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City of /

Pasadena /

巴沙迪那市

# SUPPLEMENTAL SAMPLE BALLOT

and Voter Information Pamphlet

SPECIAL MUNICIPAL ELECTION

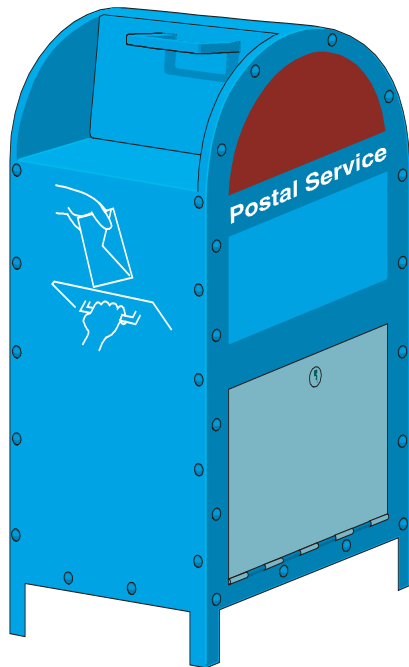
TUESDAY, FEBRUARY 5, 2008

POLLS OPEN at 7 A.M.  
AND CLOSE at 8 P.M.

2008 5 ,

# Vote by Mail!

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It's Convenient!  
It's Weatherproof!



<p><b>D. MEASURE D. PASADENA UTILITY USERS TAX CONTINUATION MEASURE:</b> Shall an ordinance be adopted to ratify and continue Pasadena's existing Utility Users Tax to fund general city services, including essential municipal services such as police, fire, street repair, parks and libraries, provided that low-income seniors and disabled residents remain exempt, the ordinance is updated to treat taxpayers equally regardless of technology used, and independent annual audits of the tax are required?</p>	<b>YES</b>	
	<b>NO</b>	

<p><b>D. D. :</b></p> <p style="text-align: center;">?</p>		

# VOTER INFORMATION PAMPHLET

The following pages contain:

## **BALLOT MEASURE, ANALYSIS, ARGUMENTS AND REBUTTALS**

**MEASURE:** The following pages contain a city measure. The portions to be deleted are printed in ~~strikeout type~~, and the portions to be added are underlined.

**ANALYSIS:** The Impartial Analysis is an impartial summary of the results of the proposed measure or proposition.

**ARGUMENTS:** Arguments and/or rebuttal arguments in support of or in opposition to the proposed laws are the opinions of the authors.

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**IMPARTIAL ANALYSIS OF MEASURE D  
PREPARED BY THE CITY ATTORNEY**

Measure D is submitted to the voters by the Pasadena City Council to clarify and update the City's current Utility Users Tax ("UUT"), so that it can be applied equally both to older telephone technology and to newer telecommunications technology at the current tax rate of 8.28%.

**Background.**

Residents of Pasadena have paid the UUT on charges for telephone services since 1969. UUT revenues are paid into the City's general fund, which is allocated by the City Council through the annual budget for general city services and purposes. In past years, the City of Pasadena, and most California cities with UUTs, relied on federal law definitions of what specific telephone services to tax, by making references to the federal law in the local laws. These definitions have been changed by the federal government and may be repealed.

Since 1969, telephone technology has changed greatly. Telephone companies have introduced cell phone service and many other new services and features. It is expected that telephone companies will continue to develop new forms of telecommunications technology in the future.

**The Measure.**

Measure D would ratify an ordinance previously adopted by the Pasadena City Council to remove references to the federal law definitions from the City's UUT. The measure would replace older definitions to address new technologies and to treat all phone customers the same for local tax purposes, whether they use traditional wireline phones, cell phones, or some new form of telephone service invented in the future. Federal prohibitions on taxes on the internet remain in effect and are not affected by Measure D.

Measure D maintains the tax rate for the UUT at the current amount of 8.28% for all telephone services regardless of the technology used. The City Council can lower the tax, but not raise it; voter approval is required for any tax increase.

Measure D maintains existing exemptions for low-income seniors 62 or older and disabled residents; the Council may expand these exemptions, but may not reduce them.

Measure D also requires an annual audit by a qualified independent third party to confirm the tax is properly collected by phone carriers, paid to the City and spent by the City according to the requirements of Measure D and other law. The results of these audits will be available to the public.

Measure D requires approval of a majority of voters. A "yes" vote for Measure D will approve the clarifications described above; a "no" vote against Measure D will leave in place the City's existing Utility Users Tax Ordinance.

/s/ Michele Beal Bagneris  
Pasadena City Attorney

**D**

UUT ) Pasadena D  
8.28%

1969 Pasadena

Pasadena  
California

1969

D Pasadena

D D  
8.28%

D 62

D D

D ( yes ) D  
D ( no )

/s/ Michele Beal Bagneris  
Pasadena

**ARGUMENT IN FAVOR OF MEASURE D**

The City Council unanimously urges you to vote Yes on D to maintain city services -- and to keep Pasadena's budget balanced with no new taxes.

Measure D simply continues -- with no increase in tax rate -- Pasadena's existing Utility Users Tax (UUT), in place since 1969.

Changes in Federal law require California cities to reauthorize the telephone portion of the UUT or risk losing substantial revenues. In Pasadena, the UUT helps fund many critical services, including:

- fire
- 9-1-1 emergency response
- police
- street repairs
- libraries
- parks and recreation
- after school programs

Measure D reauthorizes the UUT and modernizes its language to cover telephone technology advances since the 1960's. These changes help protect against legal challenges and ensure that taxpayers are treated equally regardless of telephone technology used.

These changes do not tax internet access or other currently untaxed services.

Through careful budgeting, Pasadena aims to maintain and enhance our tradition of quality services -- gradually adding police officers; modernizing fire, emergency and library services; strengthening gang enforcement; improving parks, streets and schools.

But without Measure D, Pasadena could be forced to reverse course and cut services by over \$10 million a year. Every neighborhood would face painful cutbacks.

