

**CITY OF SANTA BARBARA
CITY COUNCIL**

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City Hall
735 Anacapa Street
<http://www.SantaBarbaraCA.gov>

**FEBRUARY 5, 2013
AGENDA**

ORDER OF BUSINESS: Regular meetings of the Finance Committee and the Ordinance Committee begin at 12:30 p.m. The regular City Council meeting begins at 2:00 p.m. in the Council Chamber at City Hall.

REPORTS: Copies of the reports relating to agenda items are available for review in the City Clerk's Office, at the Central Library, and <http://www.SantaBarbaraCA.gov>. In accordance with state law requirements, this agenda generally contains only a brief general description of each item of business to be transacted or discussed at the meeting. Should you wish more detailed information regarding any particular agenda item, you are encouraged to obtain a copy of the Council Agenda Report (a "CAR") for that item from either the Clerk's Office, the Reference Desk at the City's Main Library, or online at the City's website (<http://www.SantaBarbaraCA.gov>). Materials related to an item on this agenda submitted to the City Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office located at City Hall, 735 Anacapa Street, Santa Barbara, CA 93101, during normal business hours.

PUBLIC COMMENT: At the beginning of the 2:00 p.m. session of each regular City Council meeting, and at the beginning of each special City Council meeting, any member of the public may address the City Council concerning any item not on the Council's agenda. Any person wishing to make such address should first complete and deliver a "Request to Speak" form prior to the time that public comment is taken up by the City Council. Should City Council business continue into the evening session of a regular City Council meeting at 6:00 p.m., the City Council will allow any member of the public who did not address them during the 2:00 p.m. session to do so. The total amount of time for public comments will be 15 minutes, and no individual speaker may speak for more than 1 minute. The City Council, upon majority vote, may decline to hear a speaker on the grounds that the subject matter is beyond their jurisdiction.

REQUEST TO SPEAK: A member of the public may address the Finance or Ordinance Committee or City Council regarding any scheduled agenda item. Any person wishing to make such address should first complete and deliver a "Request to Speak" form prior to the time that the item is taken up by the Finance or Ordinance Committee or City Council.

CONSENT CALENDAR: The Consent Calendar is comprised of items that will not usually require discussion by the City Council. A Consent Calendar item is open for discussion by the City Council upon request of a Councilmember, City staff, or member of the public. Items on the Consent Calendar may be approved by a single motion. Should you wish to comment on an item listed on the Consent Agenda, after turning in your "Request to Speak" form, you should come forward to speak at the time the Council considers the Consent Calendar.

AMERICANS WITH DISABILITIES ACT: In compliance with the Americans with Disabilities Act, if you need special assistance to gain access to, comment at, or participate in this meeting, please contact the City Administrator's Office at 564-5305 or inquire at the City Clerk's Office on the day of the meeting. If possible, notification at least 48 hours prior to the meeting will enable the City to make reasonable arrangements in most cases.

TELEVISION COVERAGE: Each regular City Council meeting is broadcast live in English and Spanish on City TV Channel 18 and rebroadcast in English on Wednesdays and Thursdays at 7:00 p.m. and Saturdays at 9:00 a.m., and in Spanish on Sundays at 4:00 p.m. Each televised Council meeting is closed captioned for the hearing impaired. Check the City TV program guide at www.citytv18.com for rebroadcasts of Finance and Ordinance Committee meetings, and for any changes to the replay schedule.

REGULAR CITY COUNCIL MEETING – 2:00 P.M.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CEREMONIAL ITEMS

1. Subject: Employee Recognition - Service Award Pins (410.01)

Recommendation: That Council authorize the City Administrator to express the City's appreciation to employees who are eligible to receive service award pins for their years of service through February 28, 2013.

CHANGES TO THE AGENDA

PUBLIC COMMENT

CONSENT CALENDAR

2. Subject: Resolution To Implement Changes To Police Management Association PERS Contributions (430.08)

Recommendation: That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara For Paying and Reporting the Value of Employer-Paid Member Contributions for Certain Police Management Association Employees.

NOTICES

3. The City Clerk has on Thursday, January 31, 2013, posted this agenda in the Office of the City Clerk, on the City Hall Public Notice Board on the outside balcony of City Hall, and on the Internet.

This concludes the Consent Calendar.

CITY COUNCIL ADMINISTRATIVE AND ATTORNEY REPORTS

COMMUNITY DEVELOPMENT DEPARTMENT

4. Subject: Five-Year Historic Resources Work Program (650.06)

Recommendation: That Council provide direction regarding Community Development staff's suggested Five-Year Historic Resources Work Program and direct staff to return to the Ordinance Committee.

PUBLIC HEARINGS

5. Subject: Public Hearing And Grant Of Citywide Franchise To MarBorg Industries, Inc. (510.04)

Recommendation: That Council:

- A. Hold a public hearing, as required by the City Charter Section 1401, regarding the grant of an exclusive franchise for Citywide solid waste collection services to MarBorg Industries, Inc., a California Corporation; and
- B. Introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Granting an Exclusive Ten-year Franchise for Citywide Solid Waste Collection and Disposal Services to MarBorg Industries, Inc., a California Corporation, and Approving and Authorizing the City Administrator to Execute a Memorandum of Understanding Between the City and MarBorg Industries, Inc. Providing for MarBorg's Waiver of Certain Compensation Under the Existing Zone One and Zone Two Franchise Agreements in Consideration of the Grant of the New Citywide Franchise to MarBorg.

COUNCIL AND STAFF COMMUNICATIONS

COUNCILMEMBER COMMITTEE ASSIGNMENT REPORTS

ADJOURNMENT



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: February 5, 2013
TO: Mayor and Councilmembers
FROM: City Administrator's Office
SUBJECT: Employee Recognition – Service Award Pins

RECOMMENDATION:

That Council authorize the City Administrator to express the City's appreciation to employees who are eligible to receive service award pins for their years of service through February 28, 2013.

