



ADMINISTRATION DEPARTMENT

**City of Guadalupe
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June 25, 2014

Honorable Board of Supervisors
Clerk of the Board
ATTN: Agenda Coordinator
105 E. Anapamu St. Room 407
Santa Barbara, CA 93101

2014 JUN 27 PM 3:30
COUNTY OF SANTA BARBARA
CLERK OF THE
BOARD OF SUPERVISORS

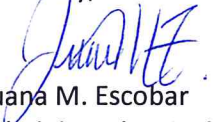
Dear Clerk of the Board,

Enclosed please find one (1) original and eight (8) copies of the following City of Guadalupe Resolutions pertaining to the November 4, 2014 General Municipal Election:

1. **RESOLUTION NO. 2014-35** – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GUADALUPE ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY A MEASURE RELATING TO THE AMENDMENT OF THE MAXIMUM RATE OF THE EXISTING UTILITY USERS TAX AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 4, 2014, AND DIRECTING THE CITY ATTORNEY TO PREPARE IMPARTIAL ANALYSIS THEREOF.
2. **RESOLUTION NO. 2014-36** – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GUADALUPE ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY A MEASURE RELATING TO THE ESTABLISHMENT OF BUSINESS TAX CERTIFICATE BASED ON GROSS RECEIPTS AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 4, 2014, AND DIRECTING THE CITY ATTORNEY TO PREPARE IMPARTIAL ANALYSIS THEREOF.
3. **RESOLUTION NO. 2014-37** – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GUADALUPE ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY A MEASURE RELATING TO THE ESTABLISHMENT OF A LOCAL TRANSACTIONS AND USE TAX AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 4, 2014, AND DIRECTING THE CITY ATTORNEY TO PREPARE IMPARTIAL ANALYSIS THEREOF.

If I can be of further assistance, please do not hesitate to call.

Sincerely,


Juana M. Escobar
Administration Assistant
City of Guadalupe

RESOLUTION NO. 2014-35

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GUADALUPE ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY A MEASURE RELATING TO THE AMENDMENT OF THE MAXIMUM RATE OF THE EXISTING UTILITY USERS TAX AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 4, 2014, AND DIRECTING THE CITY ATTORNEY TO PREPARE IMPARTIAL ANALYSIS THEREOF

WHEREAS, the City Council of the City of Guadalupe has by Resolution No. 2014-31 called for a general municipal election to be held on November 4, 2014; and

WHEREAS, the City Council has the authority under Elections Code Section 9222 to place on the ballot a measure for the voters of the City of Guadalupe to amend the Guadalupe Municipal Code to amend Chapter 3.24 of the Guadalupe City Municipal Code to remove the maximum liability cap on the utility users tax for any single utility user; and

WHEREAS, Section 2(b) of Article XIII C of the California Constitution, added by Proposition 218, effective November, 1996, requires that a measure proposing a general tax be submitted to the voters at an election consolidated with a regularly scheduled general election for members of the governing body of the local government; and

WHEREAS, pursuant to California Constitution Article XIII C, Section 2(b) and Elections Code Section 10201, the City has determined to submit a measure to the voters to enact an ordinance to remove the maximum utility users tax liability for any individual utility user at the City's next regular consolidated general municipal election.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GUADALUPE DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. Pursuant to Elections Code Section 9222, the proposed ballot proposition attached hereto as Exhibit A, and titled "**AN ORDINANCE OF THE CITY OF GUADALUPE, CALIFORNIA REPEALING SECTION 3.24.160 OF CHAPTER 3.24 OF THE MUNICIPAL CODE OF THE CITY OF GUADALUPE TO ELIMINATE THE MAXIMUM UTILITY USERS TAX CAP FOR ANY INDIVIDUAL UTILITY USER**", is hereby approved for placement on the ballot and submission to voters at the City's regular election scheduled for November 4, 2014. The question shall be posed as follows:

CITY OF GUADALUPE MEASURE _____		
The Guadalupe Public Service Protection Measure. To help preserve, enhance, and improve vital public services in Guadalupe, including police and fire protection, parks and recreation, and public infrastructure shall an ordinance be adopted to remove the maximum annual utility tax liability for a single utility user.	YES	
	NO	

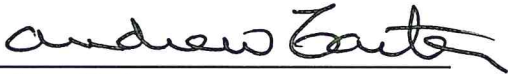
Section 2. City staff is directed to take all appropriate and necessary actions to cause the foregoing proposition to be placed on the ballot at the regular election of November 4, 2014.

Section 3. Pursuant to Elections Code Section 9280, the City Attorney of the City of Guadalupe is hereby directed to prepare and submit an impartial analysis explaining the effect of the measure on existing law and the operation of the measure.

Section 4. The City Clerk shall certify to the passage and adoption of this resolution, and immediately transmit a certified copy of this resolution to the Santa Barbara County Clerk for inclusion on the November 4, 2014 ballot.

PASSED, APPROVED and ADOPTED this 10th day of June 2014.