That is why many civic and community organizations also urge you to vote Yes on D.

Measure D retains existing exemptions: low-income seniors and the disabled don't have to pay the UUT.

Taxpayers are protected, too: Measure D forbids raising the tax rate without a public vote.

Measure D also ensures local control and fiscal responsibility. All UUT revenues stay in Pasadena to fund local services. Independent annual financial audits ensure that funds are collected and spent as promised. All audit/budget information must be publicly available.

Please join us in voting Yes on D. Protect Pasadena's quality of life without new taxes.

- s/ Bill Bogaard  
Mayor of Pasadena
- s/ Donald Cervantes  
President, Pasadena Fire Fighters Association
- s/ Bernard Melekian  
Pasadena Chief of Police
- s/ Stephen Onderdonk  
President, Pasadena Library Foundation

**D**

Pasadena D (Yes)

D -- -- Pasadena 1969  
(UUT)  
California

Pasadena

9-1-1

D

Pasadena

--

D Pasadena  
10,000,000

D (Yes)

D

D

D

Pasadena

/

D (Yes)

Pasadena

- s/ Bill Bogaard  
Pasadena
- s/ Donald Cervantes  
Pasadena
- s/ Bernard Melekian  
Pasadena
- s/ Stephen Onderdonk  
Pasadena

**REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE D**

Measure D is a new tax trap on telephone service.

Currently, it's illegal for the City of Pasadena to tax Internet access.

Taxes could be applied to email, web surfing, computer gaming, file downloading, text messaging and any other activity resulting from a transmission of "voice, data, audio, video or any other information."

As of September 30, 2007, the City of Pasadena was sitting on \$633 million in cash and investments. Over 400 City of Pasadena employees made more than \$100,000 last year. In one department, 50 employees made an average of more than \$163,000 each.

Simply put, they want to tax you more in order to pay themselves even higher salaries.

Enough is enough.

Vote No on Measure D.

s/ Wayne Lusvardi, Chairperson  
Citizens for Responsible Government

**D**

D

Pasadena

2007	9	30	Pasadena	
633,000,000				400
Pasadena			100,000	
		50		163,000

D (No)

s/ Wayne Lusvardi

**ARGUMENT AGAINST MEASURE D**

Pasadena does not need Measure D to maintain existing service levels. Measure D contains no guarantees that any specific amounts would be spent for police, fire, street repair, parks or libraries and the City is already required to have independent annual audits under state law.

Measure D is a poorly written and unnecessary telephone and Internet tax designed to raise approximately \$10 million per year using one of the highest telephone tax rates in California.

Pasadena is already overflowing with tax revenue. Over the last 8 years, the City of Pasadena has experienced over \$150 million in budget surpluses. That is more than enough to compensate for not being able to tax telephone and Internet usage.

Indeed, the City's latest official audited yearly financial report states that the City has \$146 million in funds that are "available for spending at the City's discretion".

Measure D is an example of the worst kind of municipal greed using the same old phony promise that it will be used for "vital services".

Measure D allows the City to tax Internet usage when the current federal ban expires. In fact, the City of Pasadena recently began campaigning against a permanent federal ban on Internet taxes. Measure D is a dishonest attempt to "modernize" the City's telephone tax while at the same time sneaking in language allowing the City to tax Internet usage.

Forever.

That's how long the taxes proposed by Measure D are designed to last. They never expire.

Over your lifetime, Measure D could cost you thousands and thousands of dollars.

Money you will need far more than the City of Pasadena ever will.

No matter how much the City of Pasadena takes, they'll always claim it's not enough.

Enough is enough.

Vote No on Measure D.

Visit [www.crgovernment.net](http://www.crgovernment.net) for more information.

s/ Wayne Lusvardi, Chairperson  
Citizens for Responsible Government

**D**

Pasadena  
D

D

D

California

10,000,000

Pasadena  
1.5

8 Pasadena

146,000,000

D

D

Pasadena

D

D

D

Pasadena

Pasadena

D (No)

[www.crgovernment.net](http://www.crgovernment.net)

s/ Wayne Lusvardi

**REBUTTAL TO ARGUMENT AGAINST MEASURE D**

Don't be confused by anti-government rhetoric and misinformation. Here are the facts:

- Pasadena needs Measure D to maintain city services and keep our budget balanced without new taxes.

Measure D changes nothing on your utility bills. The UUT continues exactly as it has for 40 years, helping pay for all the services that make Pasadena a good place to live – firefighters, emergency response, police officers, library services, street repairs, after-school programs and more.

- Measure D deals only with continuing the current UUT on telephone service. It does not tax internet access – now or in the future.

Nevertheless, to avoid any confusion, the Mayor asked the Council to pass an ordinance that expressly prohibits taxing internet access without a vote of the people.

- Far from being “awash in tax revenues,” Pasadena faces serious financial challenges.

Costs are rising faster than revenues. Even with Measure D, the City must find major cost savings to maintain and improve service levels.

If Measure D fails, and we lose \$10,000,000 annually from the UUT, cuts in city services are unavoidable.

- Raiding Pasadena’s reserves to replace the UUT would be fiscally irresponsible, and would only delay the day of reckoning.

The General Fund reserve, which protects against unexpected costs and revenue shortfalls, is already considerably below reserve levels in other cities – and below the Council’s goal of 8% of annual expenditures.

Other City reserves are required to shield taxpayers and preserve city services in case of natural disasters or financial emergencies.

Vote Yes on D!