DISCUSSION:

Since 1980, the City Employees' Recognition Program has recognized length of City Service. Service award pins are presented to employees for every five years of service. Those employees achieving 25 years of service or more are eligible to receive their pins in front of the City Council.

Attached is a list of those employees who will be awarded pins for their service through February 28, 2013.

ATTACHMENT: February 2013 Service Awards
PREPARED BY: Myndi Hegeman, Administrative Specialist
SUBMITTED BY: Marcelo López, Assistant City Administrator
APPROVED BY: City Administrator's Office

FEBRUARY 2013 SERVICE AWARDS

FEBRUARY 5, 2013 Council Meeting

5 YEARS

Craig Burleigh, Police Officer, Police Department

Jason Guy, Control Systems Operation Specialist, Public Works Department

Carlos Luna Voss, Library Assistant I, Library Department

15 YEARS

Martin Alexander, Senior Network/Applications Analyst, Police Department

Leslie Lund, Recreation Coordinator, Parks and Recreation Department

25 YEARS

Robyn DiMizio, Fire Engineer, Fire Department

Sarah McCarter, Fire Engineer, Fire Department

Thomas Rauch, Police Sergeant, Police Department



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: February 5, 2012

TO: Mayor and Councilmembers

FROM: City Administrator's Office

SUBJECT: Resolution To Implement Changes To Police Management Association PERS Contributions

RECOMMENDATION:

That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara For Paying and Reporting the Value of Employer-Paid Member Contributions for Certain Police Management Association Employees.

DISCUSSION:

The recently approved 2012-2013 Police Management Association Memorandum of Understanding (MOU) calls for members of that bargaining unit to begin paying 2.88% of the 9% member contribution to the California Public Employees Retirement System (PERS) effective January 12, 2013. This will reduce the Employer Paid Member Contributions (EPMC) that the City pays and reports to PERS as additional compensation from 9% to 6.12%. PERS requires that a form resolution be adopted to memorialize the change contained in the MOU.

This will apply to employees who are not subject to the contribution limitations of the California Public Employees' Pension Reform Act of 2013, who are referred to as "classic employees" by PERS. If any new employees/members, as defined by that law, are hired into the bargaining unit after January 1, 2013, they will be required to pay at least half the normal cost, currently 12.75%, toward their pension benefit and no Employer Paid Member Contributions will be allowed.

BUDGET/FINANCIAL INFORMATION:

Cost savings from this change were included with the total cost impacts of the 2012-2013 Police Management Association MOU in the December 11, 2012, Council Agenda Report on that subject.

Council Agenda Report
Resolution To Implement Changes To Police Management Association PERS
Contributions
February 5, 2013
Page 2

PREPARED BY: Kristine Schmidt, Employee Relations Manager

SUBMITTED BY: Marcelo López, Assistant City Administrator

APPROVED BY: City Administrator's Office

RESOLUTION NO.

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA FOR PAYING AND REPORTING THE VALUE OF EMPLOYER-PAID MEMBER CONTRIBUTIONS FOR CERTAIN POLICE MANAGEMENT ASSOCIATION EMPLOYEES

WHEREAS, the governing body of the City of Santa Barbara has the authority to implement Government Code Section 20636(c) (4) pursuant to Section 20691;

WHEREAS, the governing body of the City of Santa Barbara has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer, and reported as additional compensation;

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of the City of Santa Barbara of a Resolution to commence paying and reporting the value of said Employer Paid Member Contributions (EPMC);

WHEREAS, the governing body of the City of Santa Barbara has identified the following conditions for the purpose of its election to pay EPMC;

- **This benefit shall apply to all employees of the Police Management Association who are “Classic” CalPERS members and not subject to restrictions on EPMC under the California Public Employees’ Pension Reform Act of 2013.**
- **This benefit shall consist of paying 6.120% (Percent) of the normal contributions as EPMC, and reporting the same percent (value) of compensation earnable** {excluding Government Code Section 20636(c)(4)} as additional compensation.**
- **The effective date of this Resolution shall be January 12, 2013.**

NOW, THEREFORE, BE IT RESOLVED that the governing body of the City of Santa Barbara elects to pay and report the value of EPMC, as set forth above.

BY

(Name of Official)

(Date adopted and approved)

(Title of Official)

* Note: Payment of EPMC and reporting the value of EPMC on compensation earnable is on pay rate and special compensation except special compensation delineated in Government Code Section 20636(c)(4) which is the monetary value of EPMC on compensation earnable.



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: February 5, 2013

TO: Mayor and Council

FROM: Planning Division, Community Development Department

SUBJECT: Five-Year Historic Resources Work Program

RECOMMENDATION:

That Council provide direction regarding Community Development staff's suggested Five-Year Historic Resources Work Program and direct staff to return to the Ordinance Committee.

EXECUTIVE SUMMARY:

Staff seeks a shared understanding of the respective status of the 47 Historic Resource Element (HRE) "possible implementation items to be considered" that may be active on an on-going basis, pending within a Five Year Historic Resources Work Program (5-Year HRWP), or on the "back burner". The Historic Landmarks Commission discussed and supported the proposed 5-Year HRWP at their January 16, 2013 meeting, with the comment that they would like to see additional work completed in the next five years on neighborhood preservation planning and other items by using community volunteer help. Staff seeks direction from Council to return to the Ordinance Committee for discussions regarding implementation of new historic districting procedures and other historic preservation ordinance amendments. Budget considerations entail approximately \$30,000 in funding requested for the 5-Year HRWP.

DISCUSSION:

Background

On October 2, 2012, the Council adopted a Historic Resources Element (HRE) of the City's General Plan. The new HRE incorporated the December 2011 General Plan Historic Resources Goals, Policies and Implementation Actions, and replaced the Cultural and Historic Resources section of the Conservation Element. The HRE includes 47 "possible implementation items to be considered" organized under ten policies. The General Plan's implementation time-frame is generally considered to be through 2030.

