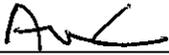


REPORT TO CITY COUNCIL
Council Agenda of 04/26/16



Andrew Carter, City Administrator

SUBJECT Amended and Restated Waste Management Franchise Agreement and Waste Management Settlement Agreement and Mutual Release

RECOMMENDATION

Approve the Amended and Restated Waste Management Franchise Agreement and the Waste Management Settlement Agreement and Mutual Release and authorize the Mayor to sign both documents.

DISCUSSION

The City Administrator and the City Attorney have been in negotiations with Waste Management for over a year. The goal of these negotiations was to resolve overbilling issues by Waste Management and to get Waste Management to take over customer billing of all garbage accounts. Up to this point, the City has billed customers with plastic carts while Waste Management has billed customers with metal dumpsters.

The overbilling issues were as follows:

- 1) Going back to at least 2009, the City was billed about \$400 a month for curbside oil recycling even though curbside oil recycling is not offered in Guadalupe. Billing for oil recycling stopped in February 2015. Waste Management reimbursed the City \$9541.50 for the oil recycling overbilling which had occurred since March 2013, the date the Waste Management Franchise Agreement was last amended.
- 2) Between August 2013 and October 2014, Waste Management double-billed the City and certain commercial customers for trash and recycling. Waste Management was only supposed to bill the commercial customers. Waste Management reimbursed the City for the entire \$23,767.08 that was overbilled.
- 3) From March 2011 through January 2015, Waste Management overbilled the City for trash and recycling, billing the City for more plastic carts than actually exist. The City Administrator estimates the overbilling since March 2013 to be \$40,000 to \$45,000. If approved by Council, the Settlement Agreement will resolve this overbilling issue by having Waste Management not bill customers for about \$78,000 in garbage service (1.67 months of service) when garbage billing moves from bill-in-arrears by the City to bill-in-

advance by Waste Management. \$64,000 of that amount will be lost revenue to Waste Management, \$14,000 of that amount will be lost franchise fee and debt surcharge revenue to the City.

In return for taking over customer billing, Waste Management wants to be provided an exclusive franchise for roll-off service in the City. Currently there is no franchise for roll-off, competition exists, and the City receives no franchise fee. The Amended and Restated Franchise Agreement establishes a roll-off franchise exclusive to Waste Management, sets initial roll-off rates, and provides the City with a 12.5% franchise fee on roll-off service.

The Settlement Agreement resolves the overbilling issue, the Amended and Restated Franchise Agreement does the following:

- Establishes a franchise for roll-off service exclusive to Waste Management, sets initial roll-off rates, and provides the City with a 12.5% franchise fee on roll-off service.

In the interest of transparency, the City Administrator has pro-actively alerted Apio, Obispo Street Cooling, Pasadera, Trus Pro, Hayward Truss, and Simplot of this pending change. These are Guadalupe's biggest roll-off customers. Exhibit E of the Amended and Restated Franchise Agreement makes it clear that this grant of an exclusive roll-off franchise to Waste Management shall not apply to roll-off contracts in existence on May 1, 2016 until those contracts expire.

- Transfers customer billing from the City to Waste Management. If the Settlement Agreement and Amended and Restated Franchise Agreement are approved by Council, the last City garbage bill will go out on May 1st, covering one month of service from March 10th through April 10th. The first Waste Management garbage bill will go out on June 1st and cover two months of service from June 1st through July 31st.

The City has been billing in arrears, Waste Management will bill in advance. The City has been billing monthly, Waste Management will bill every other month. The time period between April 10th and June 1st, 1.67 months, is the time period for which Waste Management and the City will forego garbage revenue to make up for prior Waste Management overbillings.

- Waste Management will be allowed to increase most monthly garbage rates by \$1.26 to cover Waste Management's costs to bill customers. The garbage rates in Exhibit A of the Amended and Restated Franchise Agreement show a line item for this billing charge for every type of garbage service to which it applies.
- Waste Management will also be allowed to begin billing for a Regional Recycling Fee that has already been negotiated between Waste Management, the City of Santa Maria, and the County of Santa Barbara. That charge starts out at \$0.63 for most customers. The garbage rates in Exhibit A of the Amended and Restated Franchise Agreement show a line item for this Regional Recycling Fee for every type of garbage service to which it applies.

That Regional Recycling Fee will go up and down in the future based on recycled material commodity rates. City of Santa Maria staff has told the City Administrator that the fee is more likely to go down in the future than go up. That's because recycled material commodity rates are very low at the present vs. historical norms.

- Eliminates 15-gallon service. Currently there are only 22 15-gallon customers in the City out of a total of 1604 garbage accounts. 15-gallon customers will be transitioned to 30-gallon service at the normal 30-gallon price.
- Sets a 10% penalty for any future underpayment by Waste Management to the City which exceeds 2% of the actual amount owed.
- Continues to allow for CPI rate increases every August 1st. The CPI does not apply to the Disposal portion of the rates shown on Exhibit A nor to the Regional Recycling Fee portion, since those two line items are based on actual pass-through costs. The CPI does apply to the Collection portion of the rates shown on Exhibit A, the regular Recycling portion, the Organics portion, and the Billing portion as well as incidental service charges. The CPI to be applied on August 1st will be 2.46%. That includes a regular CPI of 1.46% plus a special 1% adjustment allowed under the existing Franchise Agreement on 08/01/16 only (not in future years).
- Continues to allow the City to levy the debt surcharge instituted in June 2015 designed to restore the Solid Waste Fund to a positive fund balance. That debt surcharge is currently 9.18% (6% + 3% compounded) and can increase another 10.37% over time if necessary to retire the Solid Waste Fund debt, with annual increments of 3%, 3%, 3%, and 1% on August 1st of each year compounded.

The City Administrator will return to Council at a later date to discuss whether the full 3% increment is needed this year. It is the City Administrator's current belief that a minor increase may be needed this year, to perhaps 10%, with no further increases after that. When the debt surcharge was added in 2015, the goal was to restore the Solid Waste Fund to a positive status by FY 2019-20. The City Administrator believes he can accomplish that without increasing the current percentage surcharge significantly since the dollar amount realized automatically increases when the underlying Waste Management fees increase. Once the Solid Waste Fund is restored to a positive fund balance, the debt surcharge will go away.

FISCAL IMPACT

Establishment of the roll-off franchise will lead to additional franchise fee revenue to the General Fund. The actual annual amount will be determined. The City Administrator's estimate is \$40,000 per year.

ATTACHMENTS

Settlement Agreement and Mutual Release
Amended and Restated Franchise Agreement

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

CITY OF GUADALUPE AND VALLEY GARBAGE AND RUBBISH, INC.

d/b/a Health Sanitation Service

This Settlement Agreement and Mutual Release ("Agreement") is entered into this ____th day of _____, 2016 between the City of Guadalupe, a California general law city ("City") and Valley Garbage & Rubbish Company, Inc., d/b/a Health Sanitation Service, a California corporation ("Grantee"):

RECITALS

- A. On August 1, 2006, City and Grantee entered into that certain agreement entitled "Franchise Agreement between the City of Guadalupe, California and Valley Garbage and Rubbish Company, Inc., d/b/a Health Sanitation Service," dated August 1, 2006 ("Franchise Agreement").
- B. The Franchise Agreement was amended on December 1, 2008 ("First Amendment") and on February 12, 2013 ("Second Amendment").
- C. The Franchise Agreement, Section 18.D, provided that City perform billing and collection for residential customers, and then compensate Grantee for providing residential services in accordance with the rates set forth in the Franchise Agreement.
- D. In the course of a review of records undertaken by City, City asserted that City had overpaid Grantee for services provided, and City requested reimbursement (the "Dispute").
- E. The parties have agreed to resolve the Dispute as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants, conditions, and releases set forth below, the Parties agree as follows;

1. Effective Date. This Agreement shall be effective the date signed by City, which shall occur concurrently or after execution by Grantee ("Effective Date").
2. Billing Provisions Under Franchise Agreement. City and Grantee have negotiated an Amended and Restated Franchise Agreement, which provides, among other things, that Grantee will perform billing and collection services for residential customers. The draft Amended and Restated Franchise Agreement is set forth in **Attachment 1**. The Amended and Restated Franchise Agreement includes a rate adjustment requested by Grantee to assist Grantee with the additional costs of performing the billing services. The parties acknowledge that the Amended and Restated Franchise Agreement must be approved by the City Council and that the

City Council cannot pre-commit its legislative discretion to a decision approving the Amended and Restated Franchise Agreement. If the Amended and Restated Franchise Agreement is not approved by the City Council in substantially the form attached as Attachment 1, this Agreement shall terminate along with the obligations of City and Grantee hereunder, unless the parties otherwise enter in a written modification satisfactory to City and Grantee.

3. Processing of Amended and Restated Franchise Agreement. City shall notice a meeting for adoption of the Amended and Restated Franchise Agreement for the first available City Council meeting after the Effective Date for which notice can be provided.
4. Compensation. There shall be no transfer of monetary compensation as between City and Grantee for entry into this Agreement. The financial consideration for this Agreement is Grantee's agreement to forego all payment from City for services provided by Grantee under the Franchise Agreement for the period February 11, 2016 through and including March 31, 2016. Grantee shall absorb all its service costs under the Franchise Agreement, of whatever description, and not bill such costs to City or its customers, for the period February 11, 2016 through and including March 31, 2016.
5. General Release. Except for the obligations of the Parties set forth in this Agreement. City and Grantee, for themselves and their respective officers, representatives, agents, employees, predecessors, successors, and assigns, do hereby fully and forever hereby release, acquit, and forever discharge each other (including each other's officers, representatives, agents, employees, predecessors, successors, and assigns) from any and all claims, demands, suits, rights, actions, causes of action, expenses, interest, costs, damages, attorneys' fees, liability or obligation of any kind, whenever or however derived, whether known or unknown, foreseen or unforeseen, suspected or unsuspected, present or future, and whether in law or in equity, in any way relating to, arising from, or connected with the Dispute. The Parties therefore agree that they shall have no right whatsoever to file any lawsuit or institute any other action or legal proceedings of any type whatsoever against each other based upon, connected with, or in any manner arising out of the Dispute, except as otherwise authorized in this Agreement.

This Agreement and above release is made notwithstanding section 1542 of the California Civil Code which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Therefore, except as provided in this Agreement, the Parties expressly

acknowledge that this release is intended to include in its effect, without limitation, all claims and causes of action arising from the Dispute which the Parties do not know or suspect to exist in their favor and that this release contemplates the extinguishment of all such claims and causes of action. In connection with such waiver and relinquishment, each of the Parties acknowledges that it is aware that they or their attorneys may hereafter discover claims or facts in addition to or different from those which they now know or believe to exist with respect to the subject matter of or any Party named in this Agreement, but that it is their intention hereby to fully, finally and forever to settle and release all of the released matters. In furtherance of such intention, each of the releases herein given shall be and remain in effect as a full and complete release notwithstanding the discovery or existence of any such additional or different claims or facts.

6. Ownership of Released Claims. The Parties to this Agreement represent and warrant that they, respectively, are the sole and lawful owners of the claims which are the subject of the foregoing release, and that they, respectively, have not heretofore assigned or transferred, or purported to assign or transfer, any of such claims or any portion of such claims to any other person or entity.
7. No Admission of Liability. Each Party acknowledges and agrees that this Agreement effects the settlement of claims and potential claims that are contested and denied and does not constitute an admission of liability by any Party for any purpose. Moreover, nothing contained in this Agreement nor the payment of any sums provided for in this Agreement shall be offered, admitted or construed as an admission by any of the Parties of any liability or the amount of any liability to any of the other Parties.
8. Non-Disparagement. The Parties agree not to disparage each other regarding the Dispute, including the disparagement of each Parties' officers, representatives, agents, employees, predecessors, successors, and assigns.
9. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties and the respective successors, assigns, heirs, and representatives of the Parties hereto.
10. Modification Must Be in Writing. This Agreement may not be altered, amended, or modified, except in a writing that is executed by the Parties or duly authorized representatives of all of the Parties hereto.
11. Governing Law. This Agreement shall be construed, enforced and governed by the laws of the State of California and the Parties agree that this Agreement is entered into and to be performed in the County of Santa Barbara.
12. Entire Agreement. This Agreement, together with the documents incorporated herein by reference and any exhibits referenced herein and attached hereto,

constitutes the entire agreement among the Parties regarding the subject matters set forth in this Agreement, and supersedes all prior discussions, agreements, negotiations or understandings. Each of the Parties signing this Agreement acknowledges and agrees that no other Party, agent, or attorney of any of the Parties made any promise, representation or warranty, express or implied, not set forth in this Agreement. Each Party signing this Agreement acknowledges that such Party has not executed this Agreement in reliance on any promise, representation, conduct or warranty of any other Party not expressly set forth in this Agreement.

13. Voluntary Agreement: Representation by Counsel. The Parties each represent that they have read this Agreement in full and understand and voluntarily agree to all provisions herein. The Parties each further represent that prior to signing this Agreement they each had the opportunity to apprise themselves of relevant information, through sources of their own selection, including consultation with legal counsel of their choosing, if desired, in deciding whether to execute this Agreement, and each of the Parties is fully informed as to the terms, conditions and covenants of this Agreement.
14. Interpretation. This Agreement is the result of the combined efforts of the Parties and/or their respective attorneys, and shall be construed according to its fair meaning and as if prepared by both Parties hereto. If any provision of this Agreement is found ambiguous, the ambiguity shall not be resolved by construing this Agreement in favor of or against any Party, but by construing the terms according to their generally accepted meaning.
15. Headings. The headings in this Agreement are inserted only as a matter of convenience and reference, and in no way define the scope or the extent of this Agreement or the construction of any provision.
16. Severability. The provisions of this Agreement are severable. The invalidity, or unenforceability of any provision(s) in this Agreement shall not affect the other provisions of this Agreement. If a provision of this Agreement is adjudged illegal or invalid, such provision shall: (1) be rewritten by the court to be legal and valid as long as the rewritten provision remains consistent with the Parties' mutual intentions expressed in this Agreement; or (2) be deemed severed and deleted, but only if any such severance and deletion will not affect the benefits of the Agreement which, according to its terms or as a whole, any Party is to receive.
17. Further Assurances. The Parties agree to cooperate fully, at their own cost and expense, in carrying out the terms and conditions of this Agreement, including the execution of such documents or taking further action that may be reasonably necessary to carry out the purposes and intent of this Agreement.
18. Authority. By execution of this Agreement, each person signing on behalf of an entity warrants that this Agreement is executed on behalf of a valid legal entity;

that such entity possesses the full right and authority to undertake any action contemplated by this Agreement; that the execution of this Agreement by the signatory for a party has been duly and properly authorized by such entity on whose behalf said Agreement is executed in accordance with all applicable laws, regulations, agreements and procedures governing the authority of such person or entity to execute this Agreement on behalf of such entity; and that the consent of all persons or entities whatsoever necessary to the due execution of this Agreement by the parties has been obtained. This Agreement shall be binding on the parties hereto when each such entity has fully executed at least one counterpart and the City Council has approved the Agreement.

19. Waiver. Any party's waiver of a breach of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of that or any other provision of this Agreement.
20. Attorneys' Fees and Costs. Each party shall be responsible for its own attorneys' fees and costs incurred in connection with the Dispute up to and including the preparation of this Agreement. The prevailing party in any suit to enforce the terms of this Agreement shall be entitled to recover reasonable attorneys' fees and costs in such suit.
21. Counterparts. This Agreement may be executed in separate counterparts, each of which shall be considered an original but all of which shall constitute one and the same Agreement. Facsimile or copies of signatures shall be deemed original signatures for all purposes.

WHEREFORE, City and Grantee, by their signatures below, enter into this Agreement as of the Effective Date.

CITY

City of Guadalupe

By: _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

GRANTEE

Valley Garbage & Rubbish Company, Inc.

By: _____

Name: _____

Title: _____

**AMENDED AND RESTATED
FRANCHISE AGREEMENT BETWEEN THE CITY OF GUADALUPE, CALIFORNIA
AND VALLEY GARBAGE AND RUBBISH COMPANY, INC., d/b/a Health Sanitation Service**

This Amended and Restated Franchise Agreement (“Amended and Restated Agreement”) is entered into this 8th day of March, 2016 between the City of Guadalupe, a California general law city (“City”) and Valley Garbage & Rubbish Company, Inc., d/b/a Health Sanitation Service, a Delaware corporation, (“Grantee”), for the continued collection, transportation, processing and disposal of solid waste.

R E C I T A L S

WHEREAS, the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (“AB 939”), has declared that it is within the public interest to authorize and require local agencies to make adequate provisions for solid waste handling within their jurisdictions; and

WHEREAS, pursuant to California Public Resources Code Section 40059(a)(1), the City Council has determined that the public health, safety and well-being require that an exclusive franchise be awarded to a qualified Solid Waste enterprise for the collection and recovery of solid waste from certain residential, industrial and commercial areas in City; and

WHEREAS, City and Grantee are mindful of the provisions of the laws governing the safe collection, transport, recycling and disposal of solid waste, including AB 939, the Resource Conservation and Recovery Act (“RCRA”), and the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”); and

WHEREAS, City and Grantee entered into that certain agreement entitled “Franchise Agreement between the City of Guadalupe, California and Valley Garbage and Rubbish Company, Inc., d/b/a Health Sanitation Service,” dated August 1, 2006 (“Franchise Agreement” or “Agreement”), and Grantee has been providing collection, transportation, processing and disposal of solid waste; and

WHEREAS, the Franchise Agreement was amended on December 1, 2008 (“First Amendment”) and on February 12, 2013 (“Second Amendment”). The Agreement, First Amendment and Second Amendment are collectively referred to as the (“Prior Agreement”); and

WHEREAS, City and Grantee desire to further modify the services provided by clarifying the scope of exclusive services to include roll-off collection, and by providing for Grantee billing for all services, and restate the entire agreement in a single unified document, as set forth herein.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

SECTION 1 -DEFINITIONS

Whenever any term used in this Franchise Agreement has been defined by the Guadalupe Municipal Code (“Municipal Code”) or Division 30, Part 1, Chapter 2 of the California Public Resources Code, the definitions in the Municipal Code or Public Resources Code shall apply unless the term is otherwise defined in this Agreement. To the extent that definitions contained in the Municipal Code conflict with definitions in the Public Resources Code, the former shall control and govern the rights and obligations of the parties hereunder, provided, however, that should the Public Resource Code's definitions be made obligatory by the state legislature on the City, then the conflicting Public Resource Code's definitions shall apply.

A. AB 939. “AB 939” shall mean the California Integrated Waste Management Act of 1989, as it may be amended from time to time.

B. Affiliate. “Affiliate” means the Grantee, its officers, directors, shareholders, employees and any corporation, partnership, joint venture or other entity directly or indirectly controlling the Grantee, or directly or indirectly owned or controlled by the Grantee or its principals.

C. Bulky Waste. “Bulky Waste” means large items of solid waste, such as furniture, trees, branches, stumps and other oversize wastes.

D. Commercial Solid Waste. “Commercial Solid Waste” includes all types of solid wastes generated by commercial, industrial, governmental and other sources which have been placed in an authorized solid waste container used for the temporary storage of

solid waste awaiting pickup. The term "Commercial Solid Waste" does not include hazardous wastes, medical wastes, special wastes, and e-wastes.

