

City Attorney's Impartial Analysis of Measure C

At the general election in November, 2013, Brisbane voters approved an ordinance imposing an annual business license tax on persons engaged in the business of operating, leasing, supplying or providing a liquid storage facility in the City of Brisbane. The ordinance allows the City to impose up to a maximum business license tax of \$115.28 per year for each 1000 cubic feet of liquid storage capacity. 3

At the time the ordinance was adopted, the only liquid storage facility in Brisbane was the Kinder Morgan facility on Tunnel Avenue. That remains the case today. Accordingly, since the voters' approval of the ordinance, for its facility in Brisbane, Kinder Morgan has paid an annual business license tax to the City in amounts ranging from \$135,000 to \$365,500. 13

Kinder Morgan filed a civil lawsuit against the City, seeking reimbursement for the taxes it paid. The suit conditionally settled. As part of that conditional settlement, the City Council agreed to place before the voters a revision to the business license tax on liquid storage facilities. This ballot measure satisfies the City's obligation under the conditional settlement agreement to place before the voters a revision to the business license tax on liquid storage facilities in Brisbane. If the voters approve the ballot measure, the Kinder Morgan litigation will be resolved. 12

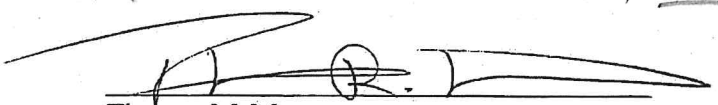
If approved by the voters, the proposed ordinance, as revised, would impose a tax rate of up to 6 cents per barrel of liquid fuel transported for delivery at the Kinder Morgan facility ("over the rack" barrels), but with a cap on the tax (as to Kinder Morgan) of \$400,000 annually. In 2018, there were nearly 7 million of barrels "over the rack" at the Kinder Morgan facility. It is anticipated that over time the number of barrels over the rack at the Kinder Morgan facility will not change significantly. 3

Because this tax is for general municipal purposes, under Proposition 218, adopted by the voters in 1996, any proposed increase in a tax is subject to approval by a majority of the voters voting on the proposed increase at a regularly scheduled election at which members of the Brisbane City Council are elected. The next regularly scheduled election for Council members, is November 5, 2019. 1

A yes vote is a vote in favor of revising the business license tax on liquid storage facilities in Brisbane as described above with the amount of tax imposed on Kinder Morgan capped at \$400,000 annually. If the ballot measure is approved by the voters, the civil lawsuit filed by Kinder Morgan would be resolved. 4

A no vote is a vote against revising the business license tax on liquid storage facilities in Brisbane as described above. If a majority of the voters vote no, the civil lawsuit filed by Kinder Morgan would resume. 2

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