Historic Resources Element Implementation

Attachment 1 lists the HRE implementation topics and the timeframe in which staff recommends each item be addressed. Staff's focus is on projects to be completed as part of a five-year Historic Work Program (5-Year HRWP). Mayor and Council feedback is important for staff to implement the 5-Year HRWP, or make changes as necessary. Staff also presented this proposed 5-Year HRWP to the Historic Landmarks Commission on January 16, 2013. The following is an overview of which items are suggested for on-going implementation, the 5-Year HRWP, or possible later implementation.

On-Going

Many of the implementation items are addressed by the hearing review bodies and staff on a case-by-case basis with individual development proposals. Examples include: items 1.1, 1.4, and 1.5 regarding archaeological resources; 2.1 – 2.8 development proposals near resources; 3.3 avoiding demolition of resources; 6.1 – 6.3 streetscape resources; and 7.2 historic landscapes and 9.5 regarding Barbareño Chumash interpretation facilities.

Other on-going items are part of the regular work of the City's Urban Historian, including: 8.4 designating proposed structures of merits and landmarks; 9.2 awards programs; and 10.1 – 10.5 and 10.8 – 10.10 regarding governmental facilitation.

5-Year Historic Work Program Projects

Historic Districts Implementation. (Partially implements HRE 1.1, 2.6, 2.7, 5.1, and 5.4). Detailed historic property survey data is available for three major geographic areas with the potential for historic districts (West Downtown, Lower Riviera and West Beach) of the City. Substantial City funds were expended to gather this data. The data has been the basis for preliminary consultant recommendations for historic district formations. Staff highly recommends making use of this relatively costly data while it is still current. The first area to be considered for historic districts would be the Waterfront, as that survey is the oldest and there are a number of historic resources in that area.

Key components for this program include mapping district proposals, outreach programs to neighborhoods to explain districting, hearings before the HLC and Council, and Municipal Code amendments. Survey data completion and compilation is also needed. Proposed historic district Code amendments will allow this project to be completed efficiently. Proposed historic guidelines work will also complement achievement of this project.

As has been the case with past updates to the City's list of potential historic resources, Staff may encounter concern and resistance from some property owners when potential reviews may be triggered under CEQA or HLC. Staff believes that the comprehensive approach described above is appropriate and anticipates continued mixed reactions in

the community on some elements of the districting plan. Among all the surveyed areas of the city awaiting districting proposals, the survey data for West Beach is oldest and most at risk of becoming outdated. Therefore, West Beach is the first area where staff would propose a historic district be considered. Staff proposes that districts would be implemented sequentially in one area of the City at a time.

Historic Guidelines. (Partially implements HRE 1.2 and 5.2). City-wide illustrated design guidelines will be drafted to guide the public and decision-makers to protect historic resources within historic districts. The guidelines will aid in the review of proposed changes to structures within and adjacent to these districts. The guidelines will include information on: common local historic architectural styles; styles common within each specific district; appropriate additions and alterations to historic structures; and compatible development approaches for properties adjacent to historic districts and structures. The City has been fortunate to have volunteer support and development of partial draft guideline graphics and sections from local Harrison Design architects, allowing for substantial cost savings. Staff anticipates that the guidelines could be completed with staff resources and some continued support from Harrison, HLC and others in the community.

Municipal Code Provisions for Historic Structures. (Partially implements HRE 1.4 and 10.5). Staff proposes to amend the Municipal Code (SBMC) to allow zoning modifications in some cases where preservation of a historic structure can better be achieved with a zoning modification.

Master Environmental Assessment (MEA) Appendices B and C Update. (Partially implements HRE 8.3.) Staff is currently revising the list of designated structures/sites and the list of potential historic resources designations in MEA Appendices B and C. This update has been needed for some time, and as such, constitutes a significant project as part of the 5-Year HRWP. The list will be updated more frequently on an on-going basis in the future.

Flagging Parcels Near Resources. Implement tags in the City's Tidemark Advantage System to notify potential developers near historic resources of nearby resources as specified in HRE 2.8. Work with the HLC to identify which properties merit sensitivity buffers (100 and 300 foot distances).

Create On-Line Database. Scan, organize and upload historic resource documentation onto user-friendly city web pages, as part of implementing HRE 8.3. Part of this project involves completing mapping, reviewing and printing corrected survey California Department of Parks & Recreation database records.

Historic And Special Design Districts Ordinance. (Partially implements HRE 1.1, 2.6, 2.7, 5.1, and 5.4) Staff proposes ordinance changes to achieve a simpler regulatory process, criteria and procedures for the future designation of historic and special design districts. Staff seeks direction to return to the Ordinance Committee with details regarding the following broad proposals for further discussion.

- **Create new chapter.** Revise and update current ordinance regulations into one new SBMC Chapter 22.76 that pertains to how all historic structures are regulated. Amend SBMC Chapter 22.22 to focus on the HLC's purview authority and requirements for El Pueblo Viejo.
- **Define historic districts formation procedures.** Formation of historic districts would emulate the current landmark designation process which involves the use of multiple public hearings and due process steps. Significance criteria for historic districts establishment would be consistent with national standards. The ordinance may emulate appropriate formation procedures from other jurisdictions.
- **HLC Referral.** Certain projects on properties located within a historic district boundary would be referred to the HLC for review of proposed exterior changes.
- **Special design district / buffer area designations** would be considered for properties in close proximity to historic districts. Alterations to "buffer" properties would be reviewed by the ABR or SFDB.
- **Establish administrative staff review criteria** for minor projects.

Staff also recommends the following topics be discussed in greater detail at future Ordinance Committee hearings:

- **Process for historic district designation initiation.** How should initiation procedures vary for study areas initiated via City or public entities or via petition? Should the procedures vary according to whether the study area is large or small?
- **Selection criteria to determine the boundaries of an area recommended as a historic or special design district.** What percent of properties within a historic district should be contributing resources? What characteristics should qualify areas to be designated as Special Design or Historic Districts?
- **Property owner approval.** Most cities do not require property owner majority approval for a historic district formation. Would Santa Barbara follow this trend, or establish a majority approval process?
- **Natural disaster provisions.** How should ordinance provisions address districts in cases where a natural disaster might destroy a number of contributing structures within a district?