E. City. "City" means the City of Guadalupe, California.

F. Franchise Area. "Franchise Area" shall mean the boundaries of the Franchise Area, together with all amendments and changes thereto resulting from binding amendments to this Agreement. The current boundaries of the Franchise Area are the current city limits. Notwithstanding the foregoing, additional territory may be annexed into City as a result of development activities. Any such annexation to City shall constitute an annexation to the Franchise Area for all purposes of this agreement.

G. Franchise Fee. "Franchise Fee" means the fee or assessment imposed by the City on Grantee solely because of its status as party to this Franchise Agreement, and which inter alia, is intended to compensate City for its expenses in administering this Franchise Agreement, and to fund other waste management activities.

H. Grantee. "Grantee" shall mean Valley Garbage & Rubbish Company, Inc., d/b/a Health Sanitation Service, the entity granted the franchise to arrange for the collection and disposal of solid wastes pursuant to this Franchise Agreement. Grantee shall also mean any assignee, transferee or successor in interest of Grantee.

I. Gross Revenues. "Gross Revenues" means any and all revenue or compensation in any forms derived directly or indirectly by Grantee, its affiliates, subsidiaries, parents or any other entity in which Grantee has a financial interest in collecting, transporting, arranging, handling and/or disposing of franchised solid wastes generated in the Franchise Area, but excluding the amount of any franchise fees, other fees or surcharges paid to the City, and any revenue derived from the sale of Recyclable Material, and roll-off tipping fees.

J. Hazardous Waste or Materials. "Hazardous Waste or Materials" means any and all of the following:

(a) Wastes, materials or substances defined or characterized as hazardous waste by the Federal Solid Waste Disposal Act, as amended, including the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et seq.) as amended from time to time, or regulations promulgated thereunder;

(b) Waste, materials or substances defined or characterized from time to time as hazardous waste by the principal agencies of the State of California (including, without limitation, the Department of Health Services, the California Water Resources Control City, and the California Integrated Waste Management Board) having jurisdiction over hazardous waste generated by facilities within the State, and pursuant to any other applicable governmental regulations;

(c) Wastes, materials or substances, the storage, treatment, transportation or disposal of which is subject to regulation under the Toxic Substances Control Act, 15 U.S.C. §2601-2654, as amended from time to time, or regulations promulgated thereunder;

(d) Radioactive wastes, materials, substances or items, the storage, treatment, transportation or disposal of which is subject to governmental regulations; and

(e) Wastes, materials, substances or items which contain polychlorinated biphenyls.

The term "Hazardous Waste" will be construed to have the broader, more encompassing definition where a conflict exists in the definitions employed by two or more governmental entities having concurrent or overlapping jurisdiction over hazardous waste.

K. Industrial Solid Waste. "Industrial Solid Waste" means all Solid Waste and semi-solid waste which results from industrial processes and manufacturing operations, except for hazardous wastes or special wastes.

L. Materials Recovery Facility. "Materials Recovery Facility" means a materials recovery facility that is currently owned and operated by Grantee or which may be constructed in the future and operated by Grantee. Nothing in this Agreement shall be construed to give Grantee any right to build, own or operate a Materials Recovery Facility within the City unless said authority is given to Grantee by the City Council, which may grant or withhold such permission in its sole discretion.

M. Medical Waste. "Medical Waste" means solid waste or other materials, substances or items which may be reasonably considered infectious, pathological or biohazardous, originating from hospitals, public or private medical clinics, departments of research laboratories, pharmaceutical industries, blood banks, forensic medical departments, medical offices, mortuaries, veterinary facilities and other similar facilities, and includes, without limitation, equipment, instruments, utensils, fomites, laboratory waste (including pathological specimens and fomites attendant thereto), surgical facilities, equipment, bedding and

utensils (including pathological specimens and disposal fomites attendant thereto), sharps (hypodermic needles, syringes, etc.), dialysis unit waste, chemotherapeutic waste, animal carcasses, offal and body parts, biological materials (vaccines, medicines, etc.), and other similar materials, but excluding any such waste which is determined by evidence reasonably satisfactory to the Grantee to have been rendered noninfectious, non-pathological and non-biohazardous.

N. Multi-Family Units. "Multi-Family Units") shall mean a dwelling which includes two or more individual living units and which receives communal refuse and/or recycling services.

O. Recovered Materials. "Recovered Materials" means all Recyclable Materials that are source separated by customers and collected and processed by Grantee within the Franchise Area. Recovered Materials shall also include Recyclable materials received by Grantee by means of any other recycling program operated by Grantee.

P. Recyclables or Recyclable Material. "Recyclables" or "Recyclable Material" means discarded materials which are reused or processed, or are in the future reused or processed into a form suitable for reuse through reprocessing or remanufacture, consistent with the requirements of the California Integrated Waste Management Act. The terms "Recyclables" or "Recyclable Material" include transformable and compostable materials. The terms "Recyclables" or "Recyclable Material" include paper, newsprint, printed matter, paper containers, glass, aluminum, PET, HDPE, and other plastics, beverage containers, compostable materials (green waste), and such other materials designated as recyclables by the California Integrated Waste Management Board, or any other agency with jurisdiction.

Q. Residential Solid Waste. "Residential Solid Waste" means all types of solid waste which originates from single-family units.

R. Single-Family Unit. "Single-Family Unit" means a dwelling which receives individual refuse.

S. Solid Waste. "Solid Waste" means all putrescible and non-putrescible solid, and semi-solid wastes, including residential, industrial, commercial and municipal garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, discarded home and industrial appliances, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semi-solid wastes; but excludes hazardous wastes, special wastes and medical wastes.

T. Special Wastes. "Special Wastes" means any designated wastes, as defined in 23 Cal. Code of Regs. §2522, and special handling waste generated by industrial facilities or processes, but shall not include "Hazardous Waste" as defined herein. Special wastes include: asbestos, sewage sludge, water treatment sludge, drilling muds, grease wastes, contaminated soils, shredder waste, agricultural wastes, filter cake/dewatered sludge, scrap metal, spent catalyst fines, refinery ash and by-products; except where any such wastes are deemed to be hazardous waste.

U. Transfer Station. "Transfer Station" shall mean a facility wherein residential, industrial and commercial solid waste is temporarily deposited for the purpose of processing, compacting and consolidating in order to be transferred to a landfill or other solid waste disposal facility.

V. Authorized Solid Waste Container. Authorized Solid Waste Container means a wheeled cart having a capacity of between approximately 30-90 gallons, a wheeled bin having a capacity of between approximately 1 ½-8 cubic yards, or a roll-off box having a capacity of between approximately 10-40 cubic yards.

W. Construction and Demolition Waste. Construction and Demolition Waste or C&D Waste means used or discarded construction materials removed from a premises during the construction, renovation or demolition of a structure or premises, including rocks, soil, tree remains, and other green waste which normally results from land clearing or land development operations.

X. Food Waste. Food Waste means solid waste comprised of animal, fruit or vegetable matter that results from the preparation, consumption, decay, dealing in or storage of meats, fish, fowls, fruits or vegetables.

Y. Green Waste. Green Waste means leaves, grass, weeds, and wood materials from trees and shrubs that fit within a cart, or tree trunks or limbs that are less than six inches in diameter or four feet in length.

Z. Organics Waste. Organics Waste means food waste and green waste, either individually or in combination.

AA. Permanent Service. Permanent Service means routine, regularly-scheduled collection of solid waste, recyclable material or, organics waste in carts, bins or roll-off boxes on a continuing basis, as opposed to temporary service.

BB. Temporary Service. Temporary Service means bin service provided to premises on a temporary, as-needed basis, such that no container remains on the premises or a service location on a premises for more than thirty (30) calendar days at a time, or for more than sixty (60) calendar days of any ninety (90) calendar day period.”

SECTION 2 -GRANT AND ACCEPTANCE OF EXCLUSIVE RESIDENTIAL AND COMMERCIAL FRANCHISE

A. Grant of Franchise. City grants to Grantee, for the term of and in accordance with this Franchise Agreement (including all extensions or renewals), the exclusive right, privilege and duty to collect, transport and remove to solid waste processing and/or disposal facilities, all residential, industrial and commercial solid waste (including recyclable material, construction and demolition waste, food waste, green waste, and organics waste) generated or accumulated within the City, whether by permanent or temporary service, or whether by cart, bin or roll-off. Except as otherwise provided herein, all commercial, industrial and residential premises and community activities within the Franchise Area shall be required to utilize the collection services of Grantee provided hereunder. City and Grantee acknowledge that roll-off services are currently being undertaken by other solid waste enterprises as of the effective date of this Amended and Restated Agreement. City and Grantee agree to provide for a smooth transition of all roll-off services to Grantee, in accordance with the terms and conditions set forth in Exhibit E.

B. Acceptance of Franchise. Grantee agrees to be bound by and comply with all the requirements of this Franchise Agreement. Grantee waives any right or claim to serve any part of the Franchise Area under any prior grant of franchise, contract, license or permit issued or granted by any governmental entity.

C. Exceptions to Exclusivity. The exclusive privilege granted by this Agreement shall not apply where:

(1) Green waste is removed from premises by a gardening, landscaping, or tree trimming company using its own equipment and employees as an incidental part of a total service offered by the company, as opposed to a hauling service.

(2) Construction and demolition waste is incidentally removed by a duly licensed construction or demolition company, as an incidental part of a total service offered by such licensed company using its own equipment and employees, as opposed to a hauling service.

(3) Food waste is collected and transported to agricultural operations solely for use as animal feed, without processing by any means.

(4) A person handles, hauls or transports solid waste or recyclables generated by or from his/her own residence or business operation for purposes of disposing of same at an authorized processing or disposal facility.

D. Sale or Donation of Recyclables. This Agreement is not intended to and does not affect or limit the right of any person to sell any Recyclable Material to any person, provided that the sale results in a net payment to the generator from the collector or end user after deduction of processing, transportation and residue disposal costs (and not simply a reduction in payment made by the generator to the collector or end user), or to donate Recyclable Material to any bona fide charity, provided that all such Recyclable Material is separated by type (e.g. aluminum cans) by the generator.

SECTION 3 -FRANCHISE FEE; CITY SURCHARGE

A. Grantee will pay a contract modification fee of fifty thousand dollars (\$50,000.00), on or before March 31, 2013.

B. Grantee shall pay to City a franchise fee set by City Council resolution, which fee shall be a percentage of the gross revenues derived by Grantee from operations pursuant to this Franchise Agreement. The franchise fee is initially set at ten percent (10 %) of gross revenues. Effective August 1, 2013, the franchise fee will increase to twelve and one-half percent (12½ %), and thereafter from time to time may be adjusted by Resolution of the City Council. The franchise fee percentage increase effective August 1, 2013 shall be included within the rates set forth in Exhibit A, as adjusted, and Grantee shall not be entitled to any additional increase in the rates. Should the franchise fee percentage be increased or decreased in the future, the rates shall be adjusted to reflect any change. The franchise fee shall be due and payable monthly within forty-five (45) days following the end of each month. If payment is not received within said forty-five (45) day period, interest shall accrue thereon at the rate of fifteen percent (15%) per annum or at the maximum interest rate permitted under California law, whichever is greater. City shall give Grantee a minimum of ninety (90) days' notice of any changes in the franchise fee, and any such changes shall result in a corresponding adjustment to Grantee's rates under this Agreement.

C. Grantee shall collect on behalf of City and pay over to City, as and when received, a City surcharge in the amount of

9.18% of Grantee's billings for residential services, commercial/industrial services, and the haul portion of roll-off services, less franchise fee amounts. This surcharge is designed to return the City's Solid Waste Enterprise Fund to a positive fund balance. The collected surcharge amounts shall be paid to the City monthly within forty-five (45) days following the end of each month. If payment is not received within said forty-five (45) day period, interest shall accrue thereon at the rate of fifteen percent (15%) per annum or at the maximum interest rate permitted under California law, whichever is greater. City shall give Grantee a minimum of ninety (90) days' notice of any changes in the City surcharge, such that Grantee's invoices to customers can be adjusted accordingly.

SECTION 4 - COMPLIANCE WITH LAWS AND REGULATIONS

Grantee warrants that it will comply with all applicable federal and state laws legally binding on Grantee in effect during the term of this Agreement, including implementing regulations, as they may, from time to time, be amended, specifically including, but not limited to the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9601, et seq., the California Integrated Waste Management Act of 1989 ("AB 939"), and all other applicable laws of the State of California. Moreover, Grantee shall comply with all local laws and regulations applicable to Grantee to the extent they are not inconsistent with the terms of this Franchise Agreement. Grantee shall comply with all final and binding judgments entered against Grantee regarding its services performed under this Agreement.

SECTION 5 - FRANCHISE AREA

A. Franchise Area Defined. The Franchise Area granted by this Franchise Agreement shall be all residential, commercial and industrial areas within the boundaries of the City as they exist on the effective date of this Franchise Agreement, and as they may hereafter be changed by reason of annexation or deannexation.

SECTION 6 - SERVICES PROVIDED BY GRANTEE

A. City to Approve All Services. The nature of the services Grantee offers and provides residences or businesses in the Franchise Area shall be determined by the City Council. The City Council may change the level of such services from time to time on reasonable notice to Grantee, provided that the City Council adjusts Grantee's rates to reflect the change in service levels. The services that Grantee offers and provides to customers affected by this Franchise Agreement shall be subject to the prior approval of the City Council or its designee. Nothing in this Agreement, however, shall be construed or interpreted as authorizing the City to reduce or adversely affect Grantee's exclusive franchise rights as specified in Section 2.A of this Agreement.

B. Once-A-Week Service. In order to protect the public health and safety the collection of Solid Waste by Grantee in the Franchise Area not defined in the Franchise Agreement as Recyclable Material, shall provide for the collection of such waste generated or accumulated in residential, commercial, and industrial premises within the Franchise Area at least once per week, or more frequently, as Grantee and City may agree.

(1) Single-Family Units. The Grantee shall collect from Single-Family Units Solid Waste (except Bulky Wastes and Special Wastes) which have been placed, kept or accumulated in authorized Solid Waste containers, at curbside or other authorized collection station(s) prior to Grantee's normal weekly collection time. Effective April 1, 2013, Grantee shall provide for all regularly-scheduled residential collection in the City on one day, which initially shall be on Wednesday. The designated collection day may be changed by mutual agreement between Grantee and the City Administrator. Effective May 1, 2016 or as soon as practical thereafter, Grantee will discontinue offering 15-gallon "Lifeline" service. 15-gallon customers will be transitioned to 30-gallon service at the established 30-gallon rate.

(2) Commercial and Multi-Family Units. Grantee shall empty all commercial and multi-family authorized Solid Waste containers not less often than once per week, and more frequently if required to handle the Commercial or Multi-Family Unit waste stream of the premises where the containers are located, in a manner consistent with public health and safety. Commencing August 1, 2013, Grantee will discontinue offering service using a 350-gallon cart, and thereafter will transition existing 350-gallon cart customers to service using smaller carts or bins.

C. Hours of Collection. Grantee agrees that, in order to protect the peace and quiet of residents, the collection of Solid Waste for residential and commercial areas shall not start before 6:00 A.M., or continue after 7:00 P.M., seven (7) days per week. Grantee agrees to reasonably adjust the hours of commencement of collection operations in selected areas at the request of City where early collection activities have generated numerous complaints from residents.

D. Collection on Holidays. Grantee has informed City that Grantee will provide that if the day of collection on any given route falls on a legal holiday, e.g., New Year's Day or Christmas Day, observed by the Materials Recovery Facility, landfill or other lawful disposal site to which solid waste collected within the Franchise Area is taken for disposal, Grantee shall provide collection service for such route on the work day next following such holiday, and shall not provide collection service on such holiday, and all subsequent collection days during that holiday week shall be moved back one day in the discretion of Grantee.

E. Medical, Hazardous and Special Wastes. Grantee shall have the non-exclusive right under this franchise, but is not obligated to collect, transport and dispose of material defined as hazardous waste or special waste herein. Grantee may reject or refuse to collect any hazardous or special waste set out for collection, and title to all such materials shall remain with customer, unless Grantee consents to accept such materials as set forth below. Grantee may negotiate separate contracts and rates for hazardous and special waste collection with each individual customer, which rates shall not require advance City approval, but may be reviewed by the City in its discretion at the request of any customer. Grantee shall not engage in the collection of medical waste; however, Grantee's principals may form a separate and independent company to engage in the collection and disposal of medical waste. City reserves the right to franchise other parties to perform hazardous, medical and special waste handling services, provided it first gives Grantee an opportunity to submit a proposal to provide these services.

F. City Approval of Grantee's Recycling Programs. Before initiating new recycling programs or activities ("programs") within the Franchise Area, Grantee shall seek and obtain the express approval of City before implementing such recycling programs. In seeking City's approval for such new programs, Grantee shall provide the City with a detailed description of the proposed program, as well as a projection of costs and revenues associated with the program. In determining whether to approve any such proposed program, City may, in its sole discretion, choose to completely or partially subsidize the program.

G. For purposes of defining the scope of services provided by Grantee under this Agreement, the Parties acknowledge that Grantee's submittal in response to the City's Request for Proposal is hereby incorporated by reference into this Agreement and is attached hereto as Exhibit C.

H. Public Education. Grantee acknowledges that education and public outreach and awareness are essential elements of efforts to achieve AB 939 requirements of source reduction, reuse, recycling and composting. Accordingly, prior to July 1, 2013, and by July 1st of each year thereafter, Grantee shall develop and implement an annual public education and information program, in English and Spanish, in order to offer effective outreach and education programs to schools, businesses and multi-family housing units explaining program offerings and maximizing participation in recycling efforts. Grantee shall also provide information to the City on other matters such as holiday collection schedules for posting on customer bills, as well as publishing procedures for complaints and service requests. The public education and information program shall include use of the City's community public access television and website for posting education messages, with links to the Grantee's website. Grantee will also provide information to the City for their website on refuse and recycling services. The various elements of the public education and information program shall be reviewed and approved by the City Administrator prior to implementation, and not later than July 1, 2013. The direct costs of implementing the program shall be borne by the Grantee.

All brochures, mailings, and other educational materials are to be approved by the City in advance of distribution. Any outreach material utilizing paper provided and distributed by the Grantee shall be made from a high percentage post-consumer recycled-content paper and must be labeled "Printed on Recycled Paper, 30% Post-Consumer Content" on the outreach material.

Specific Public Education activities shall include:

1. Public Outreach Efforts. Grantee will provide the dedicated staff hours necessary to conduct the public outreach efforts in English and Spanish. Grantee will provide, at a minimum, the following staff hours to implement the key recycling outreach programs:

Single-Family Recycling Outreach Program: 96 hours per year

Multi-Family Recycling Outreach Program: 96 hours per year

Commercial Recycling Outreach Program: 96 hours per year

2. Web-based Information. The public education and information program shall include use of the City's website for posting education messages, with links to the Grantee's website. Grantee will also provide information on their website on refuse and recycling services and special pick ups. In addition, Grantee shall post electronic "Welcome Package" brochures with refuse and recycling information for new residential and business and Multi-Family customers on the City website as well as have available in hard copy. Grantee shall update this information based on any program, service or date changes. The various elements of the public education and information program shall be reviewed and approved by the City Administrator prior to implementation, and not later than July 1, 2013 and every year thereafter.

3. Annual Newsletter. At least once a year, a newsletter shall be prepared in English and Spanish by the Grantee informing customers of how to use available services, AB 341 information (if applicable), how to place carts for collection, which materials should be placed in each cart, holiday collection schedules, and customer phone numbers. Newsletter shall address Residential, Multi-Family, and Commercial customers. Said newsletter shall be prepared and direct mailed by Grantee or as part of monthly mailing of City utility bill for each year this Agreement is in effect. Said newsletter shall also be posted on the Grantee's website with a link from the City site.

