



**CITY OF RIALTO
LIABILITY
CLAIM FOR DAMAGES
TO PERSON OR PROPERTY**

1. Claims for death, injury to person, or to personal property must be filed not later than six (6) months after the occurrence (Gov. Code §911.2).
2. Claims for damages to real property must be filed not later than one (1) year after the occurrence (Gov. Code §911.2).
3. READ ENTIRE CLAIM FOR BEFORE FILING
4. ATTACH SEPARATE SHEETS, IF NECESSARY, TO GIVE FULL DETAILS

CITY CLERK'S DATE STAMP

CITY OF RIALTO
2019 FEB -4 PM 5:15

RECEIVED
CITY CLERK

RETURN TO:
Rialto City Clerk's Office
Mail: 150 S. Palm Ave., Rialto, CA 92376
Address: 290 W. Rialto Ave., Rialto, CA 92376

CLAIMANT INFORMATION:

PHILLIPS 66 COMPANY

N/A

FULL NAME

N/A

HOME ADDRESS INCLUDING CITY, STATE & ZIP

HOUSTON, TX 77042

DATE OF BIRTH

() N/A

BUSINESS ADDRESS INCLUDING CITY, STATE & ZIP

BUSINESS TELEPHONE NO.

ADDRESS AT WHICH CLAIMANT DESIRES TO RECEIVE
NOTICES OR COMMUNICATIONS REGARDING THIS CLAIM
(if different from home address provided above):

KURT R. ONETO, ESQ. - NIELSEN MERKSAMER LLP

1415 L ST., STE. 1200, SACRAMENTO, CA 95814

1. WHEN DID DAMAGE OR INJURY OCCUR? DATE: see attached TIME: DAM D PM

2. PLACE OF ACCIDENT (OCCURRENCE) BE SPECIFIC – Describe fully and (if applicable) locate on diagram on reverse side of this sheet.
Where appropriate, give street names and addresses, measurements and landmarks.

See attached

3. HOW DID DAMAGE OR INJURY OCCUR?

See attached

4. WERE POLICE AT THE SCENE? D YES D NO WERE PARAMEDICS AT THE SCENE? D YES XX NO

5. WHAT PARTICULAR ACT OR OMISSION DO YOU CLAIM CAUSED THE INJURY OR DAMAGES? Give the name of the city/town
employee causing the injury or damage, if known.

See attached

6. GIVE TOTAL AMOUNT OF CLAIM Include estimate of amount of any prospective injury or damage

\$ see attached

HOW WAS THE ABOVE AMOUNT COMPUTED? Be specific, list doctor bills, repair estimates, etc. Please attach 2 estimates.

DAMAGES INCURRED TO DATE:

Item/Date: see attached

Amount: \$ _____

Item/Date: _____

Amount: \$ _____

TOTAL AMOUNT CLAIMED AS OF PRESENTATION OF THIS CLAIM:

\$ see attached

ESTIMATED PROSPECTIVE DAMAGES, AS FAR AS KNOWN:

Item/Date: see attached

Amount: \$ _____

Item/Date: _____

Amount: \$ _____

TOTAL ESTIMATED AMOUNT PROSPECTIVE DAMAGES:

