RESOLUTION NO. 41-09

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
RICHMOND, CALIFORNIA TO SUBMIT TO THE VOTERS OF THE
CITY OF RICHMOND AT THE NOVEMBER 2, 2010 GENERAL
MUNICIPLA ELECTION AN ORDINANCE RELATING TO THE CITY'S
TELECOMMUNICATIONS, GAS, ELECTRICITY, WATER AND VIDEO
USERS' TAX SO THAT ALL USERS, INCLUDING LARGE INDUSTRIAL
USERS, SHALL PAY UTILITY TAXES BASED ON ACTUAL USAGE,
AND TO ELIMINATE ANY UNCERTAINTY AND ENSURE THAT THE
TAX COVERS ALL GAS WHICH IS USED OR CONSUMED TO
PRODUCE ENERGY OR FOR ANY OTHER PURPOSE**

WHEREAS, pursuant to Chapter 13.52 of the Richmond Municipal Code, the City currently levies a Utility Users' Tax; and

WHEREAS, Section 13.52.060 of the Code specifies application of the tax to users of gas; and

WHEREAS, Chapter 13.52 generally provides that amount of tax paid by a utility user is based on the actual usage by the utility user; and

WHEREAS, Sections 13.52.100 and 13.54.160 of the Code provide for a "Maximum Tax Payable" that allows a large utility user to choose to pay an amount that is not based on actual usage; and

WHEREAS, the City Council desires to eliminate the "Maximum Tax Payable" pursuant to Section 13.52.100 and Section 13.54.160 of the Code, so that all service users, including large utility users, pay Utility Users' Taxes based on actual use; and

WHEREAS, Section 13.52.060 of the Code specifies application of the tax to any person using gas in the City which is transported through a pipeline distribution system or by mobile transport, including gas provided by self-production, but excluding gas which is to be resold; and

WHEREAS, the City Council desires to make revisions to Section 13.52.060 of the Code in order to eliminate any uncertainty and ensure that the tax covers all gas which is used or consumed to produce energy or for any other purpose, including gas transmitted by internal gas pipelines, and to further provide that the tax on gas provided by self-production be based in part on the fair market value of natural gas required to produce the same amount of energy; and

WHEREAS, the proposed ordinance, which is attached hereto and incorporated herein by reference as Attachment "A" (the "Ordinance"), would adopt these proposed amendments; and

WHEREAS, pursuant to Article XIIIC of the California Constitution, the City Council desires to submit the Ordinance to the qualified electors of the City at a regularly scheduled general election for members of the City Council, namely the Municipal Election to be consolidated with the November 2, 2010 Statewide Election;

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

1. Pursuant to Article XIIIC of the California Constitution and Elections Code Section 9222, the City Council hereby submits the Ordinance to the voters at the November 2, 2010 Election and orders the following question to be submitted to the voters at the Election:

"Shall the Utility User Tax Ordinance be amended to (1) eliminate
a provision that could allow large industrial users to pay a lower
rate, and instead require them to pay the same rate as other utility
users; (2) ensure that the tax covers gas that is used for any

industrial purpose; and (3) ensure that the tax is paid on self-produced gas used by an industrial utility user?"

This question requires the approval of a majority of those casting votes.

2. The City Clerk, City Attorney and other City staff are hereby directed to take all action necessary to ensure that this ballot measure shall appear on the November 2, 2010 election ballot, including the timely preparation and submission to the Council for adoption any additional appropriate election resolutions.

3. Pursuant to California Elections Code Section 9280, 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.

4. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the original Resolutions.

5. The City Council directs the City Clerk to file a certified copy of this Resolution with the Registrar of Voters of Contra Costa County.

BY ORDER OF THE CITY COUNCIL OF THE CITY OF RICHMOND

      I certify that the foregoing resolution was passed and adopted by the Council of the City of Richmond at a regular meeting thereof held on Tuesday, May 19, 2009, by the following vote:

AYES:	Councilmembers Bates, Butt, Rogers, Ritterman, Viramontes, Vice Mayor Lopez, and Mayor McLaughlin.
NOES:	None.
ABSTENTIONS:	None.
ABSENT:	None.

                                                  DIANE HOLMES
                                  Clerk of the City of Richmond
                                        (SEAL)

Approved:

GAYLE McLAUGHLIN
      Mayor

Approved as to form:

RANDY RIDDLE
      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. 41-09**, finally passed and adopted by the Council of the City of Richmond at a meeting held on May 19, 2009.