4. Corrective Action Notice. For use in instances where the customer sets out inappropriate materials, Grantee is to track and provide a quarterly report to the City of the number of Corrective Action Notices that have been cited.

5. Notice of Contamination. Upon observing contamination, Grantee drivers will attach a Notice of Contamination tag to the cart that documents the type of contamination so that customers can understand how to more appropriately participate in the recycling program in the future. In addition, the tag will provide information on what materials can be recycled and why it is important that everyone in Guadalupe participate fully in the recycling program.

6. Container Labeling. By July 1, 2013, Grantee shall place recycling stickers on all residential containers in both English and Spanish.

I. AB939 Diversion Requirements. Grantee shall make good faith efforts to assist the City's compliance with Public Resources Code Section 41780 through diligent implementation of the recycling and public education programs set forth herein. If, at any time after August 1, 2013, City is determined to have failed to comply with Public Resources Code Section 41780 with respect to Solid Waste Collected pursuant to this agreement, Grantee will assist City to develop a plan for compliance with Section 41780, through implementation of applicable portions of City's Source Reduction and Recycling Element. Grantee understands that any such plan is intended to constitute a good faith plan to implement applicable portions of County's Source Reduction and Recycling Element and be reasonably likely to achieve compliance with Section 41780. In the event that it is determined that the City has failed to comply with Section 41780 arising from Grantee's failure to diligently implement the recycling and public education programs set forth herein, the cost of any new or additional recycling programs will be borne solely by Grantee.

Should the City Council by Resolution establish a policy to significantly exceed the current state-mandated City-wide AB 939 diversion minimum, or in the event that the State of California increases the requirements of Public Resources Code Section 41780 for the City-wide AB 939 diversion minimum, the Grantee agrees to undertake its best reasonable efforts to implement programs and provide equipment necessary in order for the City to meet the enhanced diversion mandates or policies. Provided that Grantee had heretofore diligently implement the recycling and public education programs set forth herein, Grantee shall be entitled to an extraordinary rate adjustment under Section 18.C to reimburse for costs associated with these new or additional recycling policies or mandates.

J. AB 341 and AB 1826 Assistance. Grantee shall make good faith efforts to assist the City to implement the requirements of AB 341 and AB 1826, including education, outreach and monitoring requirements of the Mandatory Commercial Recycling law and Mandatory Commercial Organic Waste law. On or before November 1, 2015, Grantee shall submit to City for review and approval, a revised plan and program to identify all customers subject to the requirements of AB 341 and AB 1826, provide periodic on-site visits to such premises to offer and promote recycling and organic waste services and to attempt to resolve any logistical detriments to providing service, and notify and request assistance from the City for potential follow up action where there is a repeated refusal to implement recycling or organic waste services. City agrees to provide reasonable assistance to Grantee in implementing the plan and program, including preparing a letter for distribution to customers regarding AB 341 and AB 1826 requirements, and occasional participation by City personnel in meetings with customers who repeatedly refuse to implement recycling services. Grantee shall faithfully report recycling and organic waste data and tonnage to the City and regulatory agencies on a quarterly basis. Grantee shall address and correct any contamination issues involving commercial recycling. Grantee shall place AB 341 and AB 1826 information on Grantee's and City's website

Specific AB 341 programs shall include:

1. Instructional Packet Accompanying Site Assessments and Grantee-Provided Containers. An informational packet (similar to information posted on the website) shall be accompanied with any Site Assessment or Container delivery to a commercial or multi-family customer required to comply with AB 341. The packet should describe, at a minimum, available services, AB 341 information (if applicable), how to place carts for collection, which materials should be placed in each cart, holiday collection schedules, and customer phone numbers.

2. Multi-Family Outreach and Education. Grantee shall significantly target Multi-Family Premises required to comply with AB

341 which often have low recycling rates compared to Single-Family and Commercial customers. Lack of information, confusion about what is recyclable, disinterest among residents and management and limited container enclosure size can all contribute to low participation rates. Grantee will work to overcome these challenges and engage the Multi-Family Customers in Guadalupe to participate in recycling.

3. Grantee will visit each Multi-Family Bin customer required to comply with AB 341 where recycling service is not currently being utilized to meet with the property owner or manager for the purpose of establishing a recycling program.

4. Grantee will provide all property managers and residents with Bin/Cart service with Recycling program guidelines, posters placed in laundry rooms, refuse/recyclable container enclosures and other community areas at each building, and other outreach materials tailored to Multi-Family Bin/cart customer service. Grantee shall contact each Multi-Family customer, building owner or property manager within 120 days of the start of this agreement in an effort to implement or optimize recycling programs providing educational materials, and to train owner/manager in how to work with tenants to recycle. Grantee shall provide each building owner and property manager with welcome packets for owner/manager to provide to each new resident upon move-in; packets will include information on what should be placed in the Recyclables Material Containers.

K. City Facilities. Beginning March 1, 2013, Grantee will provide solid waste, green waste, and recyclable material collection services at designated facilities at no charge to the City, using bins. Locations and required services are described in Exhibit B attached hereto. In addition, Grantee will perform a waste audit of each City facility designated, and implement a comprehensive waste diversion program, including education of City employees, at no additional cost. In addition, upon full completion of the transition to exclusive roll-off services, Grantee shall provide City collection of one roll-off box at a City facility at no haul charge, with City responsible for the disposal charge.

L. Community Cleanup. Beginning June 1, 2013, Grantee shall provide roll-off boxes, delivered to locations determined by the City, for collection of solid waste, green waste, bulky-items and e-waste at two community cleanup events each calendar year, at no cost to City. These events shall take place on two Saturdays agreed upon by the City and Grantee, and are available exclusively to the occupants of residential premises in the City. The City and Grantee will cooperate to develop methods to assure proof of residence in the City prior to allowing participation. The annual value of this service shall not exceed twenty thousand dollars (\$20,000.00).

M. Street Sweeping. Grantee will provide street sweeping within the City in accordance with the plan included as Exhibit C.

N. Holiday Tree Collection. Grantee will collect, transport and recycle holiday trees which are placed at the curbside at all residential premises on the regularly-scheduled collection day on the first full week of each January, at no cost to City residents or the City. Grantee is not required to collect or accept artificial holiday trees, or trees containing decorations, ornaments, tinsel, debris, support stands or other foreign matter as part of this diversion program.”

SECTION 7 • DISPOSAL OF SOLID WASTE

A. Grantee's Disposal Obligations. Grantee shall dispose of all Solid Waste at any permitted and licensed site or facility where such disposal is lawful, as selected by Grantee in its sole discretion, provided however that Grantee shall strive to provide the City with disposal services that are both cost effective and environmentally sound. Grantee shall also be responsible for selecting an appropriate facility for the processing of Recyclables and green waste under this Agreement, and shall select a facility that is properly permitted and meets all applicable regulatory requirements.

B. City's Jurisdiction. The parties hereto agree that City currently has jurisdiction to regulate the collection, removal, handling and disposal of all solid wastes generated in the Franchise Area. The intent of this Agreement is to regulate residential, commercial and industrial solid waste handling service. However, this Agreement does not regulate the collection, removal and disposal of hazardous waste, medical waste, or special waste, irrespective of origin.

Throughout the term of this Agreement, unless the City gives notice as provided for herein and subject to the terms of this Agreement, it shall be the Grantee's sole responsibility and duty to dispose of the solid waste collected by virtue of this Agreement, and do so in a safe manner and in compliance with all federal, state, and to the extent not inconsistent with this Agreement, local laws and regulations. In this connection, the Grantee agrees that it shall dispose of all solid waste collected in the Franchise Area at a solid waste facility that is fully licensed and appropriately permitted and, to Grantee's knowledge, is not in material violation of any health, safety or hazardous materials laws, rules, regulations or orders.

C. Rights Reserved as to Hazardous Wastes, Medical Wastes and Special Wastes. The City reserves the right to contract with other parties to have hazardous, medical and special wastes collected, transported, disposed of, processed and/or diverted,

provided the City first gives Grantee the right to submit a proposal to perform such services.

SECTION 8 • CASH BOND AND INSURANCE

A. Cash Bond. In the event Grantee fails to make timely payment of any franchise fees owed to City, City may require Grantee, in addition to paying the late franchise fee payment plus default interest thereon, to deposit with City a cash bond or a letter of credit for the benefit of City in the sum of One Hundred Thousand Dollars (\$100,000.00) in an interest-bearing account. The cash bond or letter of credit shall be on terms acceptable to the City Attorney and approved by the City Council. The cash bond or letter of credit shall serve as security for the faithful performance by Grantee of all the provisions and obligations of this Franchise Agreement. All interest shall be paid to the Grantee.

(1) After thirty (30) days following Grantee's failure to pay the City an amount owing under this Franchise Agreement plus interest at the rate of fifteen percent (15%) per annum, the cash bond or letter of credit may be assessed by the City upon five (5) days' prior written notice to the Grantee for purposes including, but not limited to:

- (a) Failure of Grantee to pay the City sums due under the terms of the Franchise Agreement;
- (b) Reimbursement of costs borne by the City to correct Franchise Agreement violations not corrected by Grantee, after due notice; and
- (c) Monetary remedies or damages assessed against Grantee due to breach of Franchise Agreement.

(2) The Grantee shall deposit a sum of money sufficient to restore the cash bond to the original amount within thirty (30) days after notice from the City that any amount has been withdrawn from the cash bond.

B. Insurance: The Grantee shall provide proof of a policy of insurance satisfactory to the City Administrator and documentation evidencing that the Grantee maintains insurance that meets the following requirements:

1. Full Workers' Compensation and Employers' Liability Insurance covering all employees of the Grantee as required by law in the State of California.
2. Commercial General Liability Insurance of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence for bodily injury and property damage, including but not limited to endorsements for the following coverage: Premises, personal injury, operations, products and completed operations, blanket contractual, and independent contractors liability.
3. Automobile Liability Insurance of not less than One Million Dollars (\$1,000,000) is required in the event motor vehicles are used by the Grantee in performance of the contract.
4. Environmental Impairment Insurance in an amount not less than One Million Dollars (\$1,000,000) per occurrence.
5. Explosion, Collapse and Underground coverage is required when the scope of work includes XCU exposures.
6. Grantee shall furnish proof of coverage satisfactory to the City Administrator as evidence that the insurance required herein is being maintained. The insurance will be issued by an insurance company listed "A-VII" or better in the Best's Key Rating Guide and that are admitted insurers in the State of California, or be provided through partial or total self-insurance likewise acceptable to the City Administrator.
7. The City, its officers, officials, employees, and volunteers are included as additional insureds, but only insofar as the operations under this agreement are concerned. This provision shall apply to all liability policies except Workers' Compensation and professional liability insurance policies. Proof that the City is named additional insured shall be made by providing the City Administrator with a certified copy, or other acceptable evidence, of an endorsement to Grantee's insurance policy naming the City additional insured.
8. In the event Grantee cannot provide an occurrence policy, Grantee shall provide insurance covering claims made as a result of performance of this Contract for not less than three (3) years following completion of performance of this Agreement.
9. Any deductibles or self-insurance retentions are for the account of Grantee, and Grantee is solely responsible for their

payment. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to the City, its officers, officials, employees and volunteers; or the Grantee shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

10. The insurance required herein shall provide that no cancellation or material change in any policy shall become effective except upon thirty (30) days prior written notice to the City Guadalupe at the office of the City Administrator, 918 Obispo St., Guadalupe, CA 93434.
11. Grantee agrees that the insurance required herein shall be in effect at all times during the term of this agreement. In the event said insurance coverage expires at any time or times during the term of this contract, Grantee agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the contract or for a period of not less than one (1) year (for an occurrence policy) or (3) years (for a claims made policy). New certificates of insurance are subject to the approval of the City Administrator.
12. Certificate shall meet such additional standards as may be determined by the City Administrator as essential for protection of the City.
13. Grantee shall not commence performance of this Agreement unless and until compliance with each and every requirement of the insurance provisions is achieved.
14. Failure of Grantee to maintain the insurance required herein, or to comply with any of the requirements of the insurance provisions, shall constitute a material breach of the entire Agreement.
15. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City, its officers, officials, employees or volunteers.
16. The Grantee's insurance coverage shall be primary insurance as respects to the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of the Grantee's insurance and shall not contribute with it.
17. The insurance companies shall have no recourse against the City, its officers, agents, employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company. Grantee shall indemnify and hold City harmless for any such claims by insurance companies insuring Grantee.
18. Grantee's indemnity and other obligations shall not be limited by the insurance required herein and shall survive the expiration of the Agreement.
19. To the extent that this Section 7, "Contractor's Insurance," is inconsistent with 7-1.12, "Responsibility for Damage," of the State of California, Department of Transportation, Caltrans, Standard Specifications, this Article shall govern; otherwise each and every provision of such Section 7-1.12 shall be applicable to this Agreement.

SECTION 9 -TERM

A. Initial Term. The term of this Franchise Agreement shall commence on August 1, 2006 and shall terminate at the close of business on July 31, 2023.

B. Renewal Options. The City shall have the right, in its sole discretion, to unilaterally extend the term of this Franchise Agreement for two additional periods of five years each. If the City elects to so extend this agreement for either one or both of these optional extension periods, the City shall give the Grantee notice of its election to exercise each such option a minimum of ninety (90) days before the then current termination date of this Agreement."

C. Changed Services. During the term, at the request of the other, the parties agree to negotiate in good faith regarding allowing City to direct material collected hereunder to a specific handling, processing or disposal facility, with an equitable adjustment to the rates to reflect changes in Grantee's revenues and costs, and to equitably modify the CERCLA indemnification.

D. Prior Agreement. As of the effective date of this Amended and Restated Agreement, the Prior Agreement shall be null and void and of no further effect, except for any indemnification obligations arising thereunder.

SECTION 10 -FRANCHISE TRANSFERABLE; CITY'S CONSENT REQUIRED

A. No Assignment Without Consent. The franchise granted by this Franchise Agreement shall not be transferred, sold, hypothecated, sublet or assigned, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold or transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person, except the Grantee, by act of the Grantee, without the prior written consent of the City expressed by resolution. Any attempt by Grantee to assign this franchise without the consent of City shall be void.

B. Standards Governing Consent. The City shall not unreasonably delay or withhold its consent to a transfer of the franchise granted by this Franchise Agreement. The City may impose reasonable conditions of approval on any Franchise Agreement transfer.

C. Assignment Defined. The term "assignment" shall include any dissolution, merger, consolidation or other reorganization of the Grantee, which results in change of control of the Grantee, or the sale or other transfer of a controlling percentage of Grantee's capital stock to a person not a shareholder, immediate family member, management employee or principal of the Grantee or to an affiliate on the date of the execution of this Agreement.

D. "Change in Control" Defined. City consent is required for any change in control of Grantee. "Change in control" shall mean any sale, transfer or acquisition of Grantee. If Grantee is a corporation, any acquisition of more than twenty five percent (25%) of Grantee's voting stock by a person, or group of persons acting in concert, who already owns less than fifty percent (50%) of the voting stock, shall be deemed a change in control; provided, however, any transfer of ownership of any or all of the stock of Grantee to an immediate family member, management, employees or principal of the Grantee or to a wholly-owned subsidiary of Waste Management, shall not constitute a change in ownership.

E. Breach. Any assignment or change in control of the Grantee occurring without prior City approval shall constitute a material breach of this Franchise Agreement.

F. City's Option to Terminate. In the event the Grantee herein attempts to assign or subcontract this Agreement or any part hereof or any obligation hereunder, the City shall have the right to elect to terminate this Agreement forthwith, without suit or other proceeding.

G. Permitted Transfers. Notwithstanding any other provision in this section, Grantee or its shareholders may, without consent of the City, transfer ownership of Grantee's capital stock to an Employee Stock Option Plan (ESOP), or to current management employees of Grantee, or to members of the immediate family of the shareholders of Grantee. In addition, Grantee may transfer or assign this Franchise Agreement to another corporate affiliate of Waste Management, provided such affiliate has economic resources and capital equal to or greater than that of Grantee.

H. Involuntary Assignments. Each or any of the following acts shall be considered an involuntary assignment providing the City with the right to elect to terminate the Agreement forthwith, without suit or other proceeding:

- (1) If Grantee is or becomes insolvent, or makes an assignment for the benefit of creditors;
- (2) If writ of attachment or execution is levied on this Agreement, or other property of Grantee, such that it would affect Grantee's ability to perform its duties and obligations under this Agreement; or
- (3) If, in any proceeding to which Grantee is a party, a receiver is appointed with authority to take possession of Grantee's property, such that would affect Grantee's ability to perform its duties and obligations under this Agreement.

I. Conditions to Obtaining City's Consent. The City's consent to an assignment or change of control may be withheld if, inter alia, the following conditions are not satisfied:

- (1) The Grantee shall give the City at least ninety (90) days' advance written notice of the Grantee's intent to sell, transfer or assign this Agreement. As part of that notice, the Grantee shall provide to the City the following written information:
 - (a) The name, address and telephone number of the proposed assignee;
 - (b) The character of the legal entity owning or controlling the assignee, and the names, addresses and telephone numbers of all principals, partners and/or shareholders thereof, as the case may be; and

(c) A copy of any and all purchase and assignment agreements containing, at a minimum, the terms and conditions of the sale, transfer or assignment of this Agreement, and of Grantee's solid waste and recycling business; provided, however, that the dollar amount of any financial consideration may be deleted from said copies unless and until said information becomes relevant to the review of Grantee's transferee rates under this Franchise Agreement. Further, however, that nothing in this Franchise Agreement shall obligate City to treat any of said acquisition costs as an allowable expense of said transferee for rate setting purposes.

(2) The proposed transferee must be shown, by credible and sufficient evidence, to be qualified, by financial condition, background and experience to be able to fully assume and satisfactorily perform all of the Grantee's obligations hereunder, and particularly, to be able to perform under this Agreement in a fashion that will assure the City of complying with AB 939.

(3) The Grantee cannot be in default under any of the material terms and conditions hereof.

(4) The transferee must be willing to, in writing, assume all of the obligations hereunder.

SECTION 11 - TRANSFER FEES

A. Transfer Fee. Any application for a franchise transfer shall be made in a manner prescribed by the City Administrator or his/her successor. The application shall include a transfer fee in an amount to be set by City by resolution of the City Council, to cover the anticipated cost of all direct administrative expenses of City, including consultants and attorneys, necessary to adequately analyze the application and to reimburse City for all direct and indirect expenses. Such transfer fee shall not exceed \$5,000 (FIVE THOUSAND DOLLARS). Said transfer fee shall be deposited with City prior to City's approval of any such transfer.

B. Non-Recoverable Costs. These franchise transfer fees are over and above any franchise fees specified in this Franchise Agreement, and shall not be recoverable costs for rate setting purposes.

SECTION 12 - TERMINATION

Each of the following shall constitute a material breach of this Franchise Agreement on the part of the Grantee:

A. Material Breach of Grantee's Obligations. The material failure or refusal of Grantee to comply with the obligations and duties imposed on Grantee pursuant to this Franchise Agreement. In the event of any material breach of any of the terms of this Franchise Agreement by Grantee, City and Grantee shall meet and confer in good faith in an effort to agree on a resolution and cure of the breach. If the parties are unable to agree on the informal resolution or cure of the breach, City shall have the right to terminate this Franchise Agreement if:

(1) The City shall have given prior written notice to the Grantee specifying that a particular default or defaults exist which will, unless corrected, constitute a material breach on the part of the Grantee of this Franchise Agreement; and

(2) The Grantee has not corrected such default or has not taken reasonable steps to commence to correct the same within thirty (30) days from the date of the notice given pursuant to clause (A)(1) of this section, or thereafter does not diligently continue to take reasonable steps to correct such default.

