



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

CITY CLERK'S DATE STAMP

CITY OF RIALTO  
2019 FEB -4 PM 5:15  
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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

**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

DATE OF BIRTH

( ) N/A

HOME ADDRESS INCLUDING CITY, STATE & ZIP

HOUSTON, TX 77042

HOME TELEPHONE NO.

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: DAMDPM

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

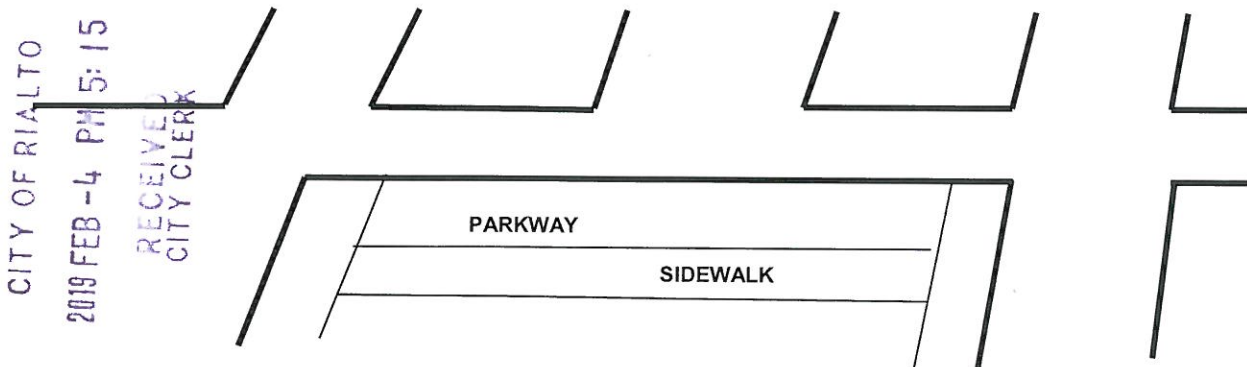
DATE: \_\_\_\_\_ TIME: \_\_\_\_\_ D AM D PM

**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.

Kurt Oneto

SIGNATURE OF CLAIMANT OR AGENT

KURT R. ONETO

January 30, 2019

TYPE OR PRINT NAME

ATTORNEY - AGENT

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

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CITY OF RIALTO

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](mailto: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").



**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,

A handwritten signature in black ink, appearing to read "Kurt Oneto". The signature is written in a cursive, somewhat stylized font.

Kurt R. Oneto



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## NIELSEN MERKSAMER

NIELSEN MERKSAMER PARRINELLO GROSS & LEON LLP

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