- s/ Bill Bogaard  
Mayor of Pasadena
- s/ Don Cervantes  
President, Pasadena Fire Fighters Association
- s/ Bernard K. Melekian  
Pasadena Chief of Police
- s/ Stephen Onderdonk  
President, Pasadena Library Foundation
- s/ Sue Miele  
Coordinator, Partnership for Children, Youth & Families

**D**

- Pasadena **D**

**D** 40

Pasadena

- **D**

- Pasadena

**D**

**D** 10,000,000

- Pasadena

8%

**D (Yes)**

- s/ Bill Bogaard  
Pasadena
- s/ Don Cervantes  
Pasadena
- s/ Bernard K. Melekian  
Pasadena
- s/ Stephen Onderdonk  
Pasadena
- s/ Sue Miele

MEASURE D – TEXT OF PROPOSED ORDINANCE

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF PASADENA, CALIFORNIA  
AMENDING CHAPTER 4.56 OF THE PASADENA MUNICIPAL CODE  
TO MODERNIZE THE APPLICATION OF THE UTILITY USERS TAX

THE PEOPLE OF THE CITY OF PASADENA DO ORDAIN AS FOLLOWS:

**Section 1.** Code Amendment. Section 4.56.020 of the Pasadena Municipal Code is hereby amended to read as follows:

**4.56.020 Definitions.**

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter.

A. “Ancillary Telecommunications Services” means services that are associated with or incidental to the provision, use or enjoyment of telecommunications services including, but not limited to, the following:

- (1) Services that link two or more participants of an audio or video conference call, including the provision of a telephone number.
- (2) Services that separately state information pertaining to individual calls on a customer’s billing statement.
- (3) Services that provide telephone number information, and/or address information.
- (4) Services offered in connection with one or more telecommunications services, which offer advanced calling features that allow customers to identify callers and to manage multiple calls and call connections.
- (5) Services that enable customers to store, send or receive recorded messages.

B. “Billing address” means the mailing address of the service user where the service supplier submits invoices or bills for payment by the customer.

B.C. “City” means the city of Pasadena.

B.D. “City administrator” means the city manager, or his or her authorized representative.

B.E. “Exempt wholesale generator” has the same meaning as set forth in the Federal Power Act (15 U.S.C. Section 79z-5a) and regulations thereunder.

B.F. “Gas” means natural or manufactured gas or any alternate hydrocarbon fuel, which that may be substituted therefor.

B.G. “Gross annual income” means all income regardless of source and includes, but is

not limited to, income subject to federal and state income taxation, social security payments, pensions, welfare payments, interest on tax-exempt investments, gifts and inheritances.

¶ H. “Month” means a calendar month.

¶ I. “Nonutility service supplier” means:

1. A service supplier, other than a supplier of electric distribution services to all or a significant portion of the city, which generates electricity for sale to others, and shall include but is not limited to any publicly-owned electric utility, investor-owned utility, cogenerator, distributed generation provider, exempt wholesale generator, municipal utility district, federal power marketing agency, electric rural cooperative, or other supplier or seller of electricity;

2. An electric service provider (ESP), electricity broker, marketer, aggregator, pool operator, or other electricity supplier other than a supplier of electric distribution services to all or a significant portion of the city, which sells or supplies electricity or supplemental services to electricity users within the city; and

3. A gas service supplier, aggregator, marketer or broker, other than a supplier of gas distribution services to all or a significant portion of the city, which sells or supplies gas or supplemental services to gas users within the city.

¶ J. “Person” means, without limitation, any domestic, nonprofit or foreign corporation; firm; trust; estate; association; syndicate; joint stock company; limited liability company; partnership of any kind; joint venture; club; Massachusetts business or common-law trust; society; any natural individual; cooperative; receiver, trustee, guardian or other representative appointed by order of any court; municipal district; or municipal corporation (other than the city).

¶ K. “Service address” means the residential street address or the business street address of the service user’s primary place of usage.

¶ L. “Service supplier” means any entity or person that provides telephone communication, electric, gas, water or video service to a user of such services within the city. The term includes any entity or person required to collect, or self-collect under Section 4.56.055, and to remit a tax imposed by this chapter, including its the billing agent of such an entity or person in the case of electric, gas, water or video service suppliers.

¶ M. “Service user” means a person required to pay a tax imposed by this chapter.

¶ N. “Tax administrator” means the revenue administrator of the city of Pasadena.

~~N. “Telephone communication services” includes any telephonic-quality communication for the purpose of transmitting messages or information (including but not limited to voice, telegraph, teletypewriter~~  
O. “Telephone communication services” includes the transmission, conveyance, or routing of voice, data, facsimile audio, video, or text) by electronic, radio or similar means through “any other information or signals to a point, or between or among points, whether or not such information is transmitted through interconnected service” with the “public switched network” (as these terms are commonly used in the Federal Communications Act and the regulations of the Federal Communications Commission – see 47 USCA-Section 332(d)), whatever the technology used, whether such transmission, conveyance or routing

occurs by wire, cable, fiber-optic, light wave, laser, microwave, radio wave (including, but not limited to, cellular service, commercial mobile service, personal communications service (PCS), specialized mobile radio (SMR), and other types of personal wireless service – see 47 USCA Section 332(c) (7) (C) (i) – regardless of radio spectrum used), switching facilities, satellite or any other similar facilities technology now existing or developed after the adoption of this ordinance., and includes, without limitation, fiber optic, coaxial cable, and wireless. The term “telephone communication services” includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmission, conveyance or routing without regard to whether such services are referred to as voice over internet protocol (VoIP) services or are classified by the Federal Communications Commission as enhanced or value added, and includes video and/or data services that are functionally integrated with telecommunications services. “Telephone communication services” include, but are not limited to, the following services, regardless of the manner or basis on which such services are calculated or billed: central office and custom calling features (including but not limited to call waiting, call forwarding, caller identification and three-way calling), local number portability, text messaging, ancillary telecommunication services, prepaid and post-paid telecommunications services (including but not limited to prepaid calling cards); mobile telecommunications service; private telecommunication service; paging service; 800 service (or any other toll-free numbers designated by the Federal Communications Commission); and value-added non-voice data service. For purposes of this section, “private telecommunication service” means any dedicated telephone communications service that entitle a user to exclusive or priority use of communications channels.

○.P. “Telephone corporation,” “electrical corporation,” “gas corporation,” and “water corporation” have the same meanings as defined in Sections 234, 218, 222, and 241, respectively, of the Public Utilities Code of the state of California, as said sections existed on January 1, 1969. “Electrical corporation” and “water corporation” shall be construed to include any municipality or franchised agency engaged in the selling or supplying of electrical power or water to a service user.