B. Events of Insolvency. The Grantee (i) being or becoming insolvent or bankrupt, or ceasing to pay its debts as they mature, or making an arrangement with or for the benefit of its creditors, or consenting to or acquiescing in the appointment of a receiver, trustee or liquidator for a substantial part of its property; or (ii) being or becoming a party to a voluntary or involuntary bankruptcy, winding up, reorganization, insolvency, arrangement or similar proceeding instituted by or against the Grantee under the laws of any jurisdiction, which proceeding, if involuntary in nature, has not been dismissed within sixty (60) days; or (iii) taking any action approving of, consenting to, or acquiescing in any such proceeding; or (iv) being a party to the levy of any distress, execution or attachment upon the property of the Grantee which shall substantially interfere with the Grantee's performance hereunder. In the event of the Grantee being or becoming insolvent or bankrupt, the Grantee shall (i) assume or reject this Agreement within sixty (60) days after the order for relief; (ii) promptly cure any failure to perform its obligations or any event of default arising under this Agreement for reasons other than the event set forth in this paragraph; and (iii) provide adequate assurance of future performance under this Agreement under 11 USC Section 365(b)(1)(c), or any successor provision of the Federal Bankruptcy Code. The foregoing provisions shall not prevent the City from requesting such other conditions to assumption of this Agreement, as it deems reasonable and necessary.

C. No Waivers. Any waiver of a breach shall not be deemed to be a waiver of any subsequent breach or to be construed as approval of a course of conduct.

D. Termination. Upon the occurrence of a material breach, failure to cure such breach, and the declaration of termination of this Agreement by the City Council, this Agreement and the franchise granted thereunder shall be of no further force and effect, excepting those provisions concerning City's right to indemnity and to temporarily assume Grantee's obligations. City then shall be free to enter into whatever other arrangements are deemed justified and necessary for the collection, removal and disposal of solid waste within the Franchise Area.

SECTION 13 -RIGHTS OF CITY TO PERFORM DURING EMERGENCY

A. Emergency Collection. Should Grantee, for any reason whatsoever, except the occurrence or existence of any of the events or conditions set forth in Section 25.A ("Force Majeure") below, refuse or be unable to collect, transport and dispose of any or all of the Solid Waste which it is obligated under this Franchise Agreement to collect, transport and dispose of for a period of more than seventy-two (72) hours, and if as a result thereof, solid waste should accumulate in the Franchise Area to such an extent, in such a manner, or for such a time that the Director of Environmental Management in the exercise of his/her sole discretion, should find that such accumulation endangers or menaces the public health, safety or welfare, then in such event City shall have the right, upon twenty-four (24) hour prior written notice to Grantee, during the period of such emergency, to contract on a temporary basis with third parties to collect and transport any and all solid waste which Grantee would otherwise be obligated to collect and transport pursuant to this Franchise Agreement.

B. Grantee to Cooperate. Grantee agrees that in such event it will fully cooperate with City and its third-party contractor to effect such a transfer of operations in as smooth and efficient a fashion as is practicable.

C. Grantee to Pay Increased Costs. All costs, fees, rates and other expenses incurred by the City and/or its third-party contractor that exceed those which would have been incurred by City had no such emergency arisen shall be the responsibility of the Grantee, and shall be paid to the City within thirty (30) days of Grantee's receipt of written notice to so pay.

SECTION 14 -PRIVACY

A. Privacy of Customer Information. Grantee shall use all reasonable efforts to observe and protect the rights of privacy of customers. Information identifying individual customers, or the composition or contents of a customer's refuse or recyclables shall not be revealed to any person, private agency or company, unless upon the request of federal or state law enforcement personnel, the authority of a court of law, by statute, or upon valid authorization of the customer. This provision shall not be construed to preclude Grantee from preparing, participating in, or assisting in the preparation of waste characterization studies or waste stream analyses which may be required by AB 939, or any other reports requested by the City under the Franchise Agreement or required or requested by any governmental agency.

B. Mailing Lists. Grantee shall not market or distribute outside the normal course of its business, mailing lists with the names and addresses of customers supplied by City.

SECTION 15 - RECORDS AND ACCOUNTING

A. Financial Reporting. Grantee shall maintain a proper set of books and records on an accrual basis, and an annual reviewed or audited financial statement in accordance with generally accepted accounting principles, accurately reflecting the business done by it under this Agreement. Grantee shall submit to the City each year a copy of its reviewed or audited annual financial statement as soon as it is received by Grantee, but in all events no later than four (4) months following the close of Grantee's fiscal year. Grantee may submit the audited financial statements of its parent corporation, Waste Management, Inc., to satisfy this requirement

B. Service Records. Grantee shall maintain all records relating to the services provided hereunder, including, but not limited to, customer lists, billing records, route maps, AB 939 records, and customer complaints for a period of five (5) years from the date of the generation of each such record. The City or its agent(s) shall have the right, upon ten (10) business days' advance notice, to inspect all maps, AB 939 records, Grantee's books and records, customer complaints, and other like materials of the Grantee which reasonably relate to Grantee's compliance with the provisions of the Franchise Agreement. Such records shall be made available to City at Grantee's regular place of business. Grantee shall further maintain and make available to City, records as to number of customers, total and by type, route maps/route listings, service records and other materials and operating statistics in such manner and with such detail as City may require. City shall treat the information required by this paragraph that affects the competitive position of the Grantee as confidential information to the extent permitted by law. City shall not make or retain copies or photocopies containing information set forth in Grantee's confidential financial and business records pertaining to the establishment of rates and payment of franchise fees without executing a Confidentiality Agreement providing that City shall

hold and keep such copies and photocopies confidential. The Confidentiality Agreement shall be negotiated in good faith between the City and Grantee, and commemorated in a separate legally binding document prior to any subsequent rate increase.

C. Underpayment of Franchise Fees or City Surcharge. Should any examination or audit of Grantee's records reveal an underpayment of any fee or surcharge required under this Franchise Agreement, the amount of such underpayment shall become due and payable to City not later than thirty (30) days after written notice of such underpayment is sent to Grantee by City. Should an underpayment of more than two percent (2%) be discovered, Grantee shall bear the entire cost of the City's audit or examination, and said cost shall not be recoverable through rate setting. Any underpayment of Franchise Fees or City Surcharge is subject to a penalty of 10% of the amount of the underpayment, in addition to the underpayment.

D. Public Records. Nothing in this section will prevent City from allowing public access to City's records as provided for under the California Government Code, and in the event any dispute arises as to the public access to information provided by Grantee under the terms of this Agreement, the City shall, in its discretion, provide public access to said information according to law or tender the defense of any claims made against the City concerning said information to Grantee. Prior to releasing any information pursuant to this paragraph, City shall make a good faith effort to notify Grantee of the intended release and provide Grantee with an opportunity to seek a protective order.

E. City Access to Customer Lists. Upon reasonable notice or as otherwise agreed herein, and at those times designated by the City, Grantee shall supply to the City lists of the names of all customers of Grantee who are provided any service by Grantee within the Franchise Area. At the same or other time, the City may request, and the Grantee shall provide information specifying each customer's address, type of service provided to that customer, the number and type of authorized solid waste containers used by or provided to each customer, whether and which customers are believed to be violating this Agreement, any mandatory subscription ordinance or any other provision of the law, and any other information that the City determines, in its sound discretion, reasonably required to monitor implementation of this Agreement and/or discharge the City's responsibilities under the law.

SECTION 16 -REPORTS AND ADVERSE INFORMATION

A. Monthly and Annual Reports.

Report Formats and Schedule

- Records shall be maintained in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. Reports are intended to compile recorded data into useful forms of information that can be used to, among other things:
 - Determine and evaluate the efficiency of operations;
 - Evaluate past and expected progress toward AB939 goals and objectives;
 - Determine needs for adjustment to programs; and
 - Evaluate Customer service and complaints.

The Grantee may propose formats that are responsive to the objectives and audiences for each report. The format of each report requires approval by the City. The Grantee agrees to submit all reports by electronic means in a format compatible with the City's software/computers at no additional charge. The Grantee will provide a certification statement, under penalty of perjury, by an authorized Grantee official, that the report being submitted is true and correct.

Monthly reports shall be submitted within twenty (20) calendar days after the end of each month. Annual reports shall be submitted before January 31 following the reporting year.

All reports shall be submitted electronically to the City as directed, and to:

City of Guadalupe City Administrator (or designated representative) 918 Obispo Street Guadalupe, CA 93434

Monthly Reports

The information listed shall be the minimum reported:

- Solid Waste Collected by the Grantee for each month, sorted by type of Solid Waste (Refuse, Recycling, Yard Waste) and type of Customer (Residential cart, Bin and Commercial Cart Service, Roll off) in tons.
- Narrative summary of problems encountered (including scavenging) and actions taken with recommendations for the City, as appropriate.
- Warning notices issued for contaminated Recyclable Materials and Yard Waste Containers

- Copies of Promotional and public education materials sent during the quarter
- Other information or reports that the City may reasonable request or require
- List of Commercial Customers actively participating in Recycling programs with Grantee, and list their service levels; and the number not recycling.

Annual Report

The Annual Report is to be essentially in the form and content of the monthly reports combined, but shall also include:

- A complete inventory of Collection equipment used to provide all services (such as vehicles and Containers by size and waste stream type Container is used for).
- A summary of the number of Bins by size and service level, Cart counts by size (15-, 30-,60-and 90-gallon) and type of service (Refuse, Recycling, Yard Waste, Residential versus Commercial), and Roll-off Box pulls per month by material type.
- Number of routes and route hours per day by type of service
- A summary of the previous year's activities (or in the case of the initial year, the initial year's activities), including, but not limited to, services begun or discontinued during the reporting year, and the number of customers for each class and level of service;
- A revenue statement setting forth quarterly franchise fees, and the basis for the calculation thereof, certified under penalty of perjury by an officer of Grantee; and
- A list of Grantee's officers and members of its Board of Directors.

B. Adverse Information. Grantee shall provide City with two (2) copies of all reports or other material adversely reflecting on Grantee's performance under this Franchise Agreement, submitted by Grantee to the California or U.S. EPA, the California Integrated Waste Management Board, or any other federal, state or City agency. Copies shall be submitted to City simultaneously with Grantee's filing of such matters with said agencies. Grantee's routine correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request, as provided in this section.

(1) The Grantee shall submit to City copies of all pleadings, applications, notifications, communications and documents of any kind, submitted by the Grantee to, as well as copies of all decisions, correspondence and actions by, any federal, state and local courts, regulatory agencies and other governmental bodies relating specifically to all material aspects of Grantee's performance of services pursuant to this Franchise Agreement. Any data which the Grantee seeks to be excluded from provisions of the California Public Records Act shall be clearly identified as such by Grantee with the basis for such exclusion clearly specified. In the event City receives a request under the Public Records Act, or by subpoena, the City shall notify Grantee to permit Grantee to object to the release of the information requested or subpoenaed.

(2) Grantee shall submit to the City such other information or reports in such forms and at such times as the City may reasonably request or require.

(3) All reports and records required under this or any other section shall be furnished by the Grantee, and the expense therefore in the gathering and preparation of such information, reports and records shall be included in the rate base.

C. AB 939 Requirements. During the term of this Franchise Agreement, Grantee shall submit to City quarterly, and more often if required by law, information reasonably required by City to meet its reporting obligations imposed by AB 939, and the regulations implementing AB 939, in a manner approved by City. Grantee agrees to submit such reports and information on computer disks, or by model, in format compatible with City's computers if reasonably requested by City. Grantee agrees to render all reasonable cooperation and assistance to the City in meeting the requirements of City's source reduction and recycling element and non-disposal facility element.

D. Waste Audits.

(1) Grantee shall conduct waste audits at the request of City where such waste audits are necessary to enable City to comply with the requirements of federal or state law, and the cost of such waste audits shall be reflected in a corresponding adjustment to Grantee's rates.

(2) The results of such audits will be memorialized on forms either designed or approved by the City.

(3) The purpose of the audit will be to identify volume and characteristics of solid waste being generated by the customer.

(4) A copy of the audit shall be provided by the Grantee to the City, and to Grantee's own files.

E. Failure to Report. The refusal, failure or neglect of the Grantee to file any of the reports required, or to provide material

information to City, or the intentional inclusion of any materially false or misleading statement or representation made knowingly by the Grantee shall be deemed a material breach of the Franchise Agreement, and shall subject the Grantee to all remedies, legal or equitable, which are available to the City under the Franchise Agreement up to and including termination of the Franchise Agreement.

SECTION 17- REVIEW OF PERFORMANCE AND QUALITY OF SERVICE

A. Performance Review. From time to time, at its sole discretion, City may examine Grantee's operation in order to evaluate whether or not the Grantee is operating at a satisfactory level of efficiency and customer satisfaction. Grantee agrees to cooperate in any such examination, and shall permit City's representatives to inspect, at Grantee's principal place of business, such information pertaining to Grantee's obligations hereunder as City may require, including but not limited to, such things as customer inquiry records, collection routes and equipment records. Access to Grantee's records shall be subject to Section 16.

B. Public Hearing. At City's sole option, within ninety (90) days of the first anniversary of the effective date of this Franchise Agreement, and each year thereafter throughout the term of the Franchise Agreement, City may hold a public hearing at which the Grantee shall be present and shall participate, to review the Grantee's performance and quality of service. The reports required by this Franchise Agreement regarding customer complaints shall be utilized as the basis for review. In addition, any customer may submit comments or complaints during the review meetings, either orally or in writing, and these shall be considered.

C. Report on Performance. Within thirty (30) days after the conclusion of the public hearing, City shall issue a report with respect to the adequacy of performance and quality of service. If any non-compliance with the Franchise Agreement is found, City may direct Grantee to correct the inadequacies or initiate proceedings in accordance with Section 12 above.

D. Customer Surveys; Billing Information.

(1) Grantee shall provide prompt, efficient, continuous and professional service to its customers.

(2) Upon the request of the City, as part of the annual review of performance described above, Grantee shall conduct a survey or surveys of all customers to determine their satisfaction with Grantee's service, including, without limitation, response to customer complaints. The survey methodology, format and content shall be subject to the prior review and approval of the City Administrator. A copy of the survey results shall be sent to the City within sixty (60) days of completion of the survey. Nothing in this paragraph shall limit the right of the City to conduct additional surveys. The Grantee shall reasonably cooperate with the City in such cases. The cost of such surveys shall be reflected in a corresponding adjustment to Grantee's rates under this Agreement.

(3) Upon initiation of service, and at least once a year, Grantee shall send or deliver to its customers, information concerning the conditions of service, including, but not limited to, rates, fees, charges, service options, payment options, discounts (if any), days of collections, the amount and manner of refuse to be collected, service level and inquiry/complaint procedures, including the name, address and local telephone number of Grantee. The form and content shall be subject to the review and approval of the City Administrator.

SECTION 18 -COMPENSATION

A. Rates. As of the effective date of this Amended and Restated Agreement up to and including July 31, 2016, Grantee shall provide service at the rates set forth in Exhibit A.

B. Beginning August 1, 2016 and on each August 1 thereafter, all rates set forth in Exhibit A, including all ancillary fees and charges, shall be adjusted as set forth below. All requests for rate adjustments shall be submitted by Grantee to the City Administrator or his/her designee by or before May 1 of each year beginning with May 1, 2016. The City Administrator or his/her designee shall review the information submitted by Grantee for completeness and accuracy, and the parties agree to negotiate in good faith regarding any dispute.

The Collection, Recycling (basic charge, not new Regional Recycling Fee), Organics and Billing Fee portions of the rates set forth in Exhibit A as well as the Additional Service Charges set forth in Exhibit A will be adjusted by the twelve (12) month annual average of the percentage change in the Consumer Price Index ("CPI") for All Urban Consumers -for the Los Angeles-Riverside-Orange County metropolitan area (1982-84 = 100), as published by the United States Department of Labor, Bureau of Labor Statistics, by calculating the average of the changes in the CPI between each month during the April to March period immediately preceding the date of the rate adjustment and the same month in the preceding year. (See Exhibit A-1 for sample

CPI calculation.)

In addition, with respect to the adjustment taking place on August 1, 2016, the Collection, Recycling (basic charge, not new Regional Recycling Fee), Organics and Billing Fee portions of the rates set forth in Exhibit A as well as the Additional Service Charges set forth in Exhibit A will be adjusted by the change in the above index plus one percent (1%).

The Disposal portion of the rates set forth in Exhibit A is not subject to the annual CPI adjustment mentioned above, nor the additional August 1, 2016 one percent (1% adjustment, but is instead a pass through of actual tipping fees.

The newly added Regional Recycling Fee portion of the rates set forth in Exhibit A includes an initial Regional Recycling Fee charge of \$23.00 per ton for the processing of Recyclables generated and collected in the City. The Regional Recycling Fee will vary over time based on commodity values. The Regional Recycling Fee will be adjusted each August 1, beginning on August 1, 2017, to reflect the twelve (12) month annual average change in the Regional Recycling Fee provided for in the separate Recyclables Processing Agreement between Contractor and the County of Santa Barbara for the April to March period immediately preceding the date of the rate adjustment and the same month in the preceding year. The Regional Recycling Fee portion of the rates set forth in Exhibit A is not subject to the annual CPI adjustment mentioned above, nor the additional August 1, 2016 one percent (1%) adjustment.

C. Extraordinary Rate Adjustments. The rates set by this Agreement are calculated to pay certain expenses and costs that are of a contingent and uncertain nature. Therefore, in addition to the annual rate adjustment provided by Section 19(B), the Service Rate Schedule shall, upon written request of Grantee, be further adjusted on an interim basis for increased expenses associated with performance of the services hereunder due to anyone or more of the following causes:

- (1) material changes in Grantee's costs resulting from a Force Majeure event;
- (2) changes to Grantee's operations or the Franchise Fee required or initiated by the City;
- (3) any change in law, statute, rule, regulation, ordinance, order or requirement of any federal, state, regional or local government that is effective after the Effective Date of this Agreement;
- (4) Grantee desires to provide additional new services or the City requests the Grantee to provide any additional new services, or Grantee desires or the City requests the Grantee to change the method of providing, or the technology used to provide, existing services under this Agreement;
- (5) any increase in surcharges, fees, assessments or taxes levied by federal, state or local regulatory authorities or other governmental entities upon the collection or disposal of Solid Waste; or
- (6) any other causes or reasons that are not within the reasonable control of Grantee, including but not limited to material increases in the cost of fuel (beyond those reflected in the CPI adjustment).

D. Billing and Payment.

- (1) Residential – Permanent Services. As of the effective date of this Amended and Restated Agreement, Grantee shall bill residential accounts bimonthly in advance for services provided beginning on June 1, 2016 and thereafter at the rates set forth in Exhibit A, as adjusted, and for special service fees where the rate can be determined in advance. Payment is due within thirty (30) calendar days of the invoice date, and is considered overdue fifteen (15) days from the end of the billed service period.
- (2) Commercial/Industrial – Permanent Services. Grantee shall bill commercial/industrial accounts monthly in advance for services at the rates set forth in Exhibit A, as adjusted, and for special service fees where the rate can be determined in advance. Payment is due within thirty (30) calendar days of the invoice date, and is considered overdue fifteen (15) days from the end of the billed service period.
- (3) Temporary Services & Special Services. Grantee shall bill residential accounts and commercial/industrial accounts monthly in arrears for temporary services and for special fees and service fees where the rate cannot be determined in advance. Payment is due within thirty (30) calendar days of the invoice date, and is considered overdue thirty (30) calendar days from invoice. Grantee may use payment by credit card for temporary services.