Later Items

Items which are not part of current on-going work and which are not specifically called out as proposed projects in the 5-Year HRWP would be addressed later as budget and staffing permits. Although the remaining items are important, current funding and staffing levels can only accommodate so many projects within the next five years. Remaining items for implementation after the 5-Year HRWP are complete include: 1.1 additional tools beyond historic districts; 3.1 – 3.2 demolition prevention programs;

4.1 – 4.2 adaptive reuse programs; 5.1 – 5.5 more detailed neighborhood preservation programs; 7.1, 8.1 and 8.2 completing additional surveys; 9.1, 9.3 and 9.4 additional historic preservation awareness programs; 10.5 additional property owner incentives; 10.6 becoming a “Certified Local Government”, 10.7 creating a new historic resources fund and 10.8 funding for additional enforcement.

HLC Comments

On January 16, 2013, the HLC discussed a staff memo describing the attached chart. Their comments were focused in these areas:

- Great appreciation for staff’s focus on important historic resource preservation work through this program
- A desire to elevate all implementation items under Policy 5 entitled “Neighborhood” to be accomplished in the 5-Year HRWP, using community volunteer help
- A desire to incorporate HLC commissioner and volunteer help into implementing the 5-Year HRWP on time as well as accomplishing additional items listed for later implementation during the next five years

Staff’s response regarding Policy 5 elevation is that the proposed work program is addressing neighborhood preservation planning as quickly as practically possible in these ways:

- Implementing neighborhood historic districts where survey data already exists (5.1 & 5.4)
- Implementing historic guidelines which will help to protect neighborhood historic character (5.2)
- Recommending historic district ordinance amendments to make the process of protecting neighborhoods as historic districts more streamlined in the future

Although 5.3 “Provide property owner support” and 5.5 “Establish zoning that conforms to the character of neighborhoods” is highly desired by the HLC, staff will be completely consumed with the projects on the current 5-Year HRWP. Something would need to be shifted in order to accommodate a significantly increased level of property owner incentives, technical assistance and support (5.3) and to establish new zoning to better accommodate the historic character of neighborhoods (5.5).

Even with significant HLC and other volunteer efforts, these projects would involve staff time to track, coordinate, review and implement volunteer efforts and work products. For example, approximately .5 FTE of project planner staff time and significant management and administrative support time was required to coordinate the HRE drafting and adoption, even with the volunteer HRE Task Force and intensive volunteer intern assistance during the project duration. Also early survey efforts in the Waterfront involved volunteers and required significant work and coordination by both consultants and staff.

We believe the HLC agrees that focusing on historic districting and guidelines at this time makes logical sense for the overall program and that they understand there are staffing constraints. Staff suggests that further implementation of Policy 5 components could be worked on as some of the initial priority implementation is completed and as part of the next 5-Year HRWP. Also, one commissioner commented that they would like to see a time-line for work efforts and products for 2013. In this way, opportunities for volunteer help and HLC support through 2013 could be clearly identified and immediately implemented this year. Staff is amenable to Council direction for staff to discuss this year's work program tasks with the HLC as part of the 5-Year HRWP implementation.

BUDGET/FINANCIAL INFORMATION:

The proposed 5-Year HRWP has been planned assuming current levels of funding and staffing within the Planning Division's Design Review and Historic Preservation Section will continue. Future allocation of additional funding would likely be necessary to carry out many HRE implementation measures. Special funding allocations for the following items are needed for the 5-Year HRWP:

- Contract to finalize or complete data for surveyed areas of the city in order to verify and finalize historic district boundary recommendations. (HRE 1.1, 2.6, 2.7, 5.1, and 5.4)
- Update California Historical Resource Inventory Database records inventory and contract to scan historic resource documents. Part of this project involves completing mapping, reviewing & printing corrected California Department of Parks & Recreation survey database records. (HRE 8.3)
- Upload historic resource documentation onto user-friendly city web pages. (HRE 8.3)
- Scan cultural resource reports (HRE 8.3)
- Guidelines printing. (HRE 1.2 and 5.2)

Staff proposes approximately \$30,000 of funding for the 5-Year Work Program for consideration by the Finance Committee and Council as part of the budget process.

SUSTAINABILITY IMPACT:

Implementation of the Santa Barbara General Plan, in general, is premised on moving Santa Barbara towards a more sustainable future. Protection of historically significant older neighborhoods is a form of reinvestment in inherently sustainable communities that are generally smaller in scale, walkable and transit-accessible. The continued use of older structures and the adaptive reuse of buildings lower the carbon footprint of the community. Preservation of older structures actually conserves resources by eliminating the environmental costs of new construction.

ATTACHMENT: Historic Resources Element Implementation Chart

NOTE: Copies of the General Plan Historic Resources Element have been provided to the Mayor and Council and are available for public viewing at the City Clerk's office. The Historic Resource Element is also available on-line at: http://www.santabarbaraca.gov/Government/General_Plan/index.htm

PREPARED BY: Heather Widen, AICP, Project Planner

SUBMITTED BY: Paul Casey, Assistant City Administrator

APPROVED BY: City Administrator's Office

2012 - 2030 Historic Resources Element Implementation

**47 Possible
Implementation Items to
Be Considered**
(Shown in bold font)

On-Going
*(ex. in response
to proposals)*

5 - Yr.
**Historic Work
Program**
(HWP)