ATTEST:



Andrew Carter
Deputy City Clerk



Frances A. Romero
Mayor

I, Andrew Carter, Deputy City Clerk of the City of Guadalupe, do hereby certify that the foregoing Resolution No. 2014-35 was duly adopted by the City Council of the City of Guadalupe at the City Council meeting held on the 10th day of June, 2014 by the following vote of the Council:

MOTION: SABEDRA/LIZALDE

AYES: 5 Sabedra, Lizalde, Romero, Rubalcaba, Tucker
NOES: 0
ABSENT: 0
ABSTAIN: 0



Andrew Carter
Deputy City Clerk

ORDINANCE NO. 2014-419

AN ORDINANCE OF THE CITY OF GUADALUPE, CALIFORNIA REPEALING SECTION 3.24.160 OF CHAPTER 3.24 OF THE MUNICIPAL CODE OF THE CITY OF GUADALUPE TO ELIMINATE THE MAXIMUM UTILITY USERS TAX CAP FOR ANY INDIVIDUAL UTILITY USER

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

Section 1. RECITALS:

A. One of the primary roles of City government is to provide vital public services such as police and fire; street and sidewalk maintenance; pothole repair; parks and recreation programs and facilities; and many other essential city services.

B. Over the past decade, the state of California has taken millions of dollars, and will continue to take money away in coming years, from the City of Guadalupe – money that would otherwise be spent on essential City services.

C. Budget cuts have forced the City to reduce needed staffing, to leave unfilled various positions within the City, and to reduce spending on public safety, street and sidewalk maintenance, pothole repair, parks and recreation programs and facilities and other vital services.

D. The City's revenue for such vital services comes from property tax, utility users tax, sales tax, and other such revenues. The City cannot raise the property tax, and is severely constrained in its ability to raise sales tax, since the majority of sales tax collected within the City goes to public entities other than the City.

E. In 1985, the City of Guadalupe, in order to raise revenues for general government purposes, imposed a utility users tax. The utilities covered by the utility users tax are gas, electric, water, and telephone, inclusive. The current rate is five percent for each covered utility with a maximum annual exposure to any one utility user of \$2250.00. Said taxes are inadequate to provide basic levels of general government services. The existing utility users tax has not been increased since it was enacted in 1985.

F. The cost to continue to provide these vital services at current levels of service exceeds the amount of funds and revenues generated from all other sources of income available for such purpose.

G. The City must either generate additional revenue or begin making additional serious cuts to essential City services. The removal of the maximum annual exposure to any one utility user, as more fully described and set forth below, is necessary to maintain public good, welfare, and safety.

H. The removal of this cap will affect only the largest users of the various utility services in the City, with the vast majority of utility users being completely unaffected by

the approval of this measure. The current cap benefits only large business entities who consume in excess of \$45,000 annually in utility service.

I. A local finance measure gives Guadalupe residents local control. Every penny generated by the measure stays in Guadalupe to be used for the needs and services of our residents and the City. The removal of the maximum annual tax obligation for any one utility user will assist the City in providing essential services to occupants of residential and commercial real property throughout the City.

Section 2.

Section 3.24.160 of the Guadalupe Municipal Code is hereby repealed in its entirety.

Section 3.

This ordinance is ordered to be submitted to election as a proposition pursuant to Elections Code Section 9222 and shall not become operative unless and until a majority of the electors voting on this measure vote to approve this ordinance at the general municipal election to be held on November 4, 2014. Pursuant to Elections Code Section 9222 the exact form of the question to be voted on at the election as it should appear on the ballot is as follows:

CITY OF GUADALUPE MEASURE _____		
The Guadalupe Public Service Protection Measure. To help preserve, enhance, and improve vital public services in Guadalupe, including police and fire protection, parks and recreation, and public infrastructure shall an ordinance be adopted to remove the maximum annual utility tax liability for a single utility user.	YES	
	NO	

Section 4.

If this ordinance is approved by a majority of the electors voting on the issue at the November 4, 2014 general municipal election, pursuant to Elections Code Section 9217, the ordinance shall be become effective ten (10) days after the City Council accepts the certified results of the election.

Section 5.

This ordinance shall not be interpreted in any manner to conflict with controlling provisions of state law, including, without limitation, the Government Code of the State of California. 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 as applied to a particular appeal, the validity of this ordinance and its sections, subsections and clauses in regards to other contracts, shall not be affected.

RESOLUTION NO. 2014-36

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GUADALUPE ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY A MEASURE RELATING TO THE ESTABLISHMENT OF A BUSINESS TAX CERTIFICATE BASED ON GROSS RECEIPTS AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 4, 2014, AND DIRECTING THE CITY ATTORNEY TO PREPARE IMPARTIAL ANALYSIS THEREOF

WHEREAS, the City Council of the City of Guadalupe has by Resolution No. 2014-31 called for a general municipal election to be held on November 4, 2014; and

WHEREAS, the City Council has the authority under Elections Code Section 9222 to place on the ballot a measure for the voters of the City of Guadalupe to amend the Guadalupe Municipal Code to replace the existing Chapter 5.04 of the Guadalupe City Municipal Code with a new Chapter 5.04, establishing a business tax certificate based on gross receipts; and

WHEREAS, Section 2(b) of Article XIII C of the California Constitution, added by Proposition 218, effective November, 1996, requires that a measure proposing a general tax be submitted to the voters at an election consolidated with a regularly scheduled general election for members of the governing body of the local government except in cases of emergency as declared by the City Council; and

