  
25 or her obligation to pay the tax levied pursuant to Article  
26 9, Sections 9-70 and 9-75 of this Code with respect to that  
27 charge. Likewise, prior to May 1, 2009, any person who  
28 pays the tax levied pursuant to Article 9, Sections 9-70

1 and 9-75 of this Code with respect to any charge for a  
2 service subject to taxation pursuant to this Article 15  
3 shall be deemed to have satisfied his or her obligation to  
4 pay the tax levied pursuant to Section 9-333 of this  
5 Article 15 with respect to that charge. The intent of this  
6 paragraph is to prevent the imposition of multiple taxes  
7 upon a single utility charge during the transition period  
8 from the prior telephone and video users' tax to the new  
9 communication users' tax (which transition period ends May  
10 1, 2009) and to permit communications service providers,  
11 during that transition period to satisfy their collection  
12 obligations by collecting either tax.

13 (b). Collection of Tax by Service Providers.  
14 Service providers shall begin to collect the tax imposed by  
15 this Article as soon as feasible after the effective date  
16 of the Article, but in no event later than permitted by  
17 Section 799 of the California Public Utilities Code.

18 (c) In the event that a final court order should determine  
19 that the election enacting this Article 15 is invalid for  
20 whatever reason, or that any tax imposed under this Article 15  
21 is invalid in whole or in part, then the tax imposed under  
22 Article 9, Sections 9-70 and 9-75 of this Code (unless repealed)  
23 shall automatically continue to apply with respect to any  
24 service for which the tax levied pursuant to this Article 15 has  
25 been determined to be invalid. Such automatic continuation  
26 shall be effective beginning as of the first date of service (or  
27 billing date) for which the tax imposed by this Article is not  
28 valid. However, in the event of an invalidation, any tax (other  
than a tax that is ordered refunded by the court or is otherwise

1 refunded by the City) paid by a person with respect to a service  
2 and calculated pursuant to this Article 15 shall be deemed to  
3 satisfy the tax imposed under Article 9, Sections 9-70 and 9-75 of  
4 this Code on that service, so long as the tax is paid with respect  
5 to a service provided no later than six months subsequent to the  
6 date on which the final court order is published.

7 **9-352 No Increase in Tax Percentage or Change in Methodology**  
8 **Without Voter Approval.**

9  
10 (a) Regarding Section 9-333, the City may not increase the tax  
11 percentage or change a methodology for calculating the tax so as  
12 to result in an increase in a tax imposed on a person, without  
13 voter approval.

14 (b) Notwithstanding (a), pursuant to *Government Code Section*  
15 *53750*, the City may make the following changes without voter  
16 approval:

17  
18 1) reduce the percentage rate, and at any time thereafter  
19 increase such percentage rate, so long as the subsequent  
20 increase does not exceed the rate previously approved by the  
21 voters in the enactment of this ordinance;

22 2) change the methodology so as to reduce the amount of the  
23 tax being levied, and at any time thereafter change the  
24 methodology, so long as the subsequent change in methodology  
25 does not result in an increase in the amount being levied  
26 under the methodology previously approved by the voters in  
27 the enactment of this ordinance;

28

1 3) change a methodology or definition so as to avoid or  
2 eliminate a discriminatory tax on taxpayers that are  
3 similarly situated, so long as the change does not result in  
4 an increase in the amount levied on such class of similarly  
5 situated taxpayers under the methodology or definition  
6 previously approved by the voters in the enactment of this  
7 ordinance;

8 4) establish a class of persons that is exempt or excepted  
9 from one or more taxes hereunder, and at any time thereafter,  
10 discontinue such exemption or exception;

11 5) decide that all or a part of a tax imposed under this  
12 Article should not be enforced for administrative reasons,  
13 and at any time thereafter, decide to enforce the full amount  
14 of such tax as previously approved by the voters in the  
15 enactment of this ordinance; or,

16  
17 6) establish, and at any time thereafter change, the value  
18 and/or apportionment (including a "safe harbor" percentage)  
19 of taxable and nontaxable services that are bundled or  
20 packaged under a combined charge, in response to changes in  
21 the marketing of combined services and the components  
22 thereof, or in reevaluating the values thereof [*See Section*  
23 *9-334*].

24 **SECTION 2. Effective Date.** This Article shall  
25 become effective immediately upon the date that this  
26 Ordinance is confirmed and approved by the voters of  
27 Inglewood at the Municipal General Election of November 4,  
28 2008.

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**SECTION 3. Amendment or Repeal.** Article 15 of Chapter 9 of the Inglewood Municipal Code may be repealed or amended by the City Council without a vote of the people. However, as required by Article XIIIC of the California Constitution, voter approval is required for any amendment provision that would increase the rate of any tax levied pursuant to this Ordinance.

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

**SECTION 5. Ratification of Prior Tax.** The voters of the City of Inglewood hereby ratify and approve the past collection of the Telephone and Video Users' Tax under Chapter 9, Article 9, Sections 9-70 and 9-75 of the Inglewood Municipal Code as it existed prior to the effective date of this Ordinance.

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

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5

6           I hereby certify that the foregoing Ordinance was  
7 PASSED, APPROVED and ADOPTED by the people of the City of  
8 Inglewood voting on the 4th day of November, 2008.

9  
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11

\_\_\_\_\_  
12 Mayor

13  
14

ATTEST:

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16  
17

\_\_\_\_\_  
18 City Clerk

19  
20

APPROVED AS TO FORM:

21  
22

\_\_\_\_\_  
23 City Attorney

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