By 2030
*as funding
allows*

5-Year HWP Notes

First Goal	Protection/Enhancement				
Second Goal	Awareness				
Third Goal	Government				
Fourth Goal	Neighborhood				
Policy 1	Protect				
1.1	Tools	x	x	x	Design & Historic Districts
1.2	Guidelines		x		City-wide & District Specific Historic Guidelines
1.3	Codes		x		Chapter 22.22 reorganization
1.4	Regulations	x	x		Amend SBMC to allow modification for preservation
1.5	Archeological	x			
Policy 2	Development				
2.1	Development	x			
2.2	Impacts to resources	x			
2.3	Assess potential damage	x			
2.4	Long-term damage	x			
2.5	Measures	x			
2.6	Interim protections	x	x	x	Special Design Districts
2.7	Permanent protection	x	x	x	Historic Districts
2.8	Buffers	x	x		Implement tags in Tidemark Advantage system
Policy 3	Demolition				
3.1	Neglect			x	
3.2	Demolitions			x	
3.3	Design alternatives	x			
Policy 4	Adaptive Reuse				
4.1	Incentives	x		x	
4.2	Loan program			x	
Policy 5	Neighborhood				
5.1	Help preserve		x	x	Historic districts ordinance amendments
5.2	Guidelines		x	x	City-wide & District Specific Historic Guidelines
5.3	Owner support	x		x	
5.4	Prioritize		x	x	Historic districts ordinance amendments
5.5	Establish zoning			x	
Policy 6	Streetscapes				
6.1	Preserve and protect	x			
6.2	Prioritize	x			
6.3	Pedestrians	x			
Policy 7	Cultural Landscapes				
7.1	Identify & designate			x	
7.2	Landscapes	x			
Policy 8	Survey & Document				
8.1	Surveys			x	
8.2	Identify patterns			x	
8.3	Retain documents	x	x		Update lists. Provide more documents on-line.
8.4	Designate expeditiously	x			
Policy 9	Awareness				
9.1	Programs			x	
9.2	Promote	x		x	
9.3	Coordinate promotion			x	
9.4	Enhance recognition			x	
9.5	Improve awareness	x			
Policy 10	Government				
10.1	Technical	x			
10.2	Expertise	x			
10.3	Educate board members	x			
10.4	Partnerships	x			
10.5	Seek assistance	x	x	x	Amend SBMC to allow modification for preservation
10.6	Assure funding eligibility			x	
10.7	Additional funding			x	
10.8	Enforce ordinances	x		x	
10.9	Uniformity regulation app.	x			
10.10	Coordinate reviews	x			



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: February 5, 2013

TO: Mayor and Councilmembers

FROM: Environmental Services, Finance Department

SUBJECT: Public Hearing And Grant Of Citywide Franchise To MarBorg Industries, Inc.

RECOMMENDATION: That Council:

- A. Hold a public hearing, as required by the City Charter Section 1401, regarding the grant of an exclusive franchise for Citywide solid waste collection services to MarBorg Industries, Inc., a California Corporation; and
- B. Introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Granting an Exclusive Ten-year Franchise for Citywide Solid Waste Collection and Disposal Services to MarBorg Industries, Inc., a California Corporation and Approving and Authorizing the City Administrator to Execute a Memorandum of Understanding Between the City and MarBorg Industries, Inc. Providing for MarBorg's Waiver of Certain Compensation Under the Existing Zone One and Zone Two Franchise Agreements in Consideration of the Grant of the New Citywide Franchise to MarBorg.

DISCUSSION:

Public Hearing

Since December 13, 2011, the City has engaged in sole source negotiations with MarBorg Industries, Inc. (MarBorg) on a long-term franchise agreement for solid waste collection services within the City. On December 11, 2012, Council adopted a resolution declaring its intent to grant a ten-year exclusive franchise for Citywide solid waste collection and disposal services to MarBorg.

Section 1401 of the City Charter requires the City Council to hold a public hearing before granting a franchise. The purpose of the hearing is to allow any person to protest the potential award of a franchise or the proposed terms of that franchise. The hearing on the proposed MarBorg franchise was properly noticed in a newspaper of general circulation in accordance with Section 1401 of the City Charter.

Adoption of Ordinance

Following the public hearing, staff recommends that the City Council adopt an ordinance to formally award the exclusive franchise to MarBorg in accordance with Section 1401 of the City Charter. Adoption of the ordinance requires affirmative votes of five members of Council.

A full copy of the draft Franchise has been made available to the City Council for their review by delivering a copy to the Council reading file in the Council offices. A copy of the draft Franchise is available for review by members of the public at the City Clerk's office. An in-depth discussion of the main operational and financial terms of the draft Franchise and impacts to customers resulting from the proposed rates was provided to Council at the November 20, 2012 Council Meeting. The Council Agenda Report for this item (No. 16) is available for review in the City Clerk's Office or on the City's website <http://www.santabarbaraca.gov/CAP/>).

Memorandum of Understanding

Upon approval of the ordinance to award the exclusive franchise to MarBorg Industries, staff recommends that Council also approve a memorandum of understanding (MOU) between the City and MarBorg. The purpose of the MOU is to amend the following terms of the existing Zone One and Zone Two Franchise Agreements:

1. MarBorg agrees to permanently waive the Consumer Price Index (CPI) adjustment to customer rates for Fiscal Year 2013 as set forth in the existing Zone One and Zone Two Franchise Agreements.
2. MarBorg agrees to remit to the City the sum of \$300,387, which represents a continuation into Fiscal Year 2013 of the revenue concession agreed to in Fiscal Year 2012 by the Zone One and Zone Two contractors.

These terms were part of the negotiated agreement between the parties.

BUDGET/FINANCIAL INFORMATION:

Should Council grant a franchise to MarBorg based upon the draft tentative agreement, it will cost an estimated \$16,790,736 per year, subject to variations in customer subscription levels. This is initially approximately \$670,000 higher than the current cost for services. The increase to the hauler compensation is due to the following:

- New services and more expensive CNG vehicles; and,
- An adjustment for the expected loss in future revenue MarBorg will experience due to migration from trash containers to less expensive diversion containers as a direct result of new diversion requirements, which MarBorg would need to absorb under the agreement.