WHEREAS, pursuant to California Constitution Article XIII C, Section 2(b) and Elections Code Section 10201, the City has determined to submit a measure to the voters to enact an ordinance establishing a business tax certificate based on gross receipts at the City's next regular consolidated general municipal election.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GUADALUPE DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. Pursuant to Election Code Section 9222, the proposed ballot proposition attached hereto as Exhibit A, and titled "**AN ORDINANCE OF THE CITY OF GUADALUPE REPEALING CHAPTER 5.04 OF TITLE 5 OF THE GUADALUPE MUNICIPAL CODE AND ENACTING A NEW CHAPTER 5.04 ESTABLISHING A GENERAL BUSINESS TAX CERTIFICATE BASED ON GROSS RECEIPTS**", is hereby approved for placement on the ballot and submission to voters at the City's regular election scheduled for November 4, 2014. The question shall be posed as follows:

<p style="text-align: center;">CITY OF GUADALUPE MEASURE _____</p> <p>The Guadalupe Public Service Preservation Business Tax Certificate Measure. To help preserve, enhance, and improve vital public services in Guadalupe, including police and fire protection, parks and recreation, and public infrastructure, shall an ordinance be adopted to establish within the City of Guadalupe a business tax certificate based on a business's gross receipts?</p>	YES	
	NO	

Section 2. City staff is directed to take all appropriate and necessary actions to cause the foregoing proposition to be placed on the ballot at the regular election of November 4, 2014.

Section 3. Pursuant to Election Code Section 9280, the City Attorney of the City of Guadalupe is hereby directed to prepare and submit an impartial analysis explaining the effect of the measure on existing law and the operation of the measure.

Section 4. The City Clerk shall certify to the passage and adoption of this resolution, and immediately transmit a certified copy of this resolution to the Santa Barbara County Clerk for inclusion on the November 4, 2014 ballot.

UPON MOTION OF Councilmember **TUCKER**, seconded by Councilmember **RUBALCABA**, the foregoing Resolution is hereby passed and adopted at a regular meeting of the City Council held this 10th day of June, 2014, on the following roll call vote to wit:

AYES: 3 Romero, Rubalcaba, Tucker
NOES: 1 Sabedra
ABSTAIN: 1 Lizalde
ABSENT: 0


 Mayor A. Frances Romero

ATTEST:


 Andrew Carter, Deputy City Clerk

ORDINANCE NO. 2014-420

AN ORDINANCE OF THE CITY OF GUADALUPE REPEALING CHAPTER 5.04 OF TITLE 5 OF THE GUADALUPE MUNICIPAL CODE AND ENACTING A NEW CHAPTER 5.04 ESTABLISHING A GENERAL BUSINESS TAX CERTIFICATE BASED ON GROSS RECEIPTS

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

SECTION 1. FINDINGS

A. One of the primary roles of City government is to provide vital public services such as police and fire protection; street and sidewalk maintenance; pothole repair; parks and recreation programs and facilities; and many other essential city services.

B. Over the past decade, the state of California has taken millions of dollars, and will continue to take money away in coming years, from the City of Guadalupe – money that would otherwise be spent on essential City services.

C. The City's revenue for such vital services comes primarily from property tax and sales tax, with additional revenues coming from the licensing of local businesses.

E. The cost to continue to provide these vital services at current levels of service exceeds the amount of funds and revenues generated from all other sources of income available for such purpose. The imposition of a business certificate tax, based on a business's gross receipts, in the amount of fifty cents for every one thousand dollars of gross receipts, as more fully described and set forth below, is necessary to maintain public good, welfare, and safety.

F. The City must either generate additional revenue or begin making significant cuts to essential City services.

G. **A local finance measure gives Guadalupe residents local control.** Every penny generated by the measure stays in Guadalupe to be used for the needs and services of our residents and the City.

H. The imposition of such a tax will assist the City in providing essential services to occupants of residential and commercial real property throughout the City.

SECTION 2. AMENDMENT OF CODE.

Guadalupe Municipal Code Title 5 is hereby amended to repeal the existing Chapter 5.04, replacing it with a new Chapter 5.04 to read as follows:

5.04.100 Purpose.

The provisions of this chapter are enacted solely to raise revenue for general municipal purposes and are not intended for regulation.

5.04.110 Business tax certificates required.

A. Business taxes are hereby imposed upon all businesses, professions, trades, vocations, enterprises, establishments, occupations, or callings conducting business in the city to which a business tax may lawfully apply, in the amount of fifty cents per thousand dollars of gross receipts. It shall be unlawful for any person to transact and carry on any business, trade, vocation, enterprise, establishment, occupation, or calling in the city not otherwise exempt without first having procured a business tax certificate from the city or complying with all of the applicable provisions of this chapter.

B. The business tax certificate shall be evidence only of the fact that such business tax has been paid. Neither the payment of the business tax nor the possession of the business tax certificate shall authorize, permit, or allow the doing of any act which the person paying or holding such business tax certificate would not otherwise be entitled to do; nor shall it be construed as permission to conduct or carry on a business at any place within the city where the conducting or carrying on of such business is prohibited or fails to comply with the city's zoning, planning, or building regulations, nor shall it be construed as permission to conduct or carry on a business in such a manner as to create or maintain a nuisance.

5.04.120 Exemptions.

The following persons and organizations are exempt from the provisions of this chapter:

A. Minors Under the Age of 18. Businesses owned and conducted by minors under the age of eighteen years shall be exempt from the business tax provisions of this chapter where all of the following conditions exist and legal documentation is provided to support that:

1. All persons engaged in the operation of the business are under the age of eighteen years.
2. All persons engaged in the operation of the business have a bona fide ownership interest in the business.