E. Refunds. Grantee shall refund to each commercial customer, on a pro-rata basis, any advance service payments made by such customer for service not provided when service is discontinued by the customer after reasonable advance written notice or for

service not provided by Grantee due to no fault of the customer.

F. **Delinquent Accounts.** Grantee may send a written or telephonic notice to accounts regarding payments of invoices during the billed service period, at the approximate intervals of thirty (30) and sixty (60) days after the billing date. If payment is not received within fifteen (15) days from the end of the billed service period for services billed in advance, or thirty (30) days following the date of invoice for services billed in arrears, as the case may be, then Grantee may send accounts a notice that service will be suspended if payment is not made within thirty (30) days from the date of the delinquency notice. In addition, Grantee is permitted to charge late fees in the amount of interest not to exceed 1.5% per month with a minimum fee of three dollars \$3.00 per invoice less any interest assessed for residential accounts, and not to exceed 1.5% per month with a minimum fee of three dollars \$3.00 per invoice less any interest assessed for commercial/industrial accounts, as to any invoices where payment is not received within fifteen (15) days from the end of the billed service period for services billed in advance, or thirty (30) days following the date of invoice for services billed in arrears, as the case may be.

Thereafter, if payment is not received within thirty (30) calendar days from the date of the delinquency notice, Grantee may terminate collection service at the delinquent account until payment in full has been received, including payment of the late fees and a reactivation fee.

SECTION 19 -COLLECTION EQUIPMENT

A. **Vehicle Standards.** Grantee warrants that it shall provide an adequate number of vehicles and equipment for the collection and transportation services for which it is responsible under this Franchise Agreement. All vehicles used by Grantee under this Franchise Agreement shall be registered with the Department of Motor Vehicles of the State of California, shall be kept clean and in good repair, and shall be uniformly painted. Solid waste collection vehicles shall be washed such that they are maintained in a reasonably clean and sanitary condition. Grantee's name, telephone number and vehicle number shall be visibly displayed on its vehicles. Loads shall be kept completely covered at all times except when material is being loaded or unloaded, or when vehicles are in route or in the process of collection. Collection vehicles shall be designed and operated while in route in such a manner as to prevent solid waste, including leachate and garbage juice, from leaking, escaping or spilling. Any spillage of materials shall be immediately cleaned up by Grantee at Grantee's sole expense. The noise level generated by compaction vehicles using compaction mechanisms during the stationary compaction process shall be such that it does not unreasonably interfere with the quiet enjoyment of nearby properties. The equipment of Grantee used under this Franchise Agreement shall be subject to inspection by City on a semi-annual basis but shall not be subject to any permit fees therefor. Notwithstanding the generality of the foregoing, Grantee's equipment shall at all times be in conformance with the City's Municipal Code provisions applicable thereto.

B. **Equipment List.** Upon execution of this Agreement, and at least annually thereafter, the Grantee shall provide the City a written list of all equipment (including trucks and containers) being used within the Franchise Area, including make and model, age, mileage or hours of operation and type of vehicle.

SECTION 20 -PUBLIC ACCESS TO GRANTEE

A. **Office Hours.** Grantee's office hours shall be, at a minimum, from 8:00 A.M. to 12:00 P.M., and from 1:00 P.M. to 5:00 P.M. daily, on all collection days. A representative of Grantee shall be available during office hours for communication with the public at Grantee's principal office. Grantee shall also provide City with an emergency telephone number for use during other than normal business hours. Grantee shall have a representative or answering service available at said after-hours telephone number during all hours other than normal office hours.

B. **Service Complaints.**

(1) All customer complaints shall be directed to Grantee. Grantee shall record all complaints received by mail, by telephone, or in person (including date, name, address of complainant and nature of complaint). Grantee agrees to use its best efforts to resolve all complaints by the close of business of the second business day (waste collection) following the date on which such complaint is received. Service complaints may be investigated by the City Administrator or his/her designee. Unless a settlement satisfactory to the complainant and the Grantee is reached, the complainant may refer the matter to the City Administrator or his/her designee for review.

(2) Grantee will maintain records listing the date of customer complaints, the customer, describing the nature of the complaint or request, and when and what action was taken by the Grantee to resolve the complaint. All such records shall be maintained for a period of twenty-four (24) months and shall be available for inspection by the City.

C. Government Liaison Person. The Grantee shall designate a "government liaison person" who shall be responsible for working with the City Administrator or his/her designated representative to resolve consumer complaints.

D. Regular Meetings With City. At the reasonable request of City, Grantee shall meet with the City at 918 Obispo St., Guadalupe, California, to discuss matters of mutual concern, including, but not limited to, problems in Grantee's service, compliance with AB 939 and future planning. The person attending these meetings on behalf of Grantee shall be vested with sufficient authority to make decisions binding on Grantee.

SECTION 21 -CUSTOMER COMPLAINTS

A. Notice to Customers. The Grantee shall notify customers of the complaint arbitration procedure as required by City.

B. City Review of Complaints. A customer dissatisfied with Grantee's decision regarding a complaint may ask the City to review the complaint. To obtain this review, the customer must request City's review within thirty (30) days of receipt of Grantee's response to the complaint, or within forty-five (45) days of submitting the complaint to the Grantee if the Grantee has failed to respond to the complaint. The City may extend the time to request its review for good cause.

C. Remedy. The City Administrator or his/her designee shall determine if the customer's complaint is justified, and if so, what remedy, if any, shall be imposed. The remedy under this Section shall be limited to a rebate of customer charges related to the period of breach of any of the terms of this Franchise Agreement.

SECTION 22 -SERVICE EXCEPTIONS; HAZARDOUS WASTE NOTIFICATIONS

A. Compliance With Hazardous Waste Laws. The parties hereto recognize that federal, state and local agencies with responsibility for defining hazardous waste and for regulating the collection, hauling or disposing of such substances, are continually providing new definitions, tests and regulations concerning these substances. Under this Agreement, it is Grantee's responsibility to keep current with the regulations and tests on such substances, and to identify such substances, and to comply with all federal, state, and to the extent not inconsistent with this agreement, local regulations concerning such substances. Grantee shall make every reasonable effort to prohibit the collection and the disposal of hazardous waste in any manner inconsistent with federal and state law.

B. Non-Collection Tags. When solid waste is not collected from any solid waste customer, Grantee shall notify the customer as to why the collection was not made, and shall attach tags approved by the City to the waste not so collected which clearly identify the reasons for such non-collection.

C. Notice to Agencies Regarding Toxics. Grantee has represented to City that Grantee will carry out its duties to notify all agencies with jurisdiction, including the California Department of Toxic Substances Control and local emergency response providers, and, if appropriate, the National Response Center, of reportable quantities of hazardous waste, found or observed by Grantee in solid waste anywhere within the City, including on, in, under or about City's property, including streets, easements, rights of way and City's waste containers. In addition to other required notifications, if Grantee observes any substances which it or its employees reasonably believe or suspect to contain hazardous wastes unlawfully disposed of or released on City's property, including streets, storm drains, or public rights of way, Grantee will also immediately notify the City Administrator or his/her designee.

D. Inspection for Toxics. Grantee shall conduct a visual inspection, consistent with its normal operating procedures, of all solid wastes that it collects, transports and/or disposes pursuant to this Franchise Agreement for the purpose of discovering, identifying and refusing to collect, transport and dispose of hazardous wastes or materials.

E. No Collection or Disposal of Hazardous Waste. Except as provided in this subsection, Grantee shall not collect, handle, process, transport, arrange for the transport of or dispose of hazardous waste pursuant to this Franchise Agreement.

F. Hazardous Waste Program. Notwithstanding subsection E above, Grantee agrees to provide, upon City's request and with appropriate fee reimbursement, a program for residents in Grantee's Franchise Area, identifying hazardous waste and complying with all federal, state, and to the extent not inconsistent with this Agreement, local statutes and regulations dealing with hazardous waste. Subject to permitting, said program shall include, and be expanded to include, collection of all items listed on Exhibit "D," attached hereto and incorporated into this Franchise Agreement, which list may be amended from time to time by the City.

SECTION 23 -INDEMNIFICATION

As used in this section, "City" means City and its City Council, employees, agents, consultants and representatives.

A. Indemnification of City. Grantee shall defend, indemnify, and hold the City harmless against and from any and all claims, suits, losses, damages and liability for damages of every name, kind and description, including attorneys fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, City employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with the Grantee's services, operations, or performance hereunder, regardless of the existence or degree of fault or negligence on the part of the City, the Grantee, subcontractor(s) and employee(s) of any of these, except for the sole, or active negligence of the City, its officers and employees, or as expressly prohibited by statute. This duty of Grantee to indemnify and save City harmless includes the duties to defend set forth in California Civil Code Section 2778.

B. Hazardous Substance Indemnification. Grantee shall protect, defend (with counsel selected by Grantee and reasonably acceptable to City), indemnify and hold harmless City, its City members, officers, directors, employees, agents, consultants, successors and assigns (hereinafter "City Indemnified Parties"), from and against all claims for actual damages (including but not limited to special and consequential damages), natural resources damages, punitive damages, restitution, injuries, costs, response costs, remediation and removal costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties and expenses (including but not limited to attorneys' and expert witness fees and costs incurred in connection with defending against any of the foregoing or in enforcing this indemnity) of any kind whatsoever paid, incurred or suffered by, or asserted against, the City Indemnified Parties, arising out of or resulting from any repair, cleanup, detoxification, or preparation and implementation of any removal, remedial, response, closure, corrective action or other plan (regardless of whether undertaken due to governmental action), concerning the release or threatened release of any hazardous substance or hazardous or municipal solid waste at any landfill or transfer facility owned or operated by Grantee where solid waste is or has been transported, transferred, processed, stored, disposed of by Grantee pursuant to the Franchise Agreement, which may result in a release of hazardous waste or hazardous substance into the environment. As used herein, the phrases "hazardous substance" and "hazardous waste" shall coincide with the broadest definition thereof contained in any present or future federal or state laws. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of the Comprehensive Environmental Response and Liability Act ("CERCLA"), 42 U.S.C. Section 9607(e), and California Health and Safety Code Section 25364, to defend, protect and hold harmless and indemnify the City Indemnified Parties from liability. This provision shall survive the termination of any other agreement between Grantee and the City. The foregoing indemnity shall not have any dollar limitation. The foregoing indemnity is for the exclusive benefit of the City Indemnified Parties and in no event shall such indemnity inure to the benefit of any third party. The foregoing indemnity shall supersede any other environmental indemnities of the Grantee under the Franchise Agreement. The foregoing indemnity shall not apply with respect to: (1) any hazardous waste or hazardous substance generated by the City and delivered by the City to Grantee; or (2) the disposal or release of hazardous substances or hazardous waste, which disposal or release has resulted from the negligence or willful misconduct of City. Nothing in these exclusions shall be deemed a waiver of any other rights or claims the City may have against the Grantee independent of this indemnity.

C. AB 939 Indemnification.

(1) Grantee shall protect, defend with counsel reasonably acceptable to the City, indemnify and hold the City harmless from any and all fines, penalties and assessments levied against or threatened to be levied against the City for the City's failure to meet the requirements of AB 939, its amendments or any successor legislation and/or all rules and regulations promulgated thereunder if said failure results from Grantee's failure to comply with this Franchise Agreement and/or Grantee's failure to comply with said laws, rules or regulations binding on Grantee, including but not limited to failing to timely supply the City in order to comply with AB 939. However, Grantee shall not be obligated to indemnify City for fines or penalties caused by City's modifications of Grantee's information, or by City's own acts or omissions which result in City's failure to provide timely reports to the state.

SECTION 24 -GENERAL PROVISIONS

A. Force Majeure. Grantee shall not be in default under this Franchise Agreement in the event that the collection, transportation and/or disposal services of Grantee are temporarily interrupted or discontinued for reasons outside the reasonable control of the Grantee, including but not limited to riots, wars, sabotage, civil disturbances, insurrection, explosion, natural disasters such as floods, earthquakes, landslides and fires, strikes, lockouts and other labor disturbances, extreme weather, acts of God, or other similar or dissimilar events which are beyond the reasonable control of Grantee. Other events do not include the financial inability of the Grantee to perform or the failure of the Grantee to obtain any necessary permits or licenses from other governmental agencies, or the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of the Grantee. In the event a labor disturbance interrupts collection, transportation and/or disposal of solid waste by Grantee as required under this Franchise Agreement, City may elect to exercise its rights under Section 13 of this Franchise

Agreement, in the event Grantee is unable to perform the services under this Agreement.

B. Independent Contractor. Grantee is an independent contractor, and not an officer, agent, servant or employee of City. Grantee is solely responsible for the acts and omissions of its officers, agents, employees, Grantees and sub grantees, if any. Nothing in this Franchise Agreement shall be construed as creating a partnership or joint venture between City and Grantee. Neither Grantee nor its officers, employees, agents or subgrantees shall obtain any rights to retirement or other benefits which accrue to City's employees.

C. Right of Entry. Grantee shall have the right, until written notice revoking permission to pass is delivered to Grantee, to enter or drive on any private street, court, place, easement or other private property for the purpose of collecting or transporting solid waste pursuant to this Franchise Agreement.

D. Law to Govern; Venue. The laws of the State of California shall govern this Franchise Agreement. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Santa Barbara Santa Maria Division.

E. Fees and Gratuities. Grantee shall not, nor shall it permit any agent, employee or subgrantee employed by it to, request, solicit, demand or accept, either directly or indirectly, any compensation or gratuity for the collection of solid waste otherwise required to be collected under this Franchise Agreement.

F. Prior Agreements and Amendments. No amendment of this Franchise Agreement shall be valid unless in writing duly executed by the parties. This Franchise Agreement contains the entire agreement between the parties, and no promises, representations, warranty or covenant not included in this Agreement have been or are relied upon by either party. This Franchise Agreement is intended to supersede and replace all prior agreements between the parties.

G. Compliance With Franchise Agreement. Grantee shall comply with those provisions of the City's Municipal Code which are applicable, and with any and all amendments to such applicable provisions during the term of this Franchise Agreement, provided that such provisions are not inconsistent with the terms of this Franchise Agreement.

H. Notices. All notices required or permitted to be given under this Franchise Agreement shall be in writing and shall be personally delivered or sent by telecopier or United States certified mail, postage prepaid, return receipt requested, addressed as follows:

To City: City Administrator City of Guadalupe 918 Obispo St. Guadalupe, CA 93434

To Grantee: Valley Garbage & Rubbish Co., Inc., dba Health Sanitation Service 1850 W, Betteravia Rd. Santa Maria, CA 93455

or to such other address as either party may from time to time designate by notice to the other given in accordance with this section. Notice shall be deemed effective on the date personally served or sent by telecopier or, if mailed, three (3) business days from the date such notice is deposited in the United States mail.

I. Savings Clause and Entirety. If any non-material provision of this Franchise Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect the validity and enforceability of any of the remaining provisions of this Franchise Agreement.

J. Exhibits Incorporated. Exhibits "A" through "D" are attached hereto and incorporated in this Franchise Agreement by reference.

K. Joint Drafting. This Franchise Agreement was drafted jointly by the parties to the Franchise Agreement.

L. Judicial Review. Nothing in this Agreement shall be construed to prevent either party from seeking redress to the Courts for the purposes of legal review of administrative proceedings in regard to rate setting or City's actions taken pursuant to this Agreement, or for the purpose of interpreting or enforcing the provisions contained in this Agreement.

M. Police Powers. Nothing in this Agreement is intended to or may limit City's authority pursuant to its police power.

N. Confidentiality. Information gained from examination of books and records pertaining to operations regulated by the City under this Agreement shall be treated by the City and its agents as confidential information.

O. Successors and Assigns. Subject to the other terms and conditions herein, this Agreement shall be binding upon and inure to

the benefit of the respective successors, permitted assigns, administrators and trustees of the City and Grantee.

P. Survival. All confidentiality and indemnification provisions of this Agreement shall survive this Agreement.

Q. Administrator. The City Officer or employee with responsibility for administering this Agreement is the City Administrator or his/her successor.

IN WITNESS WHEREOF, City and Grantee have executed this Agreement this _____ day of _____, 2016.

CITY

GRANTEE

Valley Garbage & Rubbish Company, Inc.