○.Q. “Video service supplier” means any person, company, or service which provides one or more channels of video programming, including any communications that are ancillary, necessary or common to the use and enjoyment of the video programming, to or from an address in the city, including to or from a business, home, condominium, or apartment, where some fee is paid, whether directly or included in dues or rental charges for that service, whether or not public rights-of-way are utilized in the delivery of the video programming or communications. A “video service supplier” includes, but is not limited to, multichannel video programming distributors (as defined in 47 USCA Section 522(13)), open video systems (OVS) suppliers, suppliers of cable television, master antenna television, satellite master antenna television, multichannel multipoint distribution services (MMDS), direct broadcast satellite (to the extent allowed by federal law), and other suppliers of video programming or communications (including two-way communications), whatever their technology.

○.R. “Video services” means any and all services related to the providing of video programming (including origination programming), including any communications that are ancillary, necessary or common to the use or enjoyment of the video programming, regardless of the content of such video programming or communications. “Video services” does not include services for which a tax is paid under Section 4.56.030.

**Section 2.** Code Amendment. Section 4.56.030 of the Pasadena Municipal Code is hereby amended to read as follows:

#### 4.56.030 Telephone tax.

A. There is imposed a tax upon every person, other than a telephone corporation, who uses telephone communication services in the city, including intrastate, interstate, and international telephone communication services, to the extent permitted by federal and state law. The telephone users tax is intended to, and does, apply to all charges within the city's tax jurisdiction, such as charges billed to a telephone account having a situs in the city as permitted by the Mobile Telecommunications Sourcing Act of 2000, 4 U.S.C. § 116 et seq. The tax imposed by this section shall be at the rate established under Section 4.56.180(A). The tax shall apply to all charges made for such telephone communication services and shall be collected from the service user by the telephone communication services supplier or its billing agent. ~~To the extent allowed by law, the tax on telephone communication services shall apply to a service user if the~~ There is a rebuttable presumption that telephone communication services billed to a billing or service address of the service user is in the city are used, in whole or in part, within the city's boundaries. ~~If the billing address of the service user is different from the service address, the service address of the service user shall be used.~~ and that such services are subject to taxation under this chapter. There is also a rebuttable presumption that telephone communication services sold within the city that are not billed to a billing address or provided to a primary physical location are used, in whole or in part, within the city's boundaries and that such services are subject to taxation under this chapter.

B. As used in this section, the term 'charges' shall include the value of any other services, credits, property of every kind or nature, or other consideration provided by the service user in exchange for the telephone communication services.

C. The tax administrator may, from time to time, may issue and disseminate to telecommunication service suppliers which are subject to the tax collection requirements of this chapter, an administrative ruling-rulings identifying those telecommunication services that are subject to the tax of subsection A of this section. This ~~Such~~ administrative ruling-rulings shall be consistent with legal nexus and laws pertaining to telephone communications services and shall not impose a new tax, revise an existing tax methodology, or increase an existing tax, except as allowed by California Government Code Section 53750(h) (2) and (A)-3 or other law. The tax administrator may consider state-wide interpretive rules and guidelines promulgated by any government agency or association of government agencies as a factor in determining the intent of voters adopting this section. To the extent that the tax administrator determines that the tax imposed under this section shall not be collected in full for any period of time, such an administrative ruling falls within the tax administrator's discretion to settle disputes. The tax administrator's exercise of prosecutorial forbearance under this Chapter does not constitute a change in taxing methodology for purposes of Government Code section 53750(h), and the city does not waive or abrogate its ability to impose the telephone users' tax in full as a result of issuing such administrative rulings and may suspend such rulings and recommence collection of the tax without additional voter approval.

D. The following shall be exempt from the tax imposed by this section:

(1) Charges paid for by inserting coins in coin-operated telephones available to the public with respect to local telephone service, or with respect to long distance telephone service if the charge for such long distance telephone service is less than 25 cents; except that where such coin-operated telephone service is furnished for a guaranteed amount, the amounts paid under such guarantee plus any fixed monthly or other periodic charge shall be subject to the tax.

(2) Except with respect to local telephone service, on any charges for services used in the collection of news for the public press, or a news ticker service furnishing a general news service similar to that of the public press, or radio broadcasting, or in the dissemination of news through the public press, or a news ticker service furnishing a general news service similar to that of the public press, or by means of radio broadcasting, if the charge for such service is billed in writing to such person.

(3) Charges for services furnished to an international organization designated under the International Organizations Immunities Act and defined in 22 USCA 288 or to the American National Red Cross.

(4) Charges for any long distance telephone service which originates within a combat zone, as defined in section 112 of the Internal Revenue Code, from a member of the Armed Forces of the United States performing service in such combat zone, as determined under such section, provided a certificate, setting forth such facts as the Secretary of the U.S. Treasury may by regulations prescribe, is furnished to the person receiving such payment.

(5) Charges for any long distance telephone service to the extent that the amount so paid is for use by a common carrier, telephone or telegraph company, or radio broadcasting station or network in the conduct of its business as such.

(6) Amounts paid by a nonprofit hospital for services furnished to such organization. For purposes of this subsection, the term "nonprofit hospital" means a hospital referred to in Internal Revenue Code section 170(b)(1)(A)(iii) which is exempt from income tax under Internal Revenue Code section 501(a).

(7) Charges for services or facilities furnished to the government of any State, or any political subdivision thereof, or the District of Columbia.

(8) Charges paid by a nonprofit educational organization for services or facilities furnished to such organization. For purposes of this subsection, the term "nonprofit educational organization" means an educational organization described in Internal Revenue Code section 170(b)(1)(A)(ii) which is exempt from income tax under Internal Revenue Code section 501(a). The term also includes a school operated as an activity of an organization described in Internal Revenue Code section 501(c)(3) which is exempt from income tax under Internal Revenue Code section 501(a), if such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

(9) Charges for telephone channel facilities used by a cable television corporation in supplying cable television service to its customers.