B. Charitable, Religious, and Nonprofit Organizations.

1. Organization activities. The provisions of this chapter shall not be deemed or construed to require the payment of a business tax to conduct, manage, or carry on any business, occupation, or activity of any institution or organization recognized by a tax board of the state with a "Statement of Domestic Non Profit Organization" or the Internal Revenue Service of the United States which is conducted wholly for the benefit of charitable, religious, or nonprofit purposes and from which profit is not derived, either directly or indirectly, by any person.

2. Nonexempt activities. The exemption provisions of this section shall not be construed to extend to any person, business, corporation, or organization receiving a fee, wage, stipend, salary, remuneration, compensation, or pay for the performance of any business, occupation, or activity related to exempt organization activities. Any such person, business, corporation, or organization shall be subject to the business tax provisions of this chapter and shall obtain the business tax certificate prior to any business, occupation, or activity being undertaken.

C. Conflicts With Federal and State Laws or Contractual Agreements. The provisions of this chapter shall not be construed to require a person to obtain a business tax certificate prior to doing business within the city if such requirement conflicts with the applicable statutes, laws, or constitution of the United States or the State of California or other contractual obligations or franchise agreements. The finance director may

develop administrative guidelines concerning exemptions, apportionment, and any other matters which she or he or she determines as necessary for the lawful and effective implementation of this chapter.

5.04.130 Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

A. "Business" shall mean and include professions, trades, vocations, rentals, leases, enterprises, establishments, and occupations and all and every kind of calling, any of which is conducted for the purpose of earning in whole, or in part, a profit or livelihood, whether or not a profit or a livelihood actually is earned thereby, whether paid in money, goods, labor, or otherwise, and whether or not the business has a fixed place of business in the city.

B. "Finance director" shall mean the individual designated by the city administrator to collect business taxes pursuant to the provisions of this chapter.

C. "Gross receipts" shall mean and include the total amounts actually received or receivable from sales, services, rentals, or leases in the total amounts actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or a credit allowed, whether or not such act or service is done as a part of, or in connection with, the sale or rental of materials, property (real or personal), goods, wares, or merchandise. Included in "gross receipts" shall be receipts, cash, credits, and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, rented or leased, the cost of the materials used, labor and service costs, interest paid or payable, or losses or other expenses whatsoever.

Excluded from "gross receipts" shall be the following:

1. Cash discounts allowed and taken on sales;
2. Credit allowed on property accepted as a part of the purchase price in which property may later be sold;
3. Any tax required by law to be included in, or added to, the purchase price and collected from the consumer or purchaser;
4. Such part of the sales price of property returned by purchasers upon the rescission of the sales contract as is refunded, either in cash or by credit;
5. Amounts collected for others where the business is acting as an agent or trustee to the extent that such amounts are paid to those for whom the amounts were collected;
6. Receipts of refundable deposits, except that refundable deposits forfeited and taken into the income of the business shall not be excluded;
7. As to a real estate transaction, the sales price of the real estate sold for the account of others, except that portion which represents commission or other income;
8. Income from businesses that perform the function of agent or broker, except that portion of income which represents commission or other income to the agent or broker;
9. As to a retail gasoline dealer, a portion of the receipts of the dealer from the sales of motor vehicle fuels equal to the amount of motor vehicle fuel license tax imposed.
10. As to retail gasoline dealer, any special motor fuel taxes if paid by the dealer or collected by the dealer from the consumer or purchaser.

D. "Person" shall mean and include all domestic and foreign corporations, associations, syndicates, joint-stock corporations, partnerships of every kind, clubs, Massachusetts trust, business, and other common law trusts, societies, and individuals transacting and carrying on any business in the city, other than an employee.

E. "Sworn statement" shall mean an affidavit sworn to before a person authorized to take oaths or a declaration or certification made under the penalty of perjury.

F. "Gross receipts subject to the business tax" shall be that portion of gross receipts relating to business conducted within the city. For businesses with their headquarters located within the city of Guadalupe, their total gross receipts shall be deemed to be related to business conducted within the city unless an apportionment of gross receipts is requested by the business pursuant to Section 5.04.580 of this chapter.

Article II. Tax Amounts

5.04.200 Tax basis.

The amount of the business tax to be paid by the applicant is to be measured by gross receipts from the preceding completed calendar or fiscal year. For a new business, which has no gross receipt history, the applicant is required to pay the minimum tax.

5.04.210 Tax rate.

The tax rate for all businesses shall be fifty cents per thousand dollars of gross receipts. This rate shall be applied in thousand-dollar increments, and gross income shall be rounded to the next highest thousand-dollar interval for the computation of the business tax.

5.04.220 Minimum tax.

The minimum tax that shall be paid by any home occupation business or business with with no fixed place of business within the city of Guadalupe will be one hundred dollars (\$100.00), The minimum tax that shall be paid by any business with a fixed place of business within the city of Guadalupe, will be two hundred dollars (\$200.00), These amounts represent the minimum cost to the city of issuing or renewing the certificate.