By: _____
Mayor

By: _____
Title:

ATTEST:

City Clerk

**EXHIBIT "A" SCHEDULE OF RATES
CITY OF GUADALUPE RATE SCHEDULE**

EXHIBIT A
Guadalupe Rates

Thru
07/31/16

Portion to
each entity

RESIDENTIAL

1. 90 Gallon Service Level (90 gal refuse, 90 gal recyclable, and 90 gal organics carts)

STANDARD SERVICE

Collection	\$ 17.09	
Disposal -- 244 lbs.	\$ 7.20	
Recycling	\$ 1.21	
Regional Recycling Fee	\$ 0.63	
Organics	\$ 1.65	
Billing	\$ 1.26	
<hr/>		
City Surcharge -- 9.18%	\$ 2.67	To HSS \$ 29.04
City Franchise Fee -- 12.5%	\$ 3.63	To City \$ 6.30
Total	\$ 35.34	Total \$ 35.34

2. 60 Gallon Service Level (60 gal refuse, 90 gal recyclable, and 90 gal organics carts)

LIGHT SERVICE

Collection	\$ 15.77	
Disposal -- 163 lbs.	\$ 4.84	
Recycling	\$ 1.21	
Regional Recycling Fee	\$ 0.63	
Organics	\$ 1.67	
Billing	\$ 1.26	
<hr/>		
City Surcharge -- 9.18%	\$ 2.33	To HSS \$ 25.38
City Franchise Fee -- 12.5%	\$ 3.17	To City \$ 5.50
Total	\$ 30.88	Total \$ 30.88

3. 30 Gallon Service Level (30 gal refuse, 90 gal recyclable, and 90 gal organics carts)

SPECIAL SERVICE by application only

Collection	\$ 14.42	
Disposal -- 81 lbs.	\$ 2.40	
Recycling	\$ 1.21	
Regional Recycling Fee	\$ 0.63	
Organics	\$ 1.64	
Billing	\$ 1.26	
<hr/>		
City Surcharge -- 9.18%	\$ 1.98	To HSS \$ 21.56
City Franchise Fee -- 12.5%	\$ 2.70	To City \$ 4.68
Total	\$ 26.24	Total \$ 26.24

5. Other Cart Charges

a. Addit. 90 gal refuse cart

Collection	\$ 13.24	
Disposal -- 24 lbs.	\$ 7.20	
Billing -- NA, on 1st cart	\$ -	
<hr/>		
City Surcharge -- 9.18%	\$ 1.88	To HSS \$ 20.44
City Franchise Fee -- 12.5%	\$ 2.56	To City \$ 4.44
Total	\$ 24.88	Total \$ 24.88

EXHIBIT A
Guadalupe Rates

Thru
07/31/16

Portion to
each entity

b. Addit. 60 gal refuse cart

Collection	\$ 11.92
Disposal -- 163 lbs.	\$ 4.84
Billing -- NA, on 1st cart	\$ -
City Surcharge -- 9.18%	\$ 1.54
City Franchise Fee -- 12.5%	\$ 2.10
Total	\$ 20.40

To HSS	\$ 16.76
To City	\$ 3.64
Total	\$ 20.40

Addit. 30 gal refuse cart

Collection	\$ 10.58
Disposal	\$ 2.40
Billing -- NA, on 1st cart	\$ -
City Surcharge -- 9.18%	\$ 1.19
City Franchise Fee -- 12.5%	\$ 1.62
Total	\$ 15.79

To HSS	\$ 12.98
To City	\$ 2.81
Total	\$ 15.79

c. Addit. 90 gal recycle or organics cart

Collection	\$ 5.67
Processing -- 81 lbs.	\$ 1.14
Regional Recycling Fee	\$ 0.63
Billing -- NA, on 1st cart	\$ -
City Surcharge -- 9.18%	\$ 0.68
City Franchise Fee -- 12.5%	\$ 0.93
Total	\$ 9.05

To HSS	\$ 7.44
To City	\$ 1.61
Total	\$ 9.05

6. Additional Service Charges

HSS portion	\$ 1.64
City Franchise Fee -- 12.5%	\$ 0.21
Extra Bag Tag	\$ 1.85

To HSS	\$ 1.64
To City	\$ 0.21
Total	\$ 1.85

HSS portion	\$ 3.34
City Franchise Fee -- 12.5%	\$ 0.42
Drive-in (up to 1/4 mile)	\$ 3.76

To HSS	\$ 3.34
To City	\$ 0.42
Total	\$ 3.76

HSS portion	\$ 3.61
City Franchise Fee -- 12.5%	\$ 0.45
Carry-out (up to 100 ft)	\$ 4.06

To HSS	\$ 3.61
To City	\$ 0.45
Total	\$ 4.06

HSS portion	\$ 5.15
City Franchise Fee -- 12.5%	\$ 0.64
Christmas Tree Collection	\$ 5.79

To HSS	\$ 5.15
To City	\$ 0.64
Total	\$ 5.79

HSS portion	\$ 7.72
City Franchise Fee -- 12.5%	\$ 0.97
Cart Exchange	\$ 8.69

To HSS	\$ 7.72
To City	\$ 0.97
Total	\$ 8.69

HSS portion	\$ 66.88
City Franchise Fee -- 12.5%	\$ 8.36
Cart Replacement	\$ 75.24

To HSS	\$ 66.88
To City	\$ 8.36
Total	\$ 75.24

EXHIBIT A
Guadalupe Rates

Thru
07/31/16

Portion to
each entity

HSS portion	\$ 5.22	To HSS \$ 5.22
City Franchise Fee -- 12.5%	\$ 0.65	To City \$ 0.65
Return Trip	\$ 5.87	Total \$ 5.87
HSS portion	\$ 40.13	To HSS \$ 40.13
City Franchise Fee -- 12.5%	\$ 5.02	To City \$ 5.02
Bulky Pick-up (up to 4 items)	\$ 45.15	Total \$ 45.15
HSS portion	\$ 25.38	To HSS \$ 25.38
City Franchise Fee -- 12.5%	\$ 3.17	To City \$ 3.17
Bulky Pick-up (1 items)	\$ 28.55	Total \$ 28.55

COMMERCIAL

1. 90 Gallon Service Level (90 gal refuse, 90 gal recyclable carts)

STANDARD SERVICE

Collection	\$ 18.74	
Disposal -- 244 lbs.	\$ 7.20	
Recycling	\$ 1.21	
Regional Recycling Fee	\$ 0.63	
Billing	\$ 1.26	
City Surcharge -- 9.18%	\$ 2.67	To HSS \$ 29.04
City Franchise Fee -- 12.5%	\$ 3.63	To City \$ 6.30
Total	\$ 35.34	Total \$ 35.34

2. 60 Gallon Service Level (60 gal refuse, 90 gal recyclable carts)

LIGHT SERVICE

Collection	\$ 17.41	
Disposal -- 163 lbs.	\$ 4.84	
Recycling	\$ 1.21	
Regional Recycling Fee	\$ 0.63	
Billing	\$ 1.26	
City Surcharge -- 9.18%	\$ 2.33	To HSS \$ 25.35
City Franchise Fee -- 12.5%	\$ 3.17	To City \$ 5.50
Total	\$ 30.85	Total \$ 30.85

3. 30 Gallon Service Level (30 gal refuse, 90 gal recyclable carts)

SPECIAL SERVICE by application only

Collection	\$ 16.06	
Disposal -- 81 lbs.	\$ 2.40	
Recycling	\$ 1.21	
Regional Recycling Fee	\$ 0.63	
Billing	\$ 1.26	
City Surcharge -- 9.18%	\$ 1.98	To HSS \$ 21.56
City Franchise Fee -- 12.5%	\$ 2.70	To City \$ 4.68
Total	\$ 26.24	Total \$ 26.24

EXHIBIT A
Guadalupe Rates

Thru
07/31/16

Portion to
each entity

4. Other Charges

a. Addit. 90 gal refuse cart

Collection	\$ 13.24
Disposal -- 244 lbs.	\$ 7.20
Billing -- NA, on 1st cart	\$ -
City Surcharge -- 9.18%	\$ 1.88
City Franchise Fee -- 12.5%	\$ 2.56
Total	\$ 24.88

To HSS	\$ 20.44
To City	\$ 4.44
Total	\$ 24.88

c. Addit. 90 gal recycling cart

Collection	\$ 4.44
Recycling	\$ 1.21
Regional Recycling Fee	\$ 0.63
Billing -- NA, on 1st cart	\$ -
City Surcharge -- 9.18%	\$ 0.58
City Franchise Fee -- 12.5%	\$ 0.79
Total	\$ 7.65

To HSS	\$ 6.28
To City	\$ 1.37
Total	\$ 7.65

d. 96 gal recycling cart

Collection	\$ 26.92
Recycling	\$ 2.49
Regional Recycling Fee	\$ 0.63
Billing -- NA, on 1st cart	\$ -
City Surcharge -- 9.18%	\$ 2.76
City Franchise Fee -- 12.5%	\$ 3.76
Total	\$ 36.56

To HSS	\$ 30.04
To City	\$ 6.52
Total	\$ 36.56

5. Additional Service Charges

HSS portion	\$ 25.72
City Franchise Fee -- 12.5%	\$ 3.22
Bin Exchange	\$ 28.94

To HSS	\$ 25.72
To City	\$ 3.22
Total	\$ 28.94

HSS portion	\$ 13.38
City Franchise Fee -- 12.5%	\$ 1.67
Returned Check	\$ 15.05

To HSS	\$ 13.38
To City	\$ 1.67
Total	\$ 15.05

HSS portion	\$ 20.58
City Franchise Fee -- 12.5%	\$ 2.57
Return Trip	\$ 23.15

To HSS	\$ 20.58
To City	\$ 2.57
Total	\$ 23.15

HSS portion	\$ 60.71
City Franchise Fee -- 12.5%	\$ 7.59
Freon appl Special Haul	\$ 68.30

To HSS	\$ 60.71
To City	\$ 7.59
Total	\$ 68.30

HSS portion	\$ 82.32
City Franchise Fee -- 12.5%	\$ 10.29
Wkend/Clean-up Bin (3 days/4yd)	\$ 92.61

To HSS	\$ 82.32
To City	\$ 10.29
Total	\$ 92.61

EXHIBIT A
Guadalupe Rates

Thru
07/31/16

Portion to
each entity

HSS portion	\$ 17.78	To HSS \$ 17.78
City Franchise Fee -- 12.5%	\$ 2.22	To City \$ 2.22
Reactivation Charge	\$ 20.00	Total \$ 20.00

HSS portion	\$ 13.33	To HSS \$ 13.33
City Franchise Fee -- 12.5%	\$ 1.67	To City \$ 1.67
Commercial Overage/Snapshot	\$ 15.00	Total \$ 15.00

HSS portion	\$ 8.89	To HSS \$ 8.89
City Franchise Fee -- 12.5%	\$ 1.11	To City \$ 1.11
Cart Delivery Fee	\$ 10.00	Total \$ 10.00

HSS portion	\$ 8.89	To HSS \$ 8.89
City Franchise Fee -- 12.5%	\$ 1.11	To City \$ 1.11
Greenwaste contamination	\$ 10.00	Total \$ 10.00

HSS portion	\$ 40.13	To HSS \$ 40.13
City Franchise Fee -- 12.5%	\$ 5.02	To City \$ 5.02
Bulky Pick-up (up to 4 items)	\$ 45.15	Total \$ 45.15

HSS portion	\$ 25.38	To HSS \$ 25.38
City Franchise Fee -- 12.5%	\$ 3.17	To City \$ 3.17
Bulky Pick-up (1 items)	\$ 28.55	Total \$ 28.55

6. Commercial Bin Service Rates

See attached

7. Roll-off Service Rates (disposal is passed through)

HSS portion	\$ 135.00	To HSS \$ 135.00
City Franchise Fee -- 12.5%	\$ 16.88	To City \$ 16.88
Roll Off Haul	\$ 151.88	Total \$ 151.88

HSS portion	\$ 4.44	To HSS \$ 4.44
City Franchise Fee -- 12.5%	\$ 0.56	To City \$ 0.56
Roll Off Box Rental*	\$ 5.00	Total \$ 5.00

*This is a daily rate which applies after 7 days

EXHIBIT A -- GUADALUPE RATES

Refuse Bins -- thru 7/31/16

Refuse Rate	1x/wk	2x/wk	3x/wk
To HSS	\$129.14	\$239.99	\$351.02
City Franchise Fee	\$16.14	\$30.00	\$43.88
2 Cubic Yards	\$145.28	\$269.99	\$394.90

Refuse Rate	1x/wk	2x/wk	3x/wk
To HSS	\$171.02	\$323.78	\$476.96
City Franchise Fee	\$21.38	\$40.47	\$59.62
3 Cubic Yards	\$192.40	\$364.25	\$536.58

Refuse Rate	1x/wk	2x/wk	3x/wk
To HSS	\$216.98	\$414.72	\$613.44
City Franchise Fee	\$27.12	\$51.84	\$76.68
4 Cubic Yards	\$244.10	\$466.56	\$690.12

Sample Calc.	2cy/1wk	3cy/1wk	4cy/1wk
Collection	\$ 97.82	\$ 123.87	\$ 154.12
Disposal	\$ 31.32	\$ 47.15	\$ 62.86
Regional Recycling	\$ -	\$ -	\$ -
Franchise Fee	\$ 16.14	\$ 21.38	\$ 27.12
Total	\$ 145.28	\$ 192.40	\$ 244.10

No 9.18% surcharge on bins

Recycle Bins -- thru 7/31/16

Recycle Rate	1x/wk	2x/wk	3x/wk
To HSS	\$94.83	\$170.68	\$246.53
City Franchise Fee	\$11.85	\$21.34	\$30.82
2 Cubic Yards	\$106.68	\$192.02	\$277.35

Recycle Rate	1x/wk	2x/wk	3x/wk
To HSS	\$119.40	\$219.81	\$320.22
City Franchise Fee	\$14.92	\$27.48	\$40.03
3 Cubic Yards	\$134.32	\$247.29	\$360.25

Recycle Rate	1x/wk	2x/wk	3x/wk
To HSS	\$147.97	\$276.96	\$405.95
City Franchise Fee	\$18.50	\$34.62	\$50.74
4 Cubic Yards	\$166.47	\$311.58	\$456.69

Sample Calc.	2cy/1wk	3cy/1wk	4cy/1wk
Collection	\$ 85.70	\$ 102.88	\$ 124.07
Disposal	\$ 5.89	\$ 11.79	\$ 17.68
Regional Recycling	\$ 3.24	\$ 4.73	\$ 6.22
Franchise Fee	\$ 11.85	\$ 14.93	\$ 18.50
Total	\$ 106.68	\$ 134.33	\$ 166.47

No 9.18% surcharge on bins

**EXHIBIT A-1
EXAMPLE RATE ADJUSTMENT METHODOLOGY**

CPI Calculation			
April 2014 through March 2015			
Month	Start Month Apr-13 thru Mar-14	End Month Apr-14 thru Apr-15	Year over Year % Change
Apr.	239.043	242.437	1.42%
May	239.346	243.362	1.68%
Jun.	239.223	243.528	1.80%
July	238.920	243.727	2.01%
Aug.	239.219	243.556	1.81%
Sept.	239.611	243.623	1.67%
Oct.	239.940	243.341	1.42%
Nov.	238.677	241.753	1.29%
Dec.	238.742	240.475	0.73%
Jan.	239.857	239.724	-0.06%
Feb.	241.059	241.297	0.10%
Mar.	242.491	243.738	0.51%
Average			1.20%

**EXHIBIT B
CITY FACILITIES**

US Post Office	1030 Guadalupe St.	90 Gallon Trash/Three 90 Gallon Recycling 1 Week
American Legion Hall	1025 Guadalupe St.	One 3-Yard Container 1 Week
Police Dept./City Hall	4460 Tenth St.	One 4-Yard Container/Two 1.5 Yard Container 1 Week
Leroy Park	4683 Eleventh St.	One 4-Yard Container 1 Week
JO Park	213 Calle Cesar E. Chavez	One 4-Yard Container/Four 90 Gallon Recycling 1 Week
Waste Water	5125 W. Main St	Two 2-Yard Containers/90 Gallon Recycling 1 Week +Roll-off containers sludge handling (Reduce cost 50% per pick-up -currently at \$135)
Water Dept.	303 Obispo St.	One 2-Yard Container/ One 4-Yard Container 1 Week
Library	4719 W. Main St. Ste. D	Two 60 Gallon Trash/Two 90 Gallon Recycling 1 Week
Senior Center	4545 Tenth Street	One 90-Gallon Trash/One 90-Gallon Recycling 1 Week

EXHIBIT C
STREET SWEEPING SPECIFICATIONS

1.1 Services

- A. **General.** At no additional cost and expense to City, Grantee, or its subcontractor, shall provide street sweeping services on public residential streets and main arterial streets in the City. Street sweeping will not be provided on private property.
- B. **Minimal Impact.** Sweeping is to be performed at times that provide the best results with minimal impact to residents and commercial businesses, flow of vehicular traffic, and the public in general.
- C. **NPDES.** Sweeping shall be done in a manner to ensure compliance with all National Pollution Discharge Elimination System (NPDES) mandates.
- D. **Route.** Grantee shall sweep streets in residential areas once each month, and streets in commercial areas and three City-owned parking lots once each week.
- E. **Coordination with Solid Waste Collection.** Grantee shall make every effort to coordinate street sweeping routes with residential trash collection routes so streets shall be swept the following business day after trash collection.
- F. **Sweeping Hours of Operation.** At no time shall sweeping be conducted before 7:00 a.m. or after the hours of 7:00 p.m. or on Sunday in residential areas without the consent and approval of the City Administrator.
- G. **Special Response.** Grantee shall respond to all inquires and requests for special sweeps from the City Administrator. Response time will be within one (1) business day except in cases of declared emergencies, accident clean-ups or illicit discharges when response time will be soonest possible not to exceed one (1) hour during regularly scheduled sweeping hours and four (4) hours all other times. Charges for this service will be in accordance with Section 1.8.
- H. **Holiday Adjustments.** Grantee will adjust sweeping schedule consistent with holidays which result in changes to solid waste collection schedules.

1.2 Notification of Route Changes.

Grantee shall notify all affected residents of changes to sweeping schedules. Grantee will develop promotional materials to include sweeping schedules.

1.3 Equipment

- A. **Vehicle Types.** Grantee is required to use low-emission or alternative fueled, state-of-the-art, regenerative air, mechanical broom sweepers that are certified to meet all State and Federal Environmental Protection Agency (EPA) and National Pollution Discharge Elimination System (NPDES) compliance mandates. Sweepers shall be equipped with operational strobe and back-up alarm and shall conform to all applicable safety requirements.
- B. **Storage.** Vehicles when not in service will be stored at a facility that has been appropriately zoned for said use.
- C. **Vehicle Maintenance.** Equipment shall be maintained in clean appearance. All related vehicle equipment shall be maintained in good mechanical condition. Brushes and brooms shall be replaced at regular intervals. Equipment is subject to inspection by City at any time.
- D. **Available Vehicles.** Grantee shall maintain or have access to equipment sufficient to meet all obligations hereunder.

1.4 Sweeping Methods

- A. **General.** Grantee shall make as many passes as are necessary to remove debris including all sand, dirt, rocks, gravel, vegetation, and other sweepable debris during sweeping operations.
- B. **Permitted Operations.** Grantee will operate equipment within manufacturer guidelines and observe a speed limit of 8 mph while sweeping.
- C. **Noise Limits.** Sweeping shall be conducted as quietly as possible and shall conform to applicable federal, state, county,

and City noise level regulations as they now exist or may be amended in the future. The City may conduct random checks of noise emission levels to ensure compliance.

D. Water Usage. Adequate water shall be used at all times to maximize dust control. Grantee shall not discharge liquid waste from sweeper units onto City streets or into the storm drain system.

E. Unweepable Debris. Unweepable items that impede sweeping, such as palm fronds, rocks and other debris, shall be removed from the sweeping path and properly disposed of by the operator.

F. Parked Vehicles. Grantee shall not be responsible for areas missed due to parked cars or other personal property blocking sweeping paths. In such case, Grantee must note and report areas missed to City.

1.5 Staff

A. General. All staff associated with sweeping operations will be uniformed and have the ability to contact a supervisor from the vehicle. All vehicle operators shall be appropriately licensed to operate sweeping vehicles on public streets and shall obey all applicable traffic laws.

B. Reserves. Adequate reserve staff shall exist to meet all obligations.

C. Additional Staff. One staff person shall be assigned as needed to pick up large debris that impede with sweeper operations.

D. Contact Information. City shall be provided with phone number to contact sweeping supervisor 24 hours per day.

E. Training. All staff shall be trained to recognize illicit discharges and stormwater pollution sources. All staff training will be documented and available for review by the City Administrator upon request.

F. Communications. Grantee shall maintain direct communications with all sweeping equipment and staff in the field. Each sweeper operator shall have the ability to communicate verbal information immediately to their supervisor, City staff, Police and Fire personnel, and for the reporting of pollutant discharge observations.

1.6 Debris and Water Usage

A. General. Grantee is responsible for the disposal of all debris collected.

B. Grantee is responsible for all water usage and associated costs and coordination with individual water purveyors to obtain hydrant meters.

1.7 Credit Hours

A. General. Grantee shall provide credit hours for those hours of sweeping not performed due to inclement weather. Credit hours shall be "banked" and available for use by City for specific "special" sweeping projects outside the scope of the established routes and route schedules and beyond additional hours provided in Section 1.8, above. Any unused portion of the Credit hours shall "roll over" at the end of each franchise year and will be applied to the subsequent year.

B. Call Out Rate. Grantee and City shall establish a mutually agreed to "call out" rate for all hours of service requested by City which exceeds the total hours available under subsection A above.

Exhibit D

City of Guadalupe - Hazardous Waste Drop-Off Collection Site

HSS Recycling Center (Open 6 days per week, M-Sat, 8-5)

1850 West Betteravia Road

Santa Maria, CA 93455

805-922-9092

Residents may be paid for some of these materials listed and others may have a small fee. For current pricing contact HSS Recycling. No charge to customers who drop items during twice per year City Clean Up Events.