All franchise costs will be paid for by rates charged to solid waste customers. The rates listed in the November 20, 2012 Council Agenda report are based on current conditions, and will be increased prior to implementation on July 1, 2013 by the CPI and tipping fees increases that have been standard under the City's hauler contracts.

SUSTAINABILITY IMPACT:

Sustainability improvements under the new agreement will include increased diversion from the landfill due to two new diversion programs in the business and multi unit residential sectors and increases in free recycling and greenwaste in the single family residential sector. The agreement also calls for the replacement of all current diesel vehicles with compressed natural gas vehicles, reducing air quality impacts.

ATTACHMENT: DRAFT MOU providing for MarBorg's waiver of certain compensation under the existing Zone One and Zone Two Franchise Agreements

PREPARED BY: Matt Fore, Environmental Services Manager

SUBMITTED BY: Robert Samario, Finance Director

APPROVED BY: City Administrator's Office

THIS MEMORANDUM OF UNDERSTANDING is made as of this 12th day of February by and between the City of Santa Barbara (hereinafter the “City”) a charter city municipal corporation created and authorized by Article XI, Section 5 of the California Constitution, having its office at City Hall, 735 Anacapa Street, Santa Barbara, California and the MarBorg Industries, Inc., of Santa Barbara County, a California corporation, hereinafter referred to as “MarBorg ”, located at 728 Yanonali Street Santa Barbara, California.

City and MarBorg understand and acknowledge the following background information which forms the basis for this Memorandum of Understanding (“MOU”) agreement and the premises upon which this MOU is entered into:

A. The existing Solid Waste Franchise Agreements between the City and MarBorg for “Zone One” and “Zone Two” [both of which have a franchise term expiring in June 2013] are appropriate for minor modifications in order to provide an appropriate transition from MarBorg’s operation under its two City franchises to MarBorg’s operation of a new City-wide ten year franchise which new franchise is being considered and possibly approved by the City Council of the City concurrently with this MOU agreement; and,

B. As part of consideration for the award of the new ten-year Citywide Franchise Agreement by the City, MarBorg has offered amend its existing franchise agreements in order to provide for the following changes for MSW hauling in Zone One and Zone Two of the City prior to the effective date of the new City/MarBorg franchise:

1. MarBorg will waive it rights to the July 1, 2012 annual Consumer Price Index (CPI) rate adjustment as such adjustment is contained in the current Franchise Agreements for Zone One and Zone Two; and

2. MarBorg will continue the concession previously agreed to concerning its Zone One and Zone Two franchises, by forgoing \$300,387 in rate revenues otherwise payable to MarBorg for the period of July 1, 2012 through June 30, 2013 City Fiscal Year that would otherwise be payable to MarBorg under the business revenue rate guarantee negotiated with the City in November 2009 as such concession is described in more detail in Exhibits A and B attached hereto and incorporated herein by this reference.

C. Based the above-stated understanding, MarBorg and the City agrees that, upon the adoption of a Santa Barbara City ordinance approving a new ten-year Citywide solid waste franchise agreement between the City and MarBorg, the following changes will

become effective with respect to the existing MarBorg franchises which terminate in June of 2013:

1. The City will not be required to raise MSW collection rates by the CPI adjustment factor for July 2012, retroactive to July 1, 2012 as would otherwise be required by the existing franchise agreements; and,
2. MarBorg will pay the City the amount of \$300,387 by check payable to the City on or before March 31, 2013.

City of Santa Barbara
City Administrator

MarBorg Industries Inc.

By: _____

By: _____

ATTEST
CITY CLERK

By: _____
Deputy City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY

By: _____



March 2, 2011

City of Santa Barbara
Bob Samario
Finance Director
P.O. Box 1990
Santa Barbara, CA 93102

Mr. Samario,

Following up on our meetings of February 16th and 24th regarding revenue declines in the commercial sector we would like to offer the following analysis.

First, the revenue declines are unique to the City of Santa Barbara when compared to the bin customers that we service in surrounding jurisdictions. On average bin revenues have risen by 2.48% in the County and City of Goleta over the same period of time that the City of Santa Barbara's declined, from November 2009 to present, after the City changed its commercial rate structure. (Attachment A)

Second, over the same time period from November 2009 to present the amount of work we are doing in the business sector has increased. We have measured this in both the number of lifts we are performing to collect the material from the business sector and the container volume that we are servicing in the business sector. Both of these measurements have increased by approximately 2%. (Attachments B & C)

Third, the total tonnage of material that we are collecting from the business sector's bins and carts has increased by 14% over the same time period. (Attachment D)

As a result of this analysis we believe that the downturn in commercial revenue is more closely tied to the change in rate structure than any overall economic influence. We believe that if a purely economic downturn were responsible for the revenue decrease we would see all of the above mentioned indicators going in the same direction as the City's revenue but they are all going in the opposite direction.

Based on this information we believe that it is important to take a close look at the commercial rate structure to ensure that it provides a sustainable revenue source for the services required. It appears that the diversion services may be too sharply discounted (85% less than the cost of trash) to fund the cost of their collection and disposal.

P.O. Box 4127
136 N. Quarantina Street
Santa Barbara
California 93140
Phone 805-963-1852
Fax 805-962-0552

We understand that at this time the City is hesitant to make any large scale changes to the commercial revenue structure due to possible economic influences and other already planned rate changes. In order to facilitate a stabilization of the rates and departmental budgets dependent on those rates without making major changes to the commercial rate structure we would like to make the following offer:

MarBorg Industries will forgo \$240,000.00 in payments from the City of Santa Barbara for services provided to the commercial business sector during the City's 2011-2012 fiscal year. This will be withheld monthly in an amount equaling \$20,000. At the end of this period our commercial revenue payment will be restored to its current amount after being indexed for inflation. We anticipate that the City will then be in a position to review the commercial rate structure to ensure that it is providing a sustainable source of funding.

I would appreciate your feedback after you have had a chance to review this offer.