Article III. Application and Renewal

5.04.300 Business tax certificate applications.

Every person required to have a business tax certificate pursuant to the provisions of this chapter shall make a written application to the finance director and submit the following information:

- A. The nature or kind of business for which the business tax certificate is requested;
- B. The place where the business is to be conducted and, if the business is not to be conducted at a permanent location, the residence address, identified as such, of the owners of the business;
- C. If the application is made for the issuance of a business tax certificate to a person to do business under a fictitious name, the names, social security numbers, and residence addresses of the owners of the business;
- D. If the application is made for the issuance of a business tax certificate to a corporation or partnership, the names, franchise tax number, and residence addresses of the officers or partners thereof; and
- E. Any further information that the federal or state taxing authority or the finance director may require to enable the issuance of the business tax certificate.

5.04.310 Business tax certificate renewals.

A. In all cases, the applicant for the renewal of the business tax certificate required by the provisions of this chapter shall submit to the finance director a written statement, upon a form provided by the finance director, written under penalty of perjury or sworn to before a person authorized to administer oaths, setting forth the actual gross receipts earned the preceding calendar or fiscal year as reported to any federal or state taxing authority to which gross receipts are reported to enable the finance director to ascertain the amount of the business tax to be paid. Unless otherwise specifically provided, all annual business taxes required by the provisions of this chapter shall be due and payable on July 1st of each year and shall be delinquent on July 31st of each year.

B. No renewal of a business tax certificate shall be issued until payment in full of all delinquent business taxes, including accrued interest and applicable penalties thereon is received by the city. It shall be the responsibility of the applicant to ensure renewal of the business tax certificate.

Article IV. Business Tax Certificate Issuance

5.04.400 Content.

All business tax certificates required by the provisions of this chapter, unless otherwise provided in this chapter, shall be prepared and issued by the finance director upon the payment to the city of the proper amount of business tax. Each business tax certificate shall state upon the face thereof the following:

A. The name of the person to whom the business tax certificate is issued.

B. The type of business taxed.

C. The location or address of the business taxes.

D. The date of the expiration of the business tax certificate.

E. That the business tax certificate when issued shall be the receipt for the business tax paid to the city.

F. That the possession of the business tax certificate shall not authorize, permit, or allow the person to do any act which such person would not otherwise be lawfully entitled to do.

5.04.410 Posting and keeping.

All business tax certificates issued pursuant to the provisions of this chapter shall be posted and kept in the following manner:

A. Any persons transacting and carrying on business at a permanent location in the city shall keep such business tax certificate posted in a conspicuous place upon the premises where such business is carried on.

B. Any persons transacting and carrying on business, but not operating at a permanent location in the city, shall keep such business tax certificate upon them at all times while transacting and carrying on such business.

5.04.420 Duplicates.

A duplicate business tax certificate may be issued by the finance director to replace any business tax certificate previously issued pursuant to the provisions of this chapter, which business tax certificate has been lost or destroyed, upon the filing of a statement of such fact and the payment of a duplicate fee set by resolution of the city council.

5.04.430 Branch establishments.

A separate business tax certificate shall be issued for each branch establishment or location of business; provided, however, warehouses and distributing plants used in connection with, and incidental to, a business taxed pursuant to the provisions of this chapter shall not be deemed to be separate places of businesses or branch establishments; and provided, further, any person conducting two or more types of businesses at the same location and under the same management, or at different locations, but which businesses use a single set or integrated set of books and records, may elect to pay only one business tax calculated on all the gross receipts of the businesses, except that a fee set by resolution of the city council shall be paid upon issuance for each additional branch or location.

5.04.440 Change of location.

No business tax certificate issued pursuant to the provisions of this chapter shall be transferable; provided, however, where a business tax certificate is issued for a person to transact and carry on a business at a particular place, such person, upon an application therefor and the payment of a fee set by resolution of the city council, may have the business tax certificate reissued for transacting and carrying on of such business under such business tax certificate at some other location to which it is to be moved.

Article V. Administration

5.04.500 Certification of records.

A. Conclusiveness of Statements. No statement required by the provisions of this chapter shall be conclusive as to the matters set forth therein, nor shall the filing of such statements preclude the city from collecting by appropriate action such sums as are actually due and payable pursuant to the provisions of this chapter. Such statements and each of the several items therein contained shall be subject to certification by the finance director, the deputies of the finance director, or authorized employees or representatives of the city, who are hereby authorized to examine such books and records of any certificate holder or applicant for a business tax certificate as may be necessary in their judgment to verify or ascertain the amount of the business tax due.

B. Record Retention. All persons subject to the provisions of this chapter shall keep complete records of all business transactions and shall retain such records for examination by the finance director, the deputies of the finance director, or authorized employees or representatives of the city, and maintain them for a period of at least three years from the annual due date of the federal tax return or the city business tax return, whichever time period is greater. Records which shall be maintained for audit purposes shall include state and federal income tax returns, schedules and records included in such returns, and any and all work papers used to prepare such returns.

C. Examination of Records. All business tax certificate holders, applicants for business tax certificates, and persons engaged in business in the city are hereby required to permit an examination of such books and records for the purposes set forth in this section during regular business hours and at reasonable times.

D. Interest and Penalties. If, subsequent to the examination, it is determined that the business has been delinquent or has nonreported or under-reported gross receipts, thereby underpaying business taxes, the certificate holder shall pay to the city within ten days of notification of the determination of the amount of tax due, interest in the amount

of eight percent from the date the tax was due, and a penalty in the amount of the business tax due. Interest shall continue to accrue on the additional tax amount until such amount is paid in full.

A mistake made in stating the amount of the business tax shall not, in any case, prevent or prejudice the finance director from collecting what is actually due from any person or entity carrying on a trade, calling, profession, or occupation subject to a business tax under this chapter.