HSS Recycling Accepts (Limits have been established by State Regulations):

Antifreeze -

Clean, used Antifreeze. Limit is 5 gal per trip, 20 gal per day.

Batteries -

Vehicle batteries. Limit 10 per trip.

Motor Oil -

Clean, used motor oil. Limit is 5 gal per trip, 20 gal per day.

Paint -

Latex water-based paint in the original labeled container. Limit is 5 gal per trip, 20 gal per day.

Electronic Waste -

Undamaged electronic waste.

Appliances -

All household appliances.

Other Regional Programs -

- All other household hazardous waste and sharps can be taken to the City of Santa Maria Landfill HHW Facility, 805-925-0951, x7270.
- Household generated pharmaceutical waste can be dropped at the County Sheriff's Station , 812-A West Foster Road, Santa Maria, 805-934-6150

EXHIBIT E

ROLL OFF EXCLUSIVITY TRANSITION ARRANGEMENTS

The following terms and conditions apply to the transitional implementation of roll off business under Section 2(A) of the Franchise Agreement.

- All new roll-off box service, temporary roll-off box service, and roll-off box service not otherwise provided by a contract existing as of May 1, 2016 shall be subject to the franchise exclusivity set forth in Section 2(A) effective May 1, 2016.
- All roll-off box service contracts in effect as of May 1, 2016 shall be excluded from the franchise exclusivity set forth in Section 2(A) until they expire. An extension to an existing roll-off box service contract, entered into after May 1, 2016, shall not be excluded from the franchise exclusivity set forth in Section 2(A).
- Roll-off box service contracts in which Apio is a party shall be excluded from the franchise exclusivity set forth in Section 2(A) until July 1, 2018.

The rate for roll-off box service for the City shall remain at \$135 per haul until July 1, 2018. At that time, City roll-off box service shall be provided at no cost to the City.

REPORT TO CITY COUNCIL
Council Agenda of 04/26/16



Andrew Carter, City Administrator

SUBJECT City Support of the Guadalupe Library

RECOMMENDATION City Council to provide direction to staff on whether Council plans to continue funding the Guadalupe Library after expiration of its current lease. If so, from what revenue source.

SUMMARY

In January 2014, City Council committed to provide \$20,000 a year in support to the Guadalupe Library through the end of the current lease the Library has for the space it occupies in the West Main Street shopping center. City Council made that commitment because the City of Santa Maria, which operates the Guadalupe Library, was not prepared to sign the lease unless the City of Guadalupe provided this support.

The current lease expires on 11/30/16. The Santa Maria City Manager has told the Guadalupe City Administrator that Santa Maria is not prepared to sign a new lease for the Guadalupe Library unless the Guadalupe City Council commits to continued support of the Library through the planned two-year term of the lease renewal. Santa Maria would like the City to increase its level of support from \$20,000 per year to \$21,600 because that would cover the full cost of the lease. (Rent under the old three-year lease was \$1800 per month. Rent under the new two-year lease will remain \$1800. \$1800 per month times 12 months equals \$21,600 each year.)

If Council fails to provide the support sought and the City of Santa Maria refuses to sign the lease, the Guadalupe Library will likely have to close. It is unlikely the Friends of the Guadalupe Library (FOGL) could make up the monetary difference. Even with City support, the Guadalupe Library will need FOGL support to achieve a balanced budget in FY 2016/17. (See budget information attached.)

The first question before City Council is whether Council is willing to continue funding the Library. If so, the second question is where should the money come from? There are three potential sources of funding – Pasadera development fees, General Fund revenue, or a parcel tax or some other new tax dedicated to the Library.

Pasadera Development Fees

So far, the City has provided \$60,000 in support to the Library from Pasadera development fees – 3 years times \$20,000 per year for the period between 07/01/13 and 06/30/16. City Council has also committed to provide \$8,333 in FY 2016/17 support for the five months between 07/01/16 and 11/30/16, the end of the current lease. (Five-twelve of \$20,000 equals \$8,333.)

The \$60,000 paid to date plus the remaining \$8,333 to be paid equals a total commitment of \$68,333. By Council direction, the revenue source for this \$68,333 has been Pasadera development fees, specifically the \$200 per home Library Fee identified in the Pasadera development agreement. That \$200 per home will be paid with each certificate of occupancy. Since no homes at Pasadera are yet occupied, however, no Library Fees from Pasadera have actually been received. What the City has done is to use money from other development fees already received from Pasadera to pay the Library expense and to record a loan from the development fee account which has received money (the Capital Facilities Fund) to the Library Fund which has not yet received money. That loan will be paid back as the \$200 per home Library Fee is received. 342 homes will have to be built and occupied at Pasadera before this current \$68,333 loan is paid off. That represents five to seven years of construction. (342 homes times \$200 per home equals \$68,400.)

The Capital Facilities Fund is designed to pay for the repair and renovation of City Hall. Ultimately, \$2.25 million in Capital Facility funding will be received from Pasadera. \$300,000 of that has already been received. The remaining \$1.95 million will not be received until the final tentative tract map is approved for the southern half of the Pasadera development, the portion south of the Santa Maria Railroad tracks. Receipt of that lump sum \$1.95 million amount is not likely for at least five years.

It is unlikely that the \$2.25 million in Capital Facility funding will be adequate to fully repair and renovate City Hall. In May 2012, architect Tom Martinez estimated the cost to repair and renovate City Hall would be \$2.0 million at prevailing wage, but he did not include an allowance for seismic upgrades which are required for police and fire department facilities, and allowance for sprinklers which are required by current building code, and an adequate allowance for termite damage and dry rot in an 85-year-old building. Additional revenue will be needed to renovate City Hall.

In addition to authorizing a loan from the Capital Facilities Fund to the Library Fund to pay the \$68,333 in commitments already made to the Library, City Council has also authorized the use of \$88,564 to pay for current repairs at City Hall. (See attached “Capital Facilities Fund as of 03/31/16” for details.) There remains \$143,137 in uncommitted cash in the Capital Facilities Fund at this time.

If 804 homes are built at Pasadera as currently planned, a total of \$160,800 in Library Fees will ultimately be received. \$68,333 of that has already been committed in advance of receipt through the loan process noted above. \$92,467 remains which could be committed. Further commitments at this time would also take place in advance of receipt and would require additional loans from the Capital Facilities Fund to the Library Fund. \$92,467 will cover 4.62

years of Library support at the current \$20,000 amount or 4.28 years of support at the requested \$21,600 amount.

General Fund Revenue

If City Council is willing to provide continued support to the Library, but is not willing to use Pasadera development fees, then Council could decide to use General Fund revenue. This has not been done before in Guadalupe, although every other city in the County currently provides General Fund cash support to its library or provides free space from which its library can operate.

At one time, the Guadalupe Library was located in the Legion Hall, which the City owns, in space currently occupied by the Historical Society. The City's lease with the American Legion for the Legion Hall allows the Legion to decide who else occupies the building. (That lease is currently in month-to-month status.) There is space available in the Senior Center, the front rooms in the building, but the size of that space is smaller than the current Library footprint at West Main and there would be sizable expenditures in effecting a move.

In the past, the City used Redevelopment Agency revenue to support the Library, but the Redevelopment Agency no longer exists, so there is no Redevelopment money which can now be used.

In 2014/15, the General Fund had a deficit of \$264,489. In the audit for 2014/15, the City's auditors again raised the question as to whether the City is a going concern. This is the fourth audit in a row in which that concern has been raised. The City Administrator is anticipating a General Fund deficit of \$50,000 in 2015/16. Given on-going increases in personnel costs, particularly pension, insurance, and workers comp benefits, the City Administrator will be hard pressed to deliver a balanced General Fund budget for 2016/17 even without the addition of a new expense item.

If Council is willing to support the Library, Council could decide to take a hybrid approach – split the annual costs between Pasadera development fees and the General Fund or have development fees pay the cost one year and the General Fund the other.

Parcel Tax or Other New Tax

In 2012, City Council placed a \$20 parcel tax on the November ballot to support the Guadalupe Library. Although 58% of Guadalupe citizens voted in favor of the parcel tax, the measure failed. That's because special taxes require two-thirds support to pass. Since the \$20 parcel tax failed in 2012, it is questionable whether a \$20 parcel tax for the Library would pass in 2014. There are currently 1745 parcels in Guadalupe. A \$20 parcel tax would realize \$34,900 annually.

It should be noted that the Guadalupe Union School District is planning to place a bond measure on the November 2016 ballot to support the new junior high school to be built at Pasadera. At the request of his board of trustees, the Guadalupe School Superintendent has asked the City

Administrator that Council not place a competing measure on the November 2016 ballot. The school board had thought about putting a bond measure on the November 2014 ballot, but chose not to given the three tax measures Council placed on that ballot.

ATTACHMENTS

Capital Facilities Fund as of 03/31/16
Guadalupe Library budget

Capital Facilities Fund as of 03/31/16

Receipts: \$150,000 4Q 2013, first Advance Payment
 \$30,000 4Q 2013, for future City Hall renovation study
 \$150,000 4Q 2014, second Advance Payment
 \$34 FY 2015/16, interest

\$330,034 Total receipts so far

Expenses: \$20,000 4Q 2013, to Library for annual lease (loan)*
 \$20,000 4Q 2014, to Library for annual lease (loan)*
 \$20,000 4Q 2015, to Library for annual lease (loan)*
 \$21,360 1Q 2015, Roof repairs, HR & Finance areas**
 \$15,650 1Q 2015, New floor - gym spectator area**
 \$4,861 3Q 2015, New floor - police department***
 \$42,668 3Q 2015, Parking lot paving - police department***
 \$4,025 1Q 2016, Mold abatement - police department****

\$148,564 Total expenditures so far

Balance: \$330,034 Receipts to date (above)
 (\$148,564) Expenditures to date (above)

\$181,470 03/31/16 Cash balance

Committed: \$30,000 Future City Hall renovation study
 \$8,333 4Q 2016, to Library - last 5 months of current lease (loan)*

\$38,333 Committed portion of 03/31/16 cash balance

Uncommitted: \$181,470 Current cash balance (above)
 (\$38,333) Committed (above)

\$143,137 Uncommitted portion of 03/31/16 cash balance

**Library Fund currently owes the Capital Facilities Fund \$60,000.
Library Fund will owe the Capital Facilities Fund \$68,333 after 4Q 2016 lease payment above.**

* Approved by Council, 01/14/14. ** Approved by Council, 12/09/14.
*** Approved by Council, 07/14/15. **** Approved by Council, 02/09/16.

Guadalupe Library Budget

Source = City of Santa Maria

Revenue	FY13 Actual	FY14 Actual	FY15 Actual	FY16 Estimate	FY17 Proj.
County per capita fee	42,649	49,215	49,215	56,199	56,714
City of Guadalupe*	0	20,000	20,000	20,000	21,600
Friends of the Library**	22,200	3,800	2,500	0	4,500
Fines & fees	1,621	1,763	3,049	2,000	2,000
Copies & prints	648	716	1,416	930	930
E-rate	771	478	622	646	517
Miscellaneous	412	361	208	0	0
Total Revenue	68,301	76,333	77,010	79,775	86,261

Adjustments
by A. Carter

Expense	FY13 Actual	FY14 Actual	FY15 Actual	FY16 Estimate	FY17 Proj.
Salaries & benefits	22,941	23,117	22,029	27,408	30,950
Rent	18,000	20,400	22,600	21,600	21,600
Black Gold service	6,946	7,342	8,200	9,446	10,042
Materials	2,800	3,130	3,130	4,348	4,348
Utilities	3,802	3,479	2,510	2,600	2,650
Equipment	1,050	2,080	2,460	2,040	2,080
Cleaning	1,562	1,562	1,793	1,700	1,734
Supplies	306	707	1,075	1,100	1,125
Telephone	946	1,028	1,000	1,000	1,000
Insurance	519	707	707	917	917
Fleet delivery	607	607	284	738	738
Mileage/Training	100	100	100	100	100
Miscellaneous	475	480	374	305	315
Admin. Overhead - 18%	7,677	8,859	8,859	10,116	10,209
Total Expense	67,731	73,598	75,121	83,418	87,808

					5 Years
Difference	570	2,735	1,889	(3,643)	(1,547)
					4

* City has only committed \$8,333 for FY17 so far.

** This represents funding for rent and utilities. Not shown is the value of the books, materials, and equipment purchased for the Library by the Friends of the Library each year.



AGENDA REPORT

10a.

SUBJECT/TITLE:
PRO-RATION OF BUSINESS TAX CERTIFICATES FEES

RECOMMENDATION:

INTRODUCE BY TITLE ONLY AND WAIVE FIRST READING OF ORDINANCE NO. 2016-447, AN ORDINANCE OF THE CITY OF GUADALUPE AMENDING CHAPTER 5.04 OF TITLE 5 OF THE GUADALUPE MUNICIPAL CODE TO PROVIDE FOR PRORATION OF BUSINESS TAX CERTIFICATE FEES

EXECUTIVE SUMMARY:

In 2014, the voters of the City approved a business tax certificate ordinance that provides for a gross-receipts tax on businesses within the City. The previous ordinance allowed a pro-ration of the business license tax for businesses opened after July 1 of a particular year, with a minimum payment required of 50% of the annual license fee, but that provision was not carried over into the ordinance adopted in 2014. This ordinance reinstates the pro-ration of the business tax certificate fee.

FISCAL IMPACT: No significant fiscal impact anticipated, but there may be slightly lower business tax certificate revenue depending on when a business opens and applies for a business tax certificate.

ATTACHMENTS:

1. Proposed Ordinance

Prepared by: David Fleishman, City Attorney

Meeting Date: 26 April 2016

City Administrator Approval: *Anc*

Agenda Item: _____

ORDINANCE NO. 2016-447

**AN ORDINANCE OF THE CITY OF GUADALUPE AMENDING
CHAPTER 5.04 OF TITLE 5 OF THE GUADALUPE MUNICIPAL
CODE TO PROVIDE FOR PRORATION OF BUSINESS TAX
CERTIFICATE FEES**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GUADALUPE AS
FOLLOWS:**

SECTION 1.

Guadalupe Municipal Code Title 5 is hereby amended to add a new section 5.04.205 to read as follows:

5.04.205 Annual Tax Payment Procedure.

All annual license taxes, under the provisions of this chapter, shall be due and payable in advance on the first day of July of each year; provided, that license taxes covering a business where an annual license is required herein, commenced after the first day of July, shall be prorated for the balance of the license year provided that such pro rata payment shall in no event be less than 50% of the annual license fee, such pro rata amount to be paid in advance; provided further, however, that where an annual license has been paid pursuant to this chapter, and the business so licensed is thereafter discontinued, the licensee shall not be entitled to a refund for the balance of the license year. All daily, weekly, monthly and quarterly licenses and taxes shall be payable in advance and shall not be prorated.

SECTION 2.

This ordinance shall not be interpreted in any manner to conflict with controlling provisions of state or federal law, including, without limitation, the Constitution of the State of California or of the United States of America. If any section, subsection or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. If this ordinance, or any section, subsection or clause of this ordinance shall be deemed unconstitutional or invalid, the validity of the remainder of this ordinance and its sections, subsections and clauses shall not be affected.

SECTION 3.

This ordinance shall become effective on the thirtieth day following passage and adoption hereof.

SECTION 4.

Within fifteen (15) days after passage, the City Clerk shall cause this ordinance to be posted in three publicly accessible locations in the City.

INTRODUCED at a regular meeting of the City Council held this 26th day of April, 2016 on motion of Councilmember _____, seconded by Councilmember _____, and on the following roll call vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

PASSED AND ADOPTED at a regular meeting of the City Council held this 10th day of May, 2016 on motion of Councilmember _____, seconded by Councilmember _____, and on the following roll call vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

CITY OF GUADALUPE

BY: _____
John Lizalde, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

David M. Fleishman, City Attorney



AGENDA REPORT

SUBJECT/TITLE: ANNUAL BUSINESS SAFETY INSPECTION PROGRAM

RECOMMENDATION:

INTRODUCE BY TITLE ONLY AND WAIVE FIRST READING OF ORDINANCE NO. 2016-446, AN ORDINANCE OF THE CITY OF GUADALUPE AMENDING SECTION 8.50.100 OF THE GUADALUPE MUNICIPAL CODE TO PROVIDE FOR INITIAL AND ANNUAL INSPECTIONS OF BUSINESSES WITHIN THE CITY

EXECUTIVE SUMMARY:

In 2014, the voters of the City approved a business tax certificate ordinance that provides for a gross-receipts tax on businesses within the City. The previous ordinance contained provisions allowing annual safety inspections of businesses to ensure ongoing compliance with health and safety regulations. That program was not carried over into the business tax certificate ordinance adopted in 2014. The 2014 ordinance contains a provision stating "The provisions of this chapter are enacted solely to raise revenue for general municipal purposes and are not intended for regulation." As such, the business safety inspection program is no longer a part of the business tax certificate program. The safety program is still important, however, to ensure the safe operation of businesses within the City. This ordinance reinstates the inspection program as part of Chapter 8.50, which has similar inspection provisions for all properties within the City.

FISCAL IMPACT: No significant fiscal impact anticipated.

ATTACHMENTS:

- 1. Proposed Ordinance
-

Prepared by: David Fleishman, City Attorney

Meeting Date: 26 April 2016

City Administrator Approval: AFC

Agenda Item: _____

ORDINANCE NO. 2016-446

AN ORDINANCE OF THE CITY OF GUADALUPE AMENDING SECTION 8.50.100 OF THE GUADALUPE MUNICIPAL CODE TO PROVIDE FOR INITIAL AND ANNUAL INSPECTIONS OF BUSINESSES WITHIN THE CITY

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GUADALUPE AS FOLLOWS:

SECTION 1.

Guadalupe Municipal Code Section 8.50.100 is hereby amended to read as follows:

8.50.100 Right to enter property to inspect or abate.

A. Persons or other entities seeking to do business within a building within the City shall obtain approval by the fire, health, building and planning departments as to the conformance of such building to existing zoning, building, fire, health and other public safety laws. Such approvals are mandatory prior to the initial operation of the business, and annually thereafter. The duly authorized representatives of these departments shall have the authority to make necessary inspection of premises to determine compliance. Each business obtaining an inspection pursuant to this subsection shall pay an inspection fee, as established by the City by resolution.

B. Any officer, employee, or agent of the City of Guadalupe may enter and inspect or abate any building or premises whenever necessary to secure compliance with, or prevent violation of, any provision of this chapter. If required by law, the officer, employee or agent shall first obtain consent of the responsible party or an appropriate court order.

SECTION 2.

This ordinance shall not be interpreted in any manner to conflict with controlling provisions of state or federal law, including, without limitation, the Constitution of the State of California or of the United States of America. If any section, subsection or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. If this ordinance, or any section, subsection or clause of this ordinance shall be deemed unconstitutional or invalid, the validity of the remainder of this ordinance and its sections, subsections and clauses shall not be affected.

SECTION 3.

This ordinance shall become effective on the thirtieth day following passage and adoption hereof.

SECTION 4.

Within fifteen (15) days after passage, the City Clerk shall cause this ordinance to be posted in three publicly accessible locations in the City.

INTRODUCED at a regular meeting of the City Council held this 26th day of April, 2016 on motion of Councilmember _____, seconded by Councilmember _____, and on the following roll call vote, to wit:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

PASSED AND ADOPTED at a regular meeting of the City Council held this 10th day of May, 2016 on motion of Councilmember _____, seconded by Councilmember _____, and on the following roll call vote, to wit:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

CITY OF GUADALUPE

BY: _____
John Lizalde, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

David M. Fleishman, City Attorney



12a.