\$ see attached

7. WITNESSES TO DAMAGE OR INJURY *List all persons known to have information (attach additional pages, if necessary)*

NAME: n/a

NAME: n/a

ADDRESS: _____

ADDRESS: _____

TELEPHONE: () _____

TELEPHONE: () _____

8. IF INJURED, PROVIDE NAME, CONTACT INFORMATION AND DATE/TIME DOCTOR(S) OR HOSPITAL(S) VISITED:

NAME: n/a

NAME: n/a

ADDRESS: _____

ADDRESS: _____

TELEPHONE: () _____

TELEPHONE: () _____

DATE: _____ TIME: _____ D AM D PM

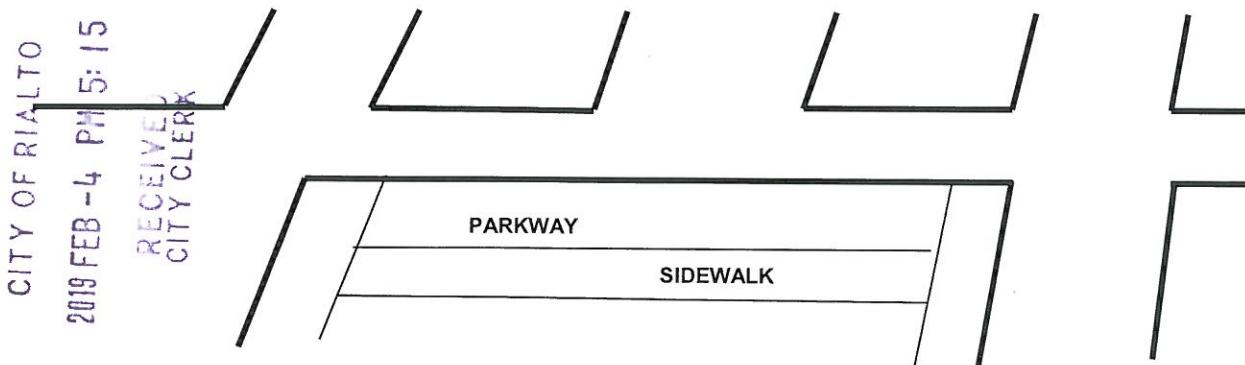
DATE: _____ TIME: _____ D AM D PM

9. PLEASE READ THE FOLLOWING CAREFULLY: N/A

For all vehicle accident claims, place on the following diagram, the names of streets, including NORTH, EAST, SOUTH AND WEST directions. Indicate place of accident by "X" and by showing house numbers or distances to street corners.

If a city/town vehicle was involved, designate by letter "A" location of the City/Town vehicle when you first saw it, and by "B" location of yourself or your vehicle when you first saw City/Town vehicle; location of City/Town vehicle at time of accident by "A-1" and location of yourself or your vehicle at the time of the accident by "B-1" and the point of impact by "X".

¶ NOTE: IF THE DIAGRAM BELOW DOES NOT FIT THE SITUATION, PLEASE ATTACH A PROPER DIAGRAM SIGNED BY THE CLAIMANT.



I HAVE READ THE FOREGOING CLAIM AND KNOW THE CONTENTS THEREOF; AND CERTIFY THAT THE SAME IS TRUE OF MY OWN KNOWLEDGE EXCEPT AS TO THOSE MATTERS WHICH ARE HEREIN STATED UPON MY INFORMATION AND BELIEF; AND AS TO THOSE MATTERS I BELIEVE THEM TO BE TRUE.

I CERTIFY (OR DECLARE) UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.



SIGNATURE OF CLAIMANT OR AGENT

KURT R. ONETO

January 30, 2019

TYPE OR PRINT NAME

ATTORNEY - AGFNT

DATE

RELATIONSHIP TO CLAIMANT

NOTE: PRESENTATION OF A FALSE CLAIM IS A FELONY (CA PENAL CODE 72)
RETURN CLAIM TO: RIALTO CITY CLERK'S OFFICE – 150 S. PALM AVE., RIALTO, CA 92376

January 30, 2019

**VIA CERTIFIED FIRST CLASS U.S. MAIL
RETURN RECEIPT REQUESTED**

Hon. Barbara A. McGee
City Clerk
City of Rialto
150 S. Palm Avenue
Rialto, CA 92376

2019 FEB -4 PM 5:15
CITY OF RIALTO
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CITY CLERK

Mr. Robb Steel
Assistant City Administrator/Development Services Director
Development Services Department
City of Rialto
Business Licensing Division
150 South Palm Avenue
Rialto, CA 92376

PLEASE DIRECT ALL CORRESPONDENCE TO

Mr. Kurt R. Oneto, Esq.
Nielsen Merksamer LLP
1415 L Street, Suite 1200
Sacramento, CA 95814
koneto@nmgovlaw.com

I. INTRODUCTION.

Our client, Phillips 66 Company (“P66”), hereby respectfully requests a refund of all amounts paid, or to be paid, for 2019, plus applicable interest, pursuant to the City of Rialto Measure U liquid fuel storage tax.