E. Determination of Tax Amounts Due. If any person subject to the tax imposed by this chapter fails to submit information required, or if the finance director is not satisfied with records and statements filed, the finance director shall determine the amount of the business tax due from such person by means of such information as may be obtainable and shall mail a notice of the amount so assessed by serving it personally or by depositing it in the United States Post Office at Guadalupe, California, postage prepaid, addressed to the person at their last-known address.

5.04.510 Information confidential.

It shall be unlawful for the finance director or designee, or any person having an administrative duty pursuant to the provisions of this chapter, to make known in any manner whatever the business affairs, operations, or financial information obtained by an investigation of the records of any person required to obtain a business tax certificate, or pay a business tax, or any other person visited or examined in the discharge of the official duty of the finance director, or of the amount or source of income, profits, losses, or expenditures, or any particular thereof, set forth in any statement or application, or amended statement or application, or copy of either, or in any book containing any abstract or particulars therein to be seen or examined by any person; provided, however, the provisions of this section shall not be construed to prevent:

A. Disclosure to, or the examination of records and equipment by, another city official, employee, or agent for the collection of taxes for the sole purpose of administering or enforcing the provisions of this chapter or collecting the business taxes imposed by the provisions of this chapter;

B. The disclosure of information to, or the examination of records by, federal or state officials, or the tax officials of another city or county, if the reciprocal arrangement exists, or to a grand jury or court of law upon a subpoena;

C. The disclosure of information and the results of examination or records or particular taxpayers, or relating to particular taxpayers, to a court of law for proceedings brought to determine the existence of the amount of any business tax liability of such particular taxpayers of the city;

D. The disclosure, after the filing of a written request to the effect, to the taxpayer, or to the taxpayer's successors, receivers, trustees, executors, administrators, assignees, or guarantors if directly interested, of information as to items included in the measure of any paid business tax, any unpaid business tax, or any amount of business tax required to be collected, including interest and penalties; further provided, however, that the city attorney shall approve each such disclosure, and the finance director or designee may refuse to make any disclosure referred to in this subsection when, in their opinion, the public interest would suffer thereby;

E. The disclosure of the names and business address of persons to whom business tax certificates have been issued and the general type and nature of their business;

F. The disclosure, by way of public meeting or otherwise, of such information as may be necessary to the city council in order to permit the city council to be fully advised as to the facts if a taxpayer files a claim for the refund of business taxes, or submits an offer of compromise with regard to a claim asserted against them by the city for business taxes, or when acting upon any other similar matter; and

G. The disclosure of general statistics regarding business taxes collected or business done in the city.

5.04.520 Finance director adjustment powers.

The finance director shall have the power, for good cause shown, and documented by the finance director as a permanent record:

- A. To extend the time for filing any required sworn statement;
- B. To waive any penalties which would otherwise have accrued;
- C. To adjust the amount of the business tax due;
- D. To make refunds or prorations of taxes paid.

5.04.530 Debt to city.

The amount of any business tax and penalty imposed by the provisions of this chapter shall be deemed a debt to the city. A suit may be brought against any person to enforce the collection of the debt described in this chapter in any court of competent jurisdiction.

The conviction of any person for transacting any business without a certificate shall not excuse or exempt such person from payment of any license due or unpaid at the time of such conviction, and nothing herein shall prevent a criminal prosecution for any violation of the provisions of this chapter.

5.04.540 Delinquencies and penalties.

For failure to pay the business tax required by the provisions of this chapter prior to the delinquency date, the director of finance shall add a penalty. The amount of this penalty shall be set by resolution of the city council.

5.04.550 Enforcement.

A. Duties of the Finance Director and Chief of Police. It shall be the duty of the Finance Director to enforce each and all of the provisions of this chapter, and the chief of police shall render such assistance in such enforcement as may from time to time be required by the finance director.

B. Inspections. The finance director, in the exercise of the duties imposed by the provisions of this section, and acting through deputies or duly authorized assistants, shall have the right to enter and examine all places of business free of charge during normal business hours to ascertain whether the provisions of this chapter are being complied with.

C. Penalty for Violation. Any person who violates any provisions of Section 5.04.110 by transacting and carrying on any business, trade, vocation, enterprise, establishment, occupation, or calling in the city without first having procured a business tax certificate from the city or without complying with all of the applicable provisions of this chapter is guilty of an infraction and is subject to punishment as provided for in Chapter 1.08 of this municipal code.

5.04.560 Evidence of doing business.

When any person, by the use of a sign, circular, card, telephone book, newspaper, other publication, or advertising media, shall advertise, hold out, or represent that such person is in business in the city, or when any person holds an active license or permit issued by a government agency indicating that such person is conducting a business in the city, and such person fails to deny, by a sworn statement given to the finance director or designee, that such person is not conducting a business in the city after being requested to do so by the finance director or designee, then these facts shall be considered prima facie evidence that such person is conducting a business in the city.

5.04.570 Remedies cumulative.

All remedies prescribed by the provisions of this chapter shall be cumulative, and the use of one or more remedies by the city shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter.