(10) Charges for "private mobile radio service" (as defined in Part 20 of Title 47 of the Code of Federal Regulations) or "private mobile service" (as defined in 47 USCA Section 332(d)) which is not interconnected to the public switched network.

E. To prevent actual multi-jurisdictional taxation of telephone communication services subject to tax under this section, any service user, upon proof to the tax administrator that the service user has previously paid the same tax in another ~~state or city~~ American jurisdiction on such telephone communication services, shall be allowed a credit against the tax imposed to the

extent of the amount of such tax legally imposed in such other ~~state or city~~ jurisdiction; provided, however, the amount of credit shall not exceed the tax owed to the city under this section. ~~For purposes of establishing sufficient legal nexus for the imposition and collection of utility users tax on charges for telephone communication services pursuant to this chapter, 'minimum contacts'~~ This ordinance shall be construed broadly in favor of the imposition and collection of the utility users tax to the fullest extent permitted by California and federal law, and as it may change from time to time.

F. The tax on telephone communication services imposed by this section shall be collected from the service user by the service supplier. The amount of tax collected in one (1) month shall be remitted to the tax administrator, and must be received by the tax administrator on or before the twentieth (20th) day of the following month.

G. For purposes of imposing a tax or establishing a duty to collect and remit a tax under this subchapter, "substantial nexus" and "minimum contacts" shall be construed broadly in favor of the imposition, collection and/or remittance of the utility users tax to the fullest extent permitted by state and federal law, and as that law may change from time to time by judicial interpretation or by statutory enactment. Any telephone communication service (including VoIP) used by a person with a service address in the city, which service is capable of terminating a call to another person on the general telephone network, shall be subject to a rebuttable presumption that "substantial nexus/minimum contacts" exists for purposes of imposing a tax, or establishing a duty to collect and remit a tax, under this chapter. A service supplier shall be deemed to have sufficient activity in the city to be obligated to collect and remit the tax imposed by this chapter if it does any of the following: maintains or has within the city, directly or through an agent or subsidiary, a place of business of any nature; solicits business in the city by employees, independent contractors, resellers, agents or other representatives; solicits business in the city by means of advertising that is broadcast or relayed from a transmitter within the city or distributed from a location within the city; or advertises in newspapers or other periodicals printed and published within the city or through materials distributed in the city by means other than the United States mail.

**Section 3.** Code Addition. A new Section 4.56.230 of the Pasadena Municipal Code is hereby adopted to read as follows:

**4.56.230 Effect of state and federal authorization.**

To the extent that the city's authorization to impose or collect any tax imposed under this chapter is expanded or limited as a result of changes in state or federal law, no amendment or modification of this chapter shall be required to conform the tax to those changes, and the tax shall be imposed and collected to the full extent of the city's authorization up to the full amount of the tax imposed under this chapter.

**Section 4.** Code Addition. A new Section 4.56.240 of the Pasadena Municipal Code is hereby adopted to read as follows:

**4.56.240 Independent Audit.**

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 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 as to a service supplier where the cost of the verification is expected to exceed the tax revenues to be reviewed.

**Section 5. Utility Rates.** This Ordinance does not change the existing rate of any tax imposed under Chapter 4.56 of the Pasadena Municipal Code. A table of the existing rates of the taxes imposed under that Chapter 4.56 is attached hereto as Attachment 1.

**Section 6. Low-Income Senior and Disabled Persons Exemptions.** This Ordinance does not change the existing exemptions for low-income seniors and disabled persons from the any tax imposed under Chapter 4.56 of the Pasadena Municipal Code as specified in Section 4.56.210 of that Chapter. Any change to those exemptions which constitutes a tax increase within the meaning of Government Code Section 53750(h) shall require a vote of the People of the City of Pasadena.

**Section 7. Amendment of Ordinance.** Chapter 4.56 of the Pasadena Municipal Code as amended by this Ordinance may be repealed or amended by the City Council without a vote of the people except as follows: as required by Propositions 62 and 218, any amendment to that chapter that increases the amount or rate of tax beyond the levels authorized by this Ordinance may not take effect unless approved by a vote of the people. The City Council may impose the taxes authorized by that chapter in any amount or rate which does not exceed the rate approved by the voters of the City.

**Section 8. Severability.** If any section, 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 sections, sentences, clauses, phrases, or portions of this ordinance shall nonetheless remain in full force and effect. The people of the City of Pasadena hereby declare that they would have adopted each section, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable and, to that end, the provisions of this Ordinance are severable.

**Section 9. Majority Approval; Effective Date.** This Ordinance shall be effective only if approved by a majority of the voters voting thereon and shall go into effect ten (10) days after the vote is declared by the City Council.

#### Attachment 1

#### Existing UUT Rates by Utility Service

Cable Television	9.4%
Telephone (Intrastate, Interstate, International and Wireless)	8.28%
Natural Gas	7.9%
Electricity	7.67%
Water	7.67%

## 議案D - 擬議法令之本文

### 法令編號

加州巴沙迪那市法令，  
為革新公用事業使用稅之應用而修正  
巴沙迪那市市政法典第4.56章節

巴沙迪那市民眾特此頒佈法令如下：

**第1節** 市政法典修正案。特此修正巴沙迪那市市政法典第4章4.56.020節，全文如下：

#### 4.56.020定義。

除非上下文另有所指，否則本章條文應按本節所載定義予以詮釋。

A. 「輔助電訊服務」係指與提供、使用或享受電信服務相關或附帶的服務，包括但不限於以下服務：

- (1) 連接兩位或兩位以上音訊或視訊電話會議參加者的服務，包括提供電話號碼。
- (2) 在客戶帳單中分別說明每次通話之相關資訊的服務。
- (3) 提供電話號碼資訊和（或）地址資訊的服務。
- (4) 隨一種或多種電訊服務一起提供的服務，這一服務提供進階呼叫功能，使客戶能識別來電者的身份，並管理多個呼叫和呼叫連接。
- (5) 為客戶提供存儲、傳送或接收錄音留言的服務。