AGENDA REPORT

SUBJECT/TITLE:**MODIFICATION OF EXISTING REGULATIONS ON MEDICAL MARIJUANA DISPENSARIES**

RECOMMENDATION:**INTRODUCE BY TITLE ONLY AND WAIVE FIRST READING OF ORDINANCE NO. 2016-445, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUADALUPE AMENDING CHAPTER 18.74 OF THE GUADALUPE MUNICIPAL CODE REGARDING MEDICAL MARIJUANA DISPENSARIES**

EXECUTIVE SUMMARY:

At the January 12, 2016 City Council meeting, the Council introduced an ordinance prohibiting the cultivation, processing and transport of medical marijuana within the City. The ordinance was adopted at the subsequent Council meeting, and it became effective on February 24, 2016, in advance of the date set by state law for adoption of local regulations for medical marijuana cultivation, processing and transport. The Council requested at the time the ordinance was adopted that staff bring back to Council for consideration the removal of mobile medical marijuana delivery services from the definition of "medical marijuana dispensary". As such, staff has prepared the attached ordinance removing mobile delivery services from the definitional section of Chapter 18.74. While this will not make such mobile delivery services legal, due to federal preemption that still prohibits possession of marijuana for any purposes, City staff would no longer use the municipal code as a basis for enforcement against such services. If they operated within the City limits, however, and other laws were violated, City staff would still enforce the law as written.

The change in the existing ordinance is set forth on Attachment "A" to the staff report in legislative format.

FISCAL IMPACT: No appreciable impact expected.

ATTACHMENTS:

1. Legislative format of proposed ordinance change
2. Proposed Ordinance

Prepared by: David Fleishman, City Attorney**Meeting Date: 26 April 2016****City Administrator Approval:** _____

Agenda Item: _____

Attachment "A"

18.74.030 Definitions

The following definitions apply to this chapter:

C. Medical marijuana dispensary: A collective, cooperative, dispensary, operator, establishment, provider, association or similar entity that, from a fixed location, cultivates, distributes, delivers or processes marijuana for medical purposes relating to a qualified patient or primary caregiver, pursuant to the Compassionate Use Act, Medical Marijuana Program Act and/or Medical Marijuana Regulation and Safety Act. ~~Included within the definition of medical marijuana dispensary are facilities in a fixed location, and transportation or delivery services conducted from a non-fixed location or vehicle.~~

18.74.090 Medical Marijuana Dispensary

G. Prohibited in other zone districts: Medical marijuana dispensaries are prohibited in any other zone district other than those listed in this section. ~~Medical marijuana dispensaries consisting of delivery services conducted from a non-fixed location or vehicle are prohibited in all zones of the City.~~

Additions are underlined. Deletions are in ~~strike~~through.

Agenda Item: _____

ORDINANCE NO. 2016-445

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUADALUPE
AMENDING CHAPTER 18.74 OF THE GUADALUPE MUNICIPAL CODE
REGARDING MEDICAL MARIJUANA DISPENSARIES**

The City Council of the City of Guadalupe does ordain as follows:

SECTION 1. Section 18.74.030(C) of the Guadalupe Municipal Code is hereby revised to read as follows:

C. Medical marijuana dispensary: A collective, cooperative, dispensary, operator, establishment, provider, association or similar entity that, from a fixed location, cultivates, distributes, delivers or processes marijuana for medical purposes relating to a qualified patient or primary caregiver, pursuant to the Compassionate Use Act, Medical Marijuana Program Act and/or Medical Marijuana Regulation and Safety Act.

SECTION 2. Section 18.74.090(G) of the Guadalupe Municipal Code is hereby revised to read as follows:

G. Prohibited in other zone districts: Medical marijuana dispensaries are prohibited in any other zone district other than those listed in this section.

SECTION 3.

This ordinance shall not be interpreted in any manner to conflict with controlling provisions of state or federal law, including, without limitation, the Constitution of the State of California or of the United States of America. If any section, subsection or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. If this ordinance, or any section, subsection or clause of this ordinance shall be deemed unconstitutional or invalid, the validity of the remainder of this ordinance and its sections, subsections and clauses shall not be affected.

SECTION 4.

This ordinance shall become effective on the thirtieth day following passage and adoption hereof.

SECTION 5.

Within fifteen (15) days after passage, the City Clerk shall cause this ordinance to be posted in three publicly accessible locations in the City.

INTRODUCED at a regular meeting of the City Council held this 26th day of April, 2016 on motion of Councilmember _____, seconded by Councilmember _____, and on the following roll call vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

PASSED AND ADOPTED at a regular meeting of the City Council held this 10th day of May, 2016 on motion of Councilmember _____, seconded by Councilmember _____, and on the following roll call vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

CITY OF GUADALUPE

BY: _____
John Lizalde, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

David M. Fleishman, City Attorney

**REPORT TO CITY COUNCIL
Council Agenda of 04/22/16**

ANC

Andrew Carter, City Administrator

SUBJECT 3rd Quarter Financial Review

RECOMMENDATION Adopt Resolution No.2016-22 making adjustments to the 2015/16 budget

GENERAL FUND DISCUSSION

We began 2015/16 with a balanced General Fund budget – actually a minor surplus of \$1378.

At the end of the 1st Quarter, I recommended that General Fund revenue estimates be adjusted downward by \$245,000 and that General Fund expense estimates be adjusted downward by \$140,000. That meant a projected General Fund deficit of (\$104,624) for the fiscal year.

Here are the 1st Quarter General Fund revenue adjustments that were made:

Sales Tax	+\$35,000	New revenue
Franchise Fees	-\$100,000	No water or wastewater fees
Property Tax	-\$20,000	Delay in Pasadera project
Property Transfer Tax	-\$5,000	Delay in Pasadera project
Utility User Tax	+\$10,000	New revenue
Gross Receipts Tax	+\$110,000	New revenue
Building Permits	-\$255,000	Delay in Pasadera project
Property Rental	-\$20,000	Loss of cellsite revenue
Total	-\$245,000	

Here is the 1st Quarter General Fund expense adjustment that was made:

Building & Planning Department:		
Professional Services	-\$140,000	Delay in Pasadera project

At the end of the 1st Half, I recommended General Fund revenue and expense adjustments that decreased the projected 2015/16 deficit to (\$97,624).

Here are the 1st Half General Fund revenue adjustments that were made:

Sales Tax	+\$25,000	New revenue
-----------	-----------	-------------

Franchise Fees	-\$10,000	No roll-off fee
Utility User Tax	+\$10,000	New revenue
Gross Receipts Tax	+\$25,000	New revenue
Building Permits	+\$40,000	Pasadera project now moving forward
Contributions	-\$48,000	Chevron less than budget
<u>Property Rental</u>	<u>-\$10,000</u>	<u>Loss of cellsite revenue</u>
Total	+\$32,000	

Here is the 1st Quarter General Fund expense adjustment that was made:

City Attorney Department:

Professional Services +\$25,000 Cost of H2A litigation (outside attorney)

Based on my review at the end of the 3rd Quarter, I'm happy to recommend General Fund revenue and expense adjustments that will reduce the projected fiscal year General Fund deficit to (\$47,624). I am making the recommendation that General Fund revenue estimates be increased by \$25,000 and the General Fund expense estimates be decreased by \$25,000. I believe my estimates are conservative, particularly on the expense side. In fact, it is possible that with continued staff focus on holding down General Fund expenses we will be able to achieve a balanced General Fund budget for the fiscal year.

I am not recommending any changes to our Special Fund budgets.

ATTACHMENTS

Financial spreadsheets: A-1 through A-4
Resolution 2016-22

General Fund Revenue -- March YTD

Revenue Item	Mar. YTD Actual	Current Budget	Act. as % of Year	6 Year Norm
Sales Tax	232,700	348,000	66.9%	58.3%
Franchise Fees	87,695	195,000	45.0%	42.7%
Property Tax	434,887	920,000	47.3%	53.5%
Utility/User Tax	253,081	365,000	69.3%	65.9%
Bus. Lic/Gross Receipts	285,586	300,000	95.2%	97.5%
Building Permits	197,252	275,000	71.7%	60.9%
COPS/SRO/AMR	90,422	151,000	59.9%	41.4%
Contributions	102,000	102,000	100.0%	100.0%
Property Rental	49,106	70,000	70.2%	69.1%
Other Income	57,351	129,000	44.5%	62.1%
Sub-Total	1,790,080	2,855,000	62.7%	60.1%
Transfers	504,670	647,910	77.9%	77.9%
Total	2,294,750	3,502,910	65.5%	63.0%

Timing of Lantern \$

Depends on DJ Farms
Different timing this year

Budget error

Revenue Item	Mar. YTD Actual	Revised Budget	Act. as % of Year	6 Year Norm	Budget Change
Sales Tax	232,700	383,000	60.8%	58.3%	35,000
Franchise Fees	87,695	195,000	45.0%	42.7%	
Property Tax	434,887	920,000	47.3%	53.5%	
Utility/User Tax	253,081	380,000	66.6%	65.9%	15,000
Bus. Lic/Gross Receipts	285,586	300,000	95.2%	97.5%	
Building Permits	197,252	285,000	69.2%	60.9%	10,000
COPS/SRO/AMR	90,422	156,000	58.0%	41.4%	5,000
Contributions	102,000	102,000	100.0%	100.0%	
Property Rental	49,106	70,000	70.2%	69.1%	
Other Income	57,351	89,000	64.4%	62.1%	(40,000)
Sub-Total	1,790,080	2,880,000	62.2%	60.1%	25,000
Transfers	504,670	647,910	77.9%	77.9%	
Total	2,294,750	3,527,910	65.0%	63.0%	25,000

Revenue continues to exceed expectations, especially from the three tax measures passed in November 2014.

General Fund Expenses, 1st Half 2015/16 -- YTD Actual vs. YTD Budget

- under budget. + over budget.

City Council	Actual	Budget	+/- \$	+/- %
Personnel	7,517	7,625	(108)	-1.4%
Non-Personnel	585	375	210	56.0%
Capital/Other	0	0	0	#DIV/0!
Total	8,102	8,000	102	1.3%

City Attorney	Actual	Budget	+/- \$	+/- %
Personnel	0	0	0	#DIV/0!
Non-Personnel	64,686	56,250	8,436	15.0%
Capital/Other	0	0	0	#DIV/0!
Total	64,686	56,250	8,436	15.0%

Non-Dept.	Actual	Budget	+/- \$	+/- %
Personnel	4,455	4,500	(45)	-1.0%
Non-Personnel	71,202	91,189	(19,987)	-21.9%
Capital/Other	37,673	42,188	(4,515)	-10.7%
Total	113,330	137,877	(24,547)	-17.8%

Police	Actual	Budget	+/- \$	+/- %
Personnel	961,368	1,018,083	(56,715)	-5.6%
Non-Personnel	135,356	157,688	(22,332)	-14.2%
Capital/Other	11,930	8,250	3,680	44.6%
Total	1,108,654	1,184,021	(75,367)	-6.4%

Parks & Rec.	Actual	Budget	+/- \$	+/- %
Personnel	37,199	38,309	(1,110)	-2.9%
Non-Personnel	43,845	61,205	(17,360)	-28.4%
Capital/Other	0	900	(900)	-100.0%
Total	81,044	100,414	(19,370)	-19.3%

Expenses continue to run below budget.

Administration	Actual	Budget	+/- \$	+/- %
Personnel	220,204	224,771	(4,567)	-2.0%
Non-Personnel	10,198	11,471	(1,273)	-11.1%
Capital/Other	0	0	0	#DIV/0!
Total	230,402	236,242	(5,840)	-2.5%

Finance	Actual	Budget	+/- \$	+/- %
Personnel	282,146	281,776	370	0.1%
Non-Personnel	19,383	18,196	1,187	6.5%
Capital/Other	0	0	0	#DIV/0!
Total	301,529	299,972	1,557	0.5%

Bldg. Maint.	Actual	Budget	+/- \$	+/- %
Personnel	25,974	26,751	(777)	-2.9%
Non-Personnel	43,649	48,735	(5,086)	-10.4%
Capital/Other	0	900	(900)	-100.0%
Total	69,623	76,386	(6,763)	-8.9%

Fire	Actual	Budget	+/- \$	+/- %
Personnel	312,897	327,926	(15,029)	-4.6%
Non-Personnel	53,385	67,833	(14,448)	-21.3%
Capital/Other	3,480	11,250	(7,770)	-69.1%
Total	369,762	407,009	(37,247)	-9.2%

Bldg. Permits	Actual	Budget	+/- \$	+/- %
Personnel	47,037	54,071	(7,034)	-13.0%
Non-Personnel	72,728	140,159	(67,431)	-48.1%
Capital/Other	0	0	0	#DIV/0!
Total	119,765	194,230	(74,465)	-38.3%

General Fund	Actual	Budget	+/- \$	+/- %
Personnel	1,898,797	1,983,812	(85,015)	-4.3%
Non-Personnel	515,017	653,101	(138,084)	-21.1%
Capital/Other	53,083	63,488	(10,405)	-16.4%
Total	2,466,897	2,700,401	(233,504)	-8.6%

FDPA litigation

Professional Serv

2015/16 General Fund Expense Budget

Dept.	Current Budget	Revised Budget	Change
Council	10,667	10,667	0
Admin	314,990	314,990	0
Attorney	75,000	90,000	15,000
Finance	399,963	399,963	0
Non-dept.	153,835	153,835	0
Bldg. Maint.	101,848	101,848	0
Police	1,578,694	1,578,694	0
Fire	542,679	542,679	0
Parks/Rec.	133,885	133,885	0
Permits	258,973	218,973	(40,000)
MOE	30,000	30,000	0
Total	3,600,534	3,575,534	(25,000)

General Fund Summary

	Current Budget	Revised Budget	Change
Revenue	3,502,910	3,527,910	25,000
Expense	3,600,534	3,575,534	(25,000)
Difference	(97,624)	(47,624)	0

A maximum deficit of \$50,000 is now forecast. Due to on-going expense savings, we may end up with a balanced budget for the year.

Other Key Funds, 3rd Quarter 2015/16 -- YTD Actual vs. YTD Budget

- under budget. + over budget.

	Actual	Budget	+/- \$	+/- %		Actual	Budget	+/- \$	+/- %
Water Oper.									
Revenue	1,224,829	1,289,250	(64,421)	-5.0%	Risk due to conservation	114,180	161,068	(46,888)	-29.1%
Personnel	105,985	109,978	(3,993)	-3.6%		0	0	0	0.0%
Non-Personnel	812,425	820,323	(7,898)	-1.0%		65,650	71,577	(5,927)	-8.3%
Capital/Other	340,324	267,450	72,874	27.2%	Attribution of debt service	35,390	256,575	(221,185)	-86.2%
Expense	1,258,734	1,197,751	60,983	5.1%		101,040	328,152	(227,112)	-69.2%
Rev. - Exp.	(33,905)	91,499	(125,404)	-137.1%	Temporary deficit	13,140	(167,084)	180,224	-107.9%
Wastewater Op.									
Revenue	840,998	848,250	(7,252)	-0.9%	Risk due to conservation	3,428	4,275	(847)	-19.8%
Personnel	137,847	160,427	(22,580)	-14.1%		0	0	0	0.0%
Non-Personnel	246,408	303,053	(56,645)	-18.7%		524	0	524	+++
Capital/Other	135,969	201,525	(65,556)	-32.5%	Attribution of debt service	29,986	131,775	(101,789)	-77.2%
Expense	520,224	665,005	(144,781)	-21.8%		30,510	131,775	(101,265)	-76.8%
Rev. - Exp.	320,774	183,245	137,529	75.1%	Surplus will decline	(27,082)	(127,500)	100,418	-78.8%
Solid Waste									
Revenue	450,816	502,500	(51,684)	-10.3%	Balanced by expense	277,329	343,500	(66,171)	-19.3%
Personnel	0	0	0	0.0%		103,650	105,369	(1,719)	-1.6%
Non-Personnel	325,042	394,500	(69,458)	-17.6%	Balanced by revenue	53,763	75,375	(21,612)	-28.7%
Capital/Other	0	0	0	0.0%		65,997	66,000	(3)	0.0%
Expense	325,042	394,500	(69,458)	-17.6%		223,410	246,744	(23,334)	-9.5%
Rev. - Exp.	125,774	108,000	17,774	16.5%		53,919	96,756	(42,837)	-44.3%
Transit									
Revenue	312,889	421,725	(108,836)	-25.8%	Balanced by expense	394,937	508,843	(113,906)	-22.4%
Personnel	0	0	0	0.0%		103,650	105,369	(1,719)	-1.6%
Non-Personnel	278,978	386,250	(107,272)	-27.8%	Balanced by revenue	119,937	146,952	(27,015)	-18.4%
Capital/Other	26,250	26,250	0	0.0%		131,373	454,350	(322,977)	-71.1%
Expense	305,228	412,500	(107,272)	-26.0%		354,960	706,671	(351,711)	-49.8%
Rev. - Exp.	7,661	9,225	(1,564)	-17.0%		39,977	(19,836)	237,805	120.2%
RDA									
Revenue	449,659	288,000	161,659	56.1%	Balanced by expense	394,937	508,843	(113,906)	-22.4%
Personnel	0	0	0	0.0%		103,650	105,369	(1,719)	-1.6%
Non-Personnel	34,431	23,114	11,317	49.0%		119,937	146,952	(27,015)	-18.4%
Capital/Other	346,119	243,533	102,586	42.1%		131,373	454,350	(322,977)	-71.1%
Expense	380,550	266,647	113,903	42.7%		354,960	706,671	(351,711)	-49.8%
Rev. - Exp.	69,109	21,353	47,756	223.7%		39,977	(19,836)	237,805	120.2%

RESOLUTION NO. 2016-22

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GUADALUPE
MAKING CHANGES TO THE 2015/16 BUDGET**

WHEREAS, City staff has performed a comprehensive review of revenue and expenses vs. budget through the third quarter of FY 2015/16; and

WHEREAS, that review shows that certain budget adjustments should be made at this time.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Guadalupe:

SECTION 1. Make the following 2015/16 General Fund budget adjustments:

Revenue Line Item	Before	After	Change
Sales Tax	\$348,000	\$383,000	\$35,000
Utility User Tax	\$365,000	\$380,000	\$15,000
Electrical Permits	\$27,500	\$29,000	\$1,500
Plumbing Permits	\$12,500	\$14,000	\$1,500
Plan Check	\$35,000	\$40,000	\$5,000
Plans & Specs	\$5,000	\$7,000	\$2,000
COPS Grant	\$100,000	\$105,000	\$5,000
Criminal Fines	\$42,000	\$2,000	(\$40,000)

Expense Line Item	Before	After	Change
City Attorney Dep't:			
Prof. Services	\$75,000	\$90,000	\$15,000
Building Permits Dep't:			
Prof. Services	\$184,000	\$144,000	(\$40,000)

PASSED AND ADOPTED at a regular meeting on the 26th day of April 2016 by the following vote:

Motion:

AYES:

NOES:

ABSENT:

ABSTAIN:

I, **Andrew Carter**, Deputy City Clerk of the City of Guadalupe, **DO HEREBY CERTIFY** that the foregoing Resolution, being **Resolution No. 2016-22**, has been duly signed by the Mayor and attested by the City Clerk, all at a regular meeting of the City Council, held April 22, 2016, and that same was approved and adopted.

ATTEST:

Andrew Carter
Deputy City Clerk

John Lizalde
Mayor