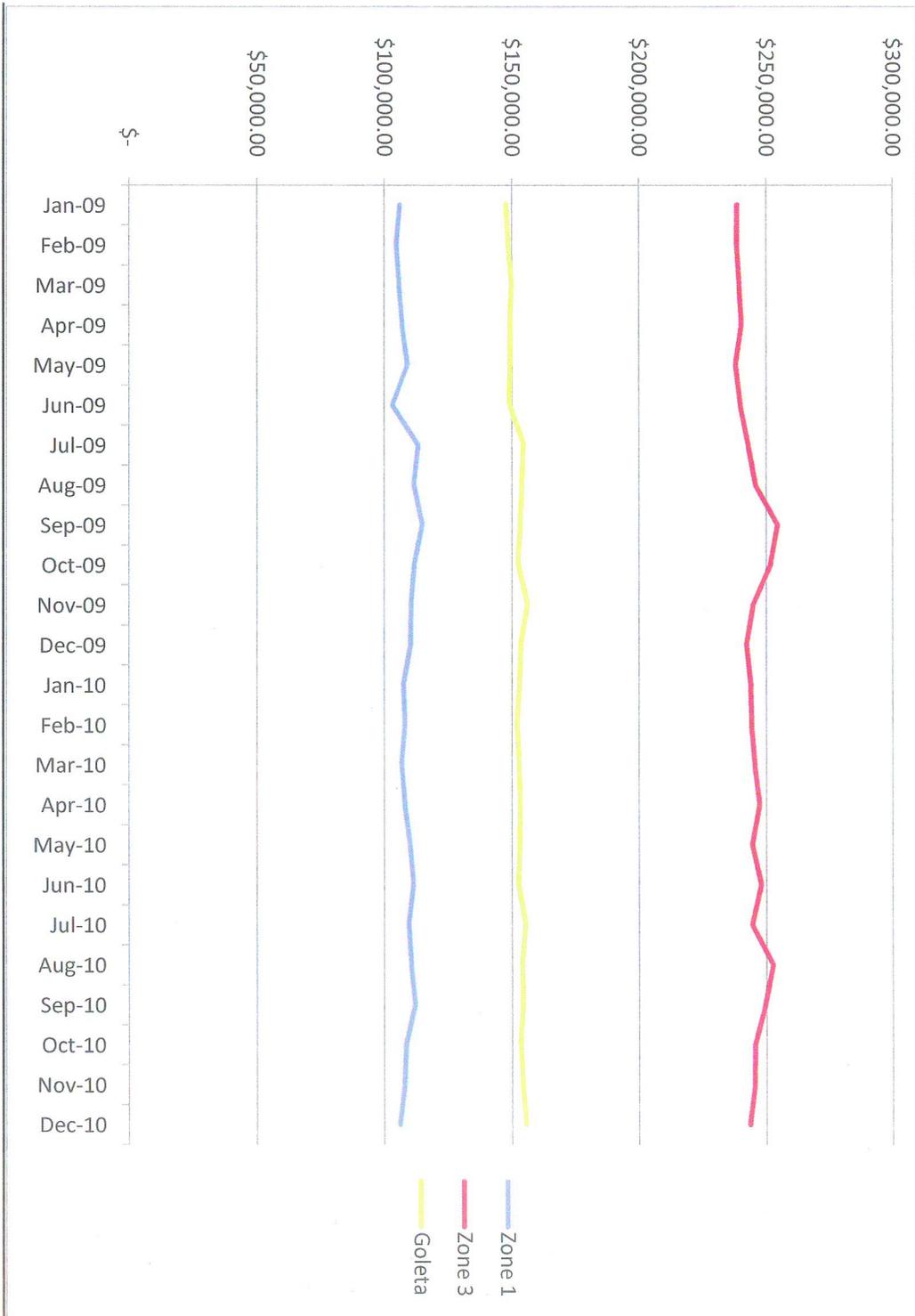
Thank you,



Derek Carlson
Business Manager
MarBorg Industries

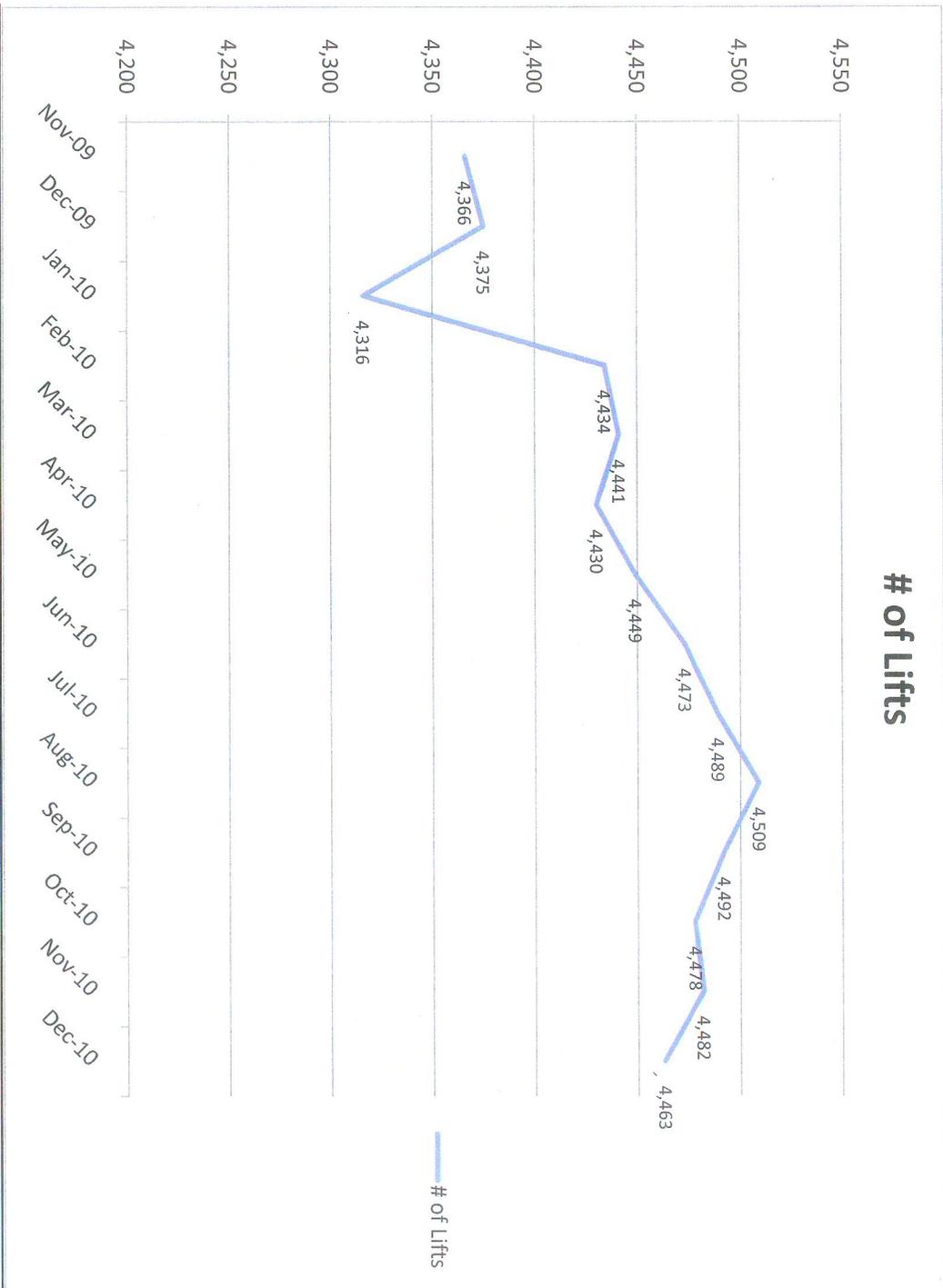
ATTACHMENT-A

Bin Revenue for MarBorg Industries