P66 owns and operates wholesale liquid fuel storage facilities within the City of Rialto, California (“City”).

SACRAMENTO

1415 L STREET, SUITE 1200
SACRAMENTO, CA 95814
T 916.446.6752 F 916.446.6106

BAY AREA – SAN FRANCISCO

2350 KERNER BLVD, SUITE 250
SAN RAFAEL, CA 94901
T 415.389.6800 F 415.388.6874

NMGOVLAW.COM

**Phillips 66 Company
City of Rialto, CA
Measure U 2019 Assessment Renewal
Claim For Refund/Appeal**

The new liquid fuel storage tax was placed on the November 2014 ballot by the Rialto City Council as Measure U, which was adopted by a simple majority vote of the electorate.

In January 2016, the City, P66, and other payers of the Measure U tax entered into a Procedural Stipulation. Paragraph 4 of that Stipulation states that the City agrees P66 and other companies subject to the Measure U tax “are not required to file appeal and ~~claim~~ documents for any future assessments of the Measure U tax to the extent such claims and appeals are filed in regards to the issues” currently being litigated between the City and those paying the Measure U tax. Nonetheless, P66 now respectfully requests a refund of all amounts paid, or to be paid, for 2019, plus applicable interest, as the new tax ordinance on wholesale liquid fuel storage facilities is illegal for the reasons set forth below.

II. PROCEDURAL SUMMARY OF CLAIM.

The claimant presenting this appeal is Phillips 66 Company, 3010 Briarpark Drive, Houston TX, 77042. The date, place, and circumstance of the transactions giving rise to this claim are the City of Rialto’s adoption of Measure U at the November 2014 General Election that enacted a new “business license tax” on liquid fuel storage facilities—with the City Council setting the rate at \$1 per cubic foot of liquid fuel storage capacity on January 13, 2015—the imposition of which is illegal for the reasons set forth below. The total loss incurred for the current year (2019) as a result of the illegal Measure U tax is still unknown due to the fact that no 2019 assessment has yet been received. Based on prior year assessments, the total loss could exceed \$1.2 million. The city employees causing the injury include, but are not necessarily limited to, the members of the City Council whom set the rate of tax at \$1 per cubic foot of storage capacity; and Assistant City Administrator/Development Services Director Robb Steel, whose signature has appeared on the Measure U Notice of Assessment Renewals issued in prior years. The claim would be an unlimited civil case. (Rialto Municipal Code [“RMC”] § 1.14.040; Gov. Code § 910.)

Alternatively, this appeal is submitted in response to the tax assessed against P66 pursuant to RMC § 5.04.028, as added to the RMC by Section 2 of Measure U (Nov. 2014). The facts and grounds for relief applicable to this appeal are set forth below in Section III. The relief requested is a refund of all amounts

**Phillips 66 Company
City of Rialto, CA
Measure U 2019 Assessment Renewal
Claim For Refund/Appeal**

paid, or to be paid, for 2019 (plus applicable refund interest) to the City as required under Measure U and Resolution 6685. (RMC § 5.04.040(C).)

III. FACTS AND GROUNDS FOR RELIEF.

The facts and grounds for relief applicable to this appeal are contained in the 2015, 2016, 2017, and 2018 Claims for Refund/Appeal/Protest submitted to the City by P66; which are hereby incorporated by reference as if fully set forth herein.

Respectfully submitted,



Kurt R. Oneto



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NIELSEN MERKSAMER

NIELSEN MERKSAMER PARRINELLO GROSS & LEON, LLP

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