B. 「帳單郵遞地址」係指服務使用者的郵遞地址，服務供應商向此地址送呈發票或帳單，以便客戶付款。

B.C. 「市」係指巴沙迪那市。

C.D. 「市政行政官」係指市政執行官或其授權代表。

D.E. 「免受條例管制的批發發電公司」之含義應與「聯邦電力法案」（美國法典第15編，第79z-5a節）及其相關規章定義一致。

E.F. 「煤氣」係指天然氣、人造煤氣或可取代這兩種燃料的任何碳氫化合物燃料。

F.G. 「全年總收入」係指來自所有來源的全部收入，其中包括但不限於：應繳納聯邦所得稅和州所得稅的收入、社會保險金付款、養老金、福利付款、免稅投資所產生的利息、贈品和遺產收入。

G.H. 「月」係指曆月。

H.I. 「非公用事業服務供應商」係指：

1. 從事發電並向他人銷售電力的服務供應商（為本市全部或大部份地區提供配電服務的供應商除外），包括但不限於任何公營電力公用事業、投資者所擁有的公用事業、熱電廠、分散式發電供應商、免受條例管制的批發發電公司、市政公用事業區、聯邦電力行銷機構、鄉村電力合作社或者其他電力供應商或銷售商；

2. 向本市電力使用者出售或提供電力服務或配套服務的電力服務供應商(ESP)、電力仲介商、行銷商、整合商、電力聯營公司或其他電力供應商（不包括為本市全部或大部份地區提供配電服務的供應商）；以及

3. 向本市煤氣使用者出售或提供煤氣服務或配套服務的煤氣服務供應商、整合商、行銷商或仲介商（不包括為本市全部或大部份地區提供配給煤氣服務的供應商）。

f.L. 「(法)人」的涵義包括但不限於任何國內、國外或非贏利的社團；商號；信託機構；不動產；協會；聯合企業；股份公司；有限責任公司；任何類型的合夥企業；合資企業；俱樂部；麻塞諸沙州商業法或通用法意義上的信託機構；團體；任何自然人；合作組織；接收人、受託人、監護人或任何法院下令指定的其他代理人；市政轄區或市政社團（不包括市府）。

f.K. 「服務地址」係指服務使用者主要使用地點的住宅街道地址或公司街道地址。

k.L. 「服務供應商」係指在本市向此類服務的使用者提供電話通訊、電力、煤氣、供水或視訊服務的任何實體或法人。此術語包括依據第4.56.055節規定而有責任收取（或自徵）及匯繳本章規定徵收之稅款的任何實體或個人；在涉及電力、煤氣、水或視訊供應商時，包括其此類實體或個人的托收人。

t.M. 「服務使用者」係指必須依據本章繳稅之法人。

M.N. 「稅務行政官」係指巴沙迪那市稅收行政官。

N. 「電訊服務」包括以傳輸訊息或資訊為目的並採用電子、無線電或類似手段的任何電話通訊（包括但不限於語音、電報、電傳打字機）。

O. 「電訊服務」包括向一個地點進行或在兩個或多個地點之間進行的語音、資料、傳真音訊、視訊或版本）任何其他資訊或信號傳送、傳遞或路由，而無論此類資訊是否要透過使用「公共交換網」（按照聯邦通訊法和聯邦通訊委員會規章對這些術語普遍採用的定義，參閱美國法典詮註第47編第332節(d)款）的「互聯服務」提供傳送，無論採用何種技術，無論此類傳送、傳遞或路由方式是透過有線、電纜、光纖、光波、鐳射、微波、無線電波（包括但不限於蜂窩電話服務、商業行動電話服務、個人通訊服務(PCS)、專用行動無線電(SMR)和其他類型的個人無線服務 - 參閱美國法典詮註第47編第332節第(c) (7) (C) (i)款 - 不考慮所用的無線頻率）、交換設備、人造衛星，還是任何其他類似設備現有技術或採用本法令後開發的技術，包括但不限於光纖、同軸電纜和無線技術。「電訊服務」一詞包括此類傳送、傳遞或路由，在此過程中，為了傳輸、傳送或路由目的，須利用電腦應用程式處理內容的表格、代碼或協定，而不考慮此類服務是否稱為網際網路電話(VoIP)服務，或者依據聯邦通訊委員會的分類，是否歸入增強型或增值型服務；電訊服務還包括在功能上與電訊服務合為一體的視訊和（或）資料服務。「電訊服務」包括但不限於以下服務，無論該服務使用何種計費或記帳方式：電信局和客戶呼叫功能（包括但不限於呼叫等待、呼叫轉接、來電者身份識別和三方通話）、當地號碼可攜服務、文字訊息、輔助電訊服務、預付和過後支付電訊服務（包括但不限於預付費電話卡）；行動電訊服務；專線電訊服務；尋呼服務；800免費號碼服務（或由聯邦通訊委員會指定的任何其他免費電話號碼）以及

非語音類增值資料服務。就本節而言，「專線電訊服務」係指為使用者提供通訊通道的專用權或優先使用權的任何專用電訊服務。

θ-P. 「電話公司」、「電力公司」、「煤氣公司」和「供水公司」的含義分別依據1969年1月1日生效的「California州公用事業法典」第234節、第218節、第222節和第241節中之定義。「電力公司」和「供水公司」之定義應包含任何涉及銷售或供應電力或水之公營或民營單位。」

P-Q. 「視訊服務供應商」係指對包括企業、住宅、共管式獨立產權私人公寓或公寓在內的本市地址，提供一個或多個頻道視訊節目的任何人、公司或服務機構，其中包括與視訊節目的使用或享受具有附屬、必需或共有關係的任何通訊，前提是需要支付一定費用，而無論該費用是直接支付還是包括在該服務的應付費用或租賃費中，亦無論在交付視訊節目或通訊中是否利用公共通行權。「視訊服務供應商」包括但不限於：多頻道視訊節目發行商（按照美國法典註第47編第522節(13)款之定義）、開放式視訊系統(OVS)供應商，以及有線電視、共用天線電視、衛星共用天線電視、多頻道多點分配業務(MMDS)、直播衛星（在聯邦法律許可範圍內）供應商和其他視訊節目或通訊（包括雙向通訊）供應商，而無論其使用何種技術。