5.04.580 Apportionment.

When the business tax imposed by this chapter cannot be enforced without there being an apportionment according to the amount of business done in the city of Guadalupe, apportionment rules shall be established by the finance director. The finance director shall conduct an investigation and shall fix as the business tax for the applicant an amount that is reasonable and nondiscriminatory or, if a business tax has already been paid, shall order a refund of the amount over and above the business tax so affixed. In fixing the business tax to be charged, the finance director shall have the power to base the business tax upon a percentage of gross receipts, operating expenses, floor space, payroll, number of employees, business taxes paid to other cities, or any other measure which will assure that the business tax assessed shall be uniform with the amount of business done in the city of Guadalupe, or of businesses of a like nature, so long as the amount assessed does not exceed the business tax set forth in this chapter.

5.04.590. Enjoining Collection Forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the city, or against any officer of the City, to prevent or enjoin the collection under this ordinance of any tax or any amount of tax required to be collected.

SECTION 3. USE OF TAX PROCEEDS.

All proceeds of the tax levied and imposed hereunder shall be accounted for and paid into the City of Guadalupe General Fund, and may be used for any lawful purpose as designated by the City Council.

SECTION 4. SEVERABILITY.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 5. ELECTION REQUIRED.

The City Council, in approving this ordinance, declares the urgency of approving the ordinance pursuant to Government Code Section 36937(a) and (b), in that the ordinance relates to an election, and is necessary for the immediate preservation of the public peace, health or safety, because absent adoption as an

urgency ordinance, the ordinance will be approved after the date required by the County Recorder for submission of this ordinance for appearing on the November 2014 ballot. This ordinance shall not become operative unless and until a majority of the electors voting on this measure vote to approve the imposition of the tax at the general municipal election to be held on November 4, 2014.

SECTION 6. EFFECTIVE DATE.

If this ordinance is approved by a majority of the electors voting on the issue at the November 4, 2014 general municipal election, pursuant to Elections Code Section 9217, the ordinance shall be become effective ten (10) days after the City Council accepts the certified results of the election.

ADOPTED at a regular meeting of the City Council held this 10th day of June, 2014 on motion of Councilmember **TUCKER**, seconded by Councilmember **RUBALCABA**, and on the following roll call vote, to wit:

AYES:	3	Councilmembers:	Romero, Rubalcaba, Tucker
NOES:	1	Councilmembers:	Sabedra
ABSENT:	0	Councilmembers:	
ABSTAIN:	1	Councilmembers:	Lizalde

ATTEST:


Andrew Carter, Deputy City Clerk


Frances A. Romero, Mayor

APPROVED AS TO FORM:


David M. Fleishman, City Attorney

RESOLUTION NO. 2014-37

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GUADALUPE
ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY
A MEASURE RELATING TO THE ESTABLISHMENT OF A LOCAL
TRANSACTIONS AND USE TAX AT THE GENERAL ELECTION TO BE HELD
ON TUESDAY, NOVEMBER 4, 2014, AND DIRECTING THE CITY ATTORNEY
TO PREPARE IMPARTIAL ANALYSIS THEREOF**

WHEREAS, the City Council of the City of Guadalupe has by Resolution No. R-2014-31 called for a general municipal election to be held on November 4, 2014; and

WHEREAS, the City Council has the authority under Elections Code Section 9222 to place on the ballot a measure for the voters of the City of Guadalupe to amend the Guadalupe Municipal Code to add a new Chapter 3.14 of the Guadalupe City Municipal Code, establishing a local transactions and use tax at the rate of 0.25 percent; and

WHEREAS, Section 2(b) of Article XIII C of the California Constitution, added by Proposition 218, effective November, 1996, requires that a measure proposing a general tax be submitted to the voters at an election consolidated with a regularly scheduled general election for members of the governing body of the local government except in cases of emergency as declared by the City Council; and

WHEREAS, pursuant to California Constitution Article XIII C, Section 2(b) and Elections Code Section 10201, the City has determined to submit a measure to the voters to enact an ordinance establishing a transactions and use tax at the City's next regular consolidated general municipal election.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF
GUADALUPE DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS
FOLLOWS:**

Section 1. Pursuant to Election Code Section 9222, the proposed ballot proposition attached hereto as Exhibit A, and titled "AN ORDINANCE OF THE CITY OF GUADALUPE ADDING CHAPTER 3.14 TO TITLE 3 OF THE GUADALUPE MUNICIPAL CODE ESTABLISHING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION", is hereby approved for placement on the ballot and submission to voters at the City's regular election scheduled for November 4, 2014. The question shall be posed as follows:

CITY OF GUADALUPE MEASURE _____		
The Guadalupe Public Service Preservation Sales Tax Measure. To help preserve, enhance and improve the public services, safety and character of Guadalupe, shall an ordinance be adopted to increase the City of Guadalupe sales tax by one-quarter cent for a period of eight and one half years?	YES	
	NO	

Section 2. City staff is directed to take all appropriate and necessary actions to cause the foregoing proposition to be placed on the ballot at the regular election of November 4, 2014.

Section 3. Pursuant to Election Code Section 9280, the City Attorney of the City of Guadalupe is hereby directed to prepare and submit an impartial analysis explaining the effect of the measure on existing law and the operation of the measure.

Section 4. The City Clerk shall certify to the passage and adoption of this resolution, and immediately transmit a certified copy of this resolution to the Santa Barbara County Clerk for inclusion on the November 4, 2014 ballot.