County Zones and City of Goleta



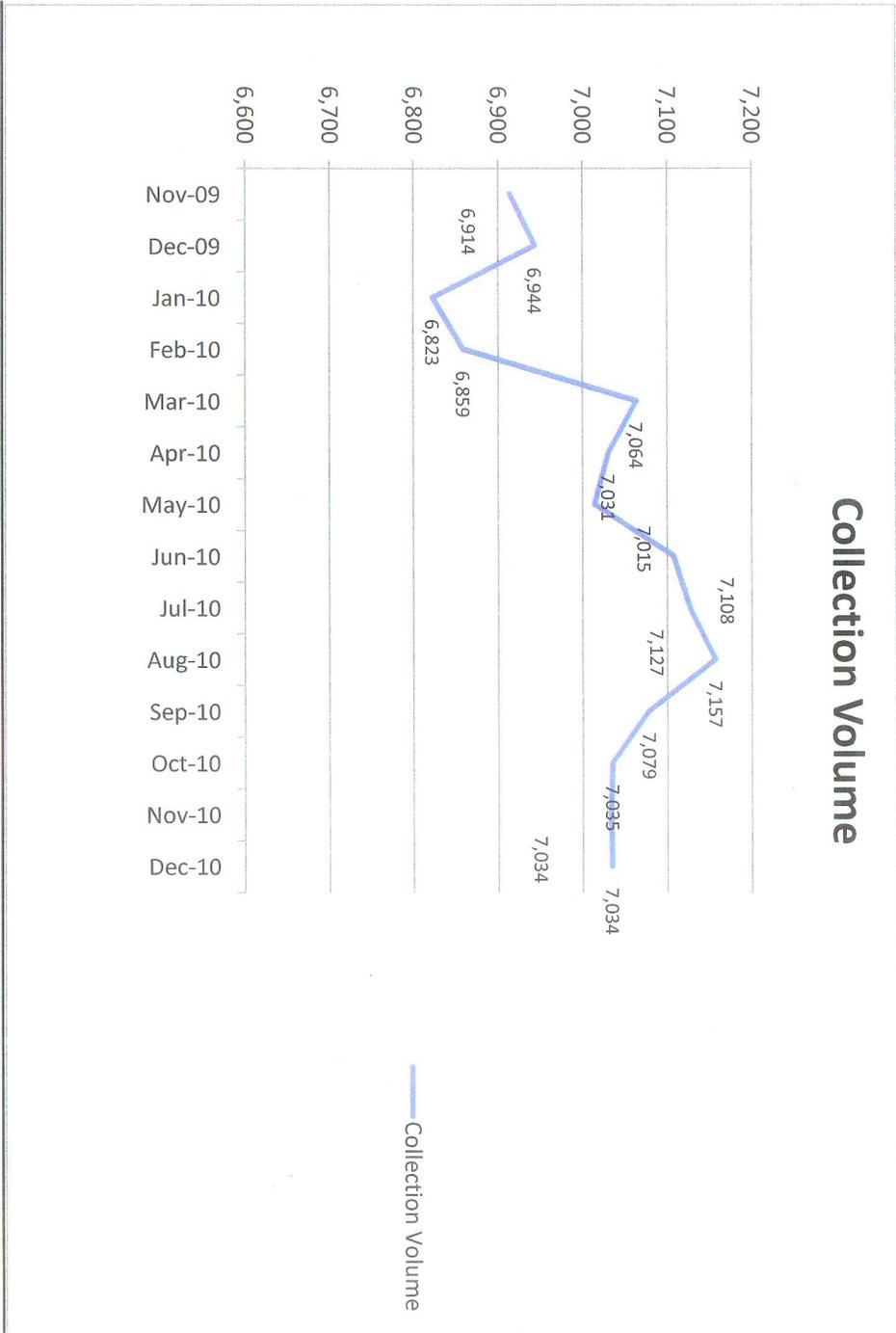
ATTACHMENT - B

Increase in the number of monthly pick-ups from City of Santa Barbara Commercial Customers