Q-R. 「視訊服務」係指與提供視訊節目（包括原創節目）相關的所有服務，其中包括與視訊節目的使用或享有具有附屬、必需或共有關係的任何通訊，而無論此類視訊節目或通訊的內容如何。「視訊服務」不包括依據第4.56.030節規定而納稅的服務。

**第2節 市政法典修正案。**特此修正Pasadena市市政法典第4.56.030節，全文如下：

#### **4.56.030 電話稅。**

A. 在聯邦及州法律允許的範圍內，向本市使用電訊服務（包括州內、州際和國際電訊服務）的每一位法人徵稅，電話公司除外。電話使用稅應適用於本市稅收管轄權內的所有收費，例如，按照行動通訊資源法（2000版美國法典第4編第116節及隨後章節）之許可而向含有本市地點的電話帳戶所收取的費用。本節規定的徵稅之稅率應依照第4.56.180節(A)款之規定。此稅項適用於此類電訊服務之所有收費，並應由電訊服務供應商或其托收人向服務使用者收取。在法律允許範圍內，電訊服務稅應適用於服務使用者，祇要服務使用者的存在一項可予以反駁的推定，即：向本市服務使用者帳單或服務地址收帳的電訊服務應全部或部份在本市範圍內使用。如果服務使用者的帳單地址不同於服務地址，則課稅時應使用服務使用者的服務地址。，而且此類服務應依據本章課稅。另一項可予以反駁的推定為：在本市內銷售的電訊服務，祇要未向帳單地址收帳或未提供給主要使用的地理位置，則應全部或部份在本市範圍內使用，而且此類服務應依據本章課稅。

B. 本節中，「收費」一詞應包括任何其他服務的價值、抵扣額、任何種類或性質的財產，或服務使用者為換取電訊服務而提供的其他對價。

C. 稅務行政官可不時可以向根據本章徵稅要求而應納稅的電訊服務供應商頒發和傳達行政決議決議，用於確定根據本節A款徵稅要求而應納稅的電訊服務。此此類行政決議決議應與適用於電話通訊服務的法律相關性和法律保持一致，而且除非California州政府法規第53750節(h) (2)和(A)-3)款或其他法律允許，否則不得課徵新增稅項、修改現行稅收辦法或提高現行稅率。稅務行政官在確定選民採納本節之意願時，可將全州範圍內任何政府機構或其所轄協會頒佈的釋義原則和準則納入考慮因素。祇要稅務行政官認定在任何一段時間內不應全額收取本節規定課徵之稅額，則稅務行政官有權為解決爭議而自行做出此類行政決議。稅務行政官行使本章規定的償還延期權時，不得改變政府法規第53750節(h)款所涉及的徵稅辦法；此外，市府不會因頒佈此類行政決議而放棄或中止其課徵所有電話使用稅的權利，而且市府有權不經選民再次批准而中止此類決議並重新開始徵稅。

D. 以下服務不需要繳納依據本節規定而徵收的稅項：

(1) 公用投幣電話中使用投幣付費的本地電話服務費或長途電話服務費，祇要長途電話服務費不超過25美分；除了為保證金額而提供的此類投幣電話服務之外，低於此下限的金額以及按月或按其他週期收取的任何固定費用均應繳稅。

(2) 對用於以下各項服務（本地電話服務除外）所收取的任何費用：報刊雜誌新聞；提供與報刊雜誌、電臺廣播或透過報刊雜誌分發的新聞相類似的一般新聞服務的新聞簡明提示服務；提供與報刊雜誌類似或透過電臺廣播提供的一般新聞服務的新聞簡明提示服務，祇要採用書面帳單形式向相關法人收取此類服務的費用。

(3) 對「國際豁免法案」指定和美國法典註第22編第288條定義的國際組織或美國紅十字會獲得的服務所收取的費用。

(4) 對戰區（按照國內稅收法第112節之定義）內美國軍隊軍人撥打的長途電話服務所收取的費用，祇要按照本節之規定可確定該軍人正在此戰區服役，前提是：獲得此類付款者須出示證明，明示此類事實（有如美國財政部長可根據相關法規要求所闡明的事實）。

(5) 對任何長途電話服務的收費，祇要所支付的金額由普通運營商、電話或電報公司、廣播電臺或網路用於開展其各自的此類業務。

(6) 非營利醫院為此類組織所獲得的服務而支付的款項。對本款而言，術語「非營利性醫院」係指國內稅收法第170節(b)(1)(A)(iii)款中所提到的醫院；按照國內稅收法第501節(a)款規定，此類醫院免繳所得稅。

(7) 對任何州政府或其屬下的任何政治部門或者Columbia特區獲得的服務或設施所收取的服務費用。

(8) 非盈利教育機構為此類組織所獲得的服務或設施而支付的費用。對本款而言，術語「非盈利教育機構」係指國內稅收法第170節(b)(1)(A)(ii)款中所述的教育機構；按照國內稅收法第501節(a)款規定，此類教育機構免繳所得稅。該術語也包括作為國內稅收法第501節(c)(3)款中所述機構活動內容而運營的學校，而且按照國內稅收法第501節(a)款規定，此類機構免繳所得稅，前提是，祇要該學校維持常規的教職員及課程，並且在開展常規教育活動的地點擁有穩定的學生入學率和出勤率。

(9) 對有線電視公司向客戶提供有線電視服務時使用電話通道設施所收取的費用。

(10) 對未連接到公共交換網的「專用行動無線電服務」（按照聯邦法規第47篇第20部份之定義）或「專用行動服務」（按照美國法典註第47編第332節(d)款之定義）所收取的費用。