UPON MOTION OF Councilmember Sabedra seconded by Councilmember Lizalde, the foregoing Resolution is hereby passed and adopted at a regular meeting of the City Council held this 24th day of June, 2014, on the following roll call vote to wit:

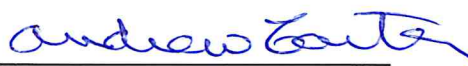
AYES: Romero, Lizalde, Rubalcaba, Sabedra 4

NOES: 0

ABSTAIN: 0

ABSENT: Tucker 1


Mayor Frances Romero

ATTEST: 
Deputy City Clerk, Andrew Carter

ORDINANCE NO. 2014-421

AN ORDINANCE OF THE CITY OF GUADALUPE ADDING CHAPTER 3.14 TO TITLE 3 OF THE GUADALUPE MUNICIPAL CODE ESTABLISHING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION

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

SECTION 1. FINDINGS

A. One of the primary roles of City government is to provide vital public services such as public safety; street and sidewalk maintenance; pothole repair; parks and recreation programs and facilities; and many other essential city services.

B. Over the past decade, the state of California has taken millions of dollars, and will continue to take money away in coming years, from the City of Guadalupe – money that would otherwise be spent on essential City services.

C. The City's revenue for such vital services comes primarily from property tax and sales tax.

E. The cost to continue to provide these vital services at current levels of service exceeds the amount of funds and revenues generated from all other sources of income available for such purpose. The imposition of a transactions and use tax in the amount of one-quarter of one percent, as more fully described and set forth below, is necessary to maintain public good, welfare, and safety.

F. The City must either generate additional revenue or begin making significant cuts to essential City services.

G. **A local finance measure gives Guadalupe residents local control.** Every penny generated by the measure stays in Guadalupe to be used for the needs and services of our residents and the City.

H. The imposition of such a tax will allow the City to provide essential services to occupants of residential and commercial real property throughout the City

I. All funds from a locally approved transactions and use tax could not be taken away by the State and would stay in Guadalupe to benefit local residents.

J. A local measure will include a eight and one-half-year sunset clause, after which the tax will cease to be collected unless reauthorized by the voters.

SECTION 2. AMENDMENT OF CODE.

Guadalupe Municipal Code Title 3 is hereby amended to add Chapter 3.14 to read as follows:

CHAPTER 3.14. TRANSACTIONS AND USE TAX.

3.14.010. TITLE.

This ordinance shall be known as the "Transactions and Use Tax Ordinance of the City of Guadalupe". The City of Guadalupe hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

3.14.020. PURPOSE.

This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

3.14.030. OPERATIVE DATE.

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

3.14.040. CONTRACT WITH STATE.

Prior to the operative date, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so

contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

3.14.050. TRANSACTIONS TAX RATE.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of .25% of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the City on and after the operative date of this ordinance.

3.14.060. PLACE OF SALE.

For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

3.14.070. USE TAX RATE.

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of .25% of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

3.14.080. ADOPTION OF PROVISIONS OF STATE LAW. Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

3.14.090. LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE TAXES.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name Guadalupe shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against Guadalupe or any agency, officer, or employee thereof rather than by or against

the State Board of Equalization, in performing the functions incident to the administration or operation of this Ordinance.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

3.14.100. PERMIT NOT REQUIRED. If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

3.14.110. EXEMPTIONS AND EXCLUSIONS.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

3.14.120. AMENDMENTS.

All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

3.14.130. ENJOINING COLLECTION FORBIDDEN.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

SECTION 3. USE OF TAX PROCEEDS.

All proceeds of the tax levied and imposed hereunder shall be accounted for and paid into the City of Guadalupe General Fund, and may be used for any lawful purpose as designated by the City Council.

SECTION 4. SEVERABILITY.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 5. STATUTORY AUTHORITY FOR TAX.

This ordinance is adopted pursuant to Revenue and Taxation Code section 7285.9.

SECTION 6. ELECTION REQUIRED.

The City Council, in approving this ordinance, declares the urgency of approving the ordinance pursuant to Government Code Section 36937(a) and (b), in that the ordinance relates to an election, and is necessary for the immediate preservation of the public peace, health or safety, because absent adoption as an urgency ordinance, the ordinance will be approved after the date required by the County Recorder for submission of this ordinance for appearing on the November 2014 ballot. This ordinance shall not become operative unless and until a majority of the electors voting on this measure vote to approve the imposition of the tax at the general municipal election to be held on November 4, 2014.


SECTION 7. EFFECTIVE DATE.

If this ordinance is approved by a majority of the electors voting on the issue at the November 4, 2014 general municipal election, pursuant to Elections Code Section 9217, the ordinance shall be become effective ten (10) days after the City Council accepts the certified results of the election. Should this ordinance be approved by a majority of electors at the November 4, 2014 election, it shall be repealed without further action of the City Council or voters eight and one half years after the Operative Date, after which date the tax imposed by this ordinance shall not be collected.

ADOPTED at a regular meeting of the City Council held this 24th day of June, 2014 on motion of Councilmember Sabedra, seconded by Councilmember Lizalde, and on the following roll call vote, to wit:

AYES: 4 Councilmembers: Romero, Lizalde, Rubalcaba, Sabedra
NOES: 0 Councilmembers:
ABSENT: 1 Councilmembers: Tucker
ABSTAIN: 0 Councilmembers:

ATTEST:


City Clerk, Andrew Carter


Mayor Frances Romero

Deputy

APPROVED AS TO FORM:



David M. Fleishman, City Attorney