E. 為防止依據本節須課稅的電訊服務面臨多個管轄區域徵稅的問題，任何服務使用者，祇要向稅務主管證明，服務使用者此前已在另一州或城市美國管轄區域繳納此類通訊服務稅，即可以該州或城市管轄區域合法課徵的此類稅金之金額來抵繳該稅，但前提是，該抵繳金額不得超過依據本節應向本市繳納的稅金。為子確立依據本章而課徵和收取電訊服務收費之公用事業使用稅的充分法律關聯性，「最低度接觸」本法令應在California州及聯邦法律允許的最大範圍內，為了有利於課徵和收取公用事業使用稅的方式，作廣義解釋，並隨不

時之變更而作出相應解釋。

F. 本節規定之電訊服務稅將由服務提供商向服務使用者徵收。壹(1)個月內所徵收的稅金應匯繳至稅務行政官處，並須確保稅務行政官在下一個月的第二十(20)日或之前收到此款項。

G. 爲了依據本節而課徵稅項或確立收取及匯繳稅收的義務，「實質關聯性」及「最低度接觸」應在州及聯邦法律允許的最大範圍內，按照有利於課徵、收取和（或）匯繳公用事業使用稅的方式，作廣義解釋，並隨司法解釋或法定成文法則的不時變更而作出相應解釋。任何電訊服務（包括VoIP），祇要其使用者有本市服務地址，而且該服務能終止一般電話網絡上對另一人的呼叫，該電訊服務則受制於一項可予以反駁的推定，即：爲了依據本章而課徵稅項或確立收取及匯繳稅收的義務，存在「實質關聯性/最低度接觸」。服務供應商若從事下列任何活動，均應被視爲該服務供應商在本市之活動足以使其承擔收取和匯繳本章規定應徵稅款之義務：直接或透過代理人、下屬機構而在市內維持或擁有任何性質的營業地點；透過僱員、獨立承包商、代售商、代理人或其他業務代表而在市內招攬業務；在市內透過市內廣播商來播放廣告或從市內一個地點發佈廣告，以此招攬業務；或是在報紙或其他在市內定期印刷發行的期刊，或透過美國郵政以外的途徑在市內分發營銷資料。

**第3節** 市政法典新增條款。特此新增Pasadena市市政法典第4.56.230節，全文如下：

#### 4.56.230 州及聯邦授權的效力。

凡本市授權課徵或收取按本章規定而須徵收之任何稅項，若因州或聯邦法律之變更而擴大或縮小，則無需爲遵守此類變更而對本章進行任何修訂或修改，而且應按本市授權的最大稅額而課徵和收取此稅項，但不超過本章規定應徵稅款的全額。

**第4節** 市政法典新增條款。特此新增Pasadena市市政法典第4.56.240節，全文如下：

#### 4.56.240 獨立審計。

本市應每年核實本章規定的欠稅已依照本章規定而正確運用、免除、收取和匯繳，並依照適用法律而正確支出。年度核實應由合格的獨立第三方實施，而且覆審應採用節約成本的合理手段來確保合乎規範，其中包括使用抽樣審計。若預計核實費用高於擬覆審之稅收，則不應要求對服務供應商進行核實。

**第5節** 公用事業稅率。本法令不更改Pasadena市市政法典第4章第56節規定課徵之任何稅項的現行稅率。特此將依據第4章第56節規定所徵稅項的現行稅率表作爲附錄1隨附於本法令。

**第6節** 低收入老年人及殘障人士之免稅。對於低收入老年人及殘障人士依照Pasadena市市政法典第4.56.210節而目前免繳該法典第4章第56節規定的任何稅項，本法令不作任何變更。對此類免稅權所作之任何變更，若構成政府法規第53750節(h)款規定之增稅，則須由Pasadena市民眾投票表決。

**第7節** 法令之修正。按照本法令修正後之Pasadena市市政法典第4章第56節內容，不需民眾投票即可由市議會撤銷或修正，但下列情況除外：依據第62號與218號提案的規定，若修正該章內容而造成任何稅額增加或稅率提高程度超出本法令授權的程度，則必須先經由民眾投票同意，否則修正不得生效。市議會可在不超過本市選民批准的稅率範圍內，按任何金額或稅率徵收該章所授權之稅項。

**第8節** 可分割性。如果具有司法管轄權的法院裁定本法令之任何節、句子、條款、用語或部份無效或無法執行，本法令之其餘各節、句子、條款、用語或部份應繼續有效。Pasadena市市議會特此宣佈採納本法令，及本法令之每一節、句、款、用語或每一部份，若本法令中任何一個或多個節、句、款、用語或部份被宣佈無效，均不影響其餘部份之法律效力；因此，本法令之規定具有可分割性。

**第9節** 須獲得絕大多數贊成票方可通過；生效日期。本法令祇有經過絕大多數選民投票同意後方可生效，並應於市議會宣佈投票結果十(10)日後生效。

附錄1

按公用事業服務分類的現行公用事業使用稅稅率

有線電視	9.4%
電話（州內、州際、國際和無線）	8.28%
天然氣	7.9%
供電	7.67%
供水	7.67%

Mark your calendar.  
Don't forget  
to Vote on  
**FEBRUARY 5, 2008**

**2008 2 5**

<i>Sunday</i>	<i>Monday</i>	<i>Tuesday</i>	<i>Wednesday</i>	<i>Thursday</i>	<i>Friday</i>	<i>Saturday</i>
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	

OFFICE OF THE CITY CLERK  
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626/744-4124



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**POLLS OPEN AT 7 A.M.  
AND CLOSE AT 8 P.M.**

TAKE THIS SAMPLE BALLOT TO YOUR  
POLLING PLACE FOR REFERENCE

NOTE: Your POLLING PLACE LOCATION, and the COMPLETE SAMPLE BALLOT, and the VOTE BY MAIL VOTER APPLICATION, are being mailed under separate cover as required by the COUNTY REGISTRAR'S OFFICE, which is conducting this election.



BALLOT TYPE

**19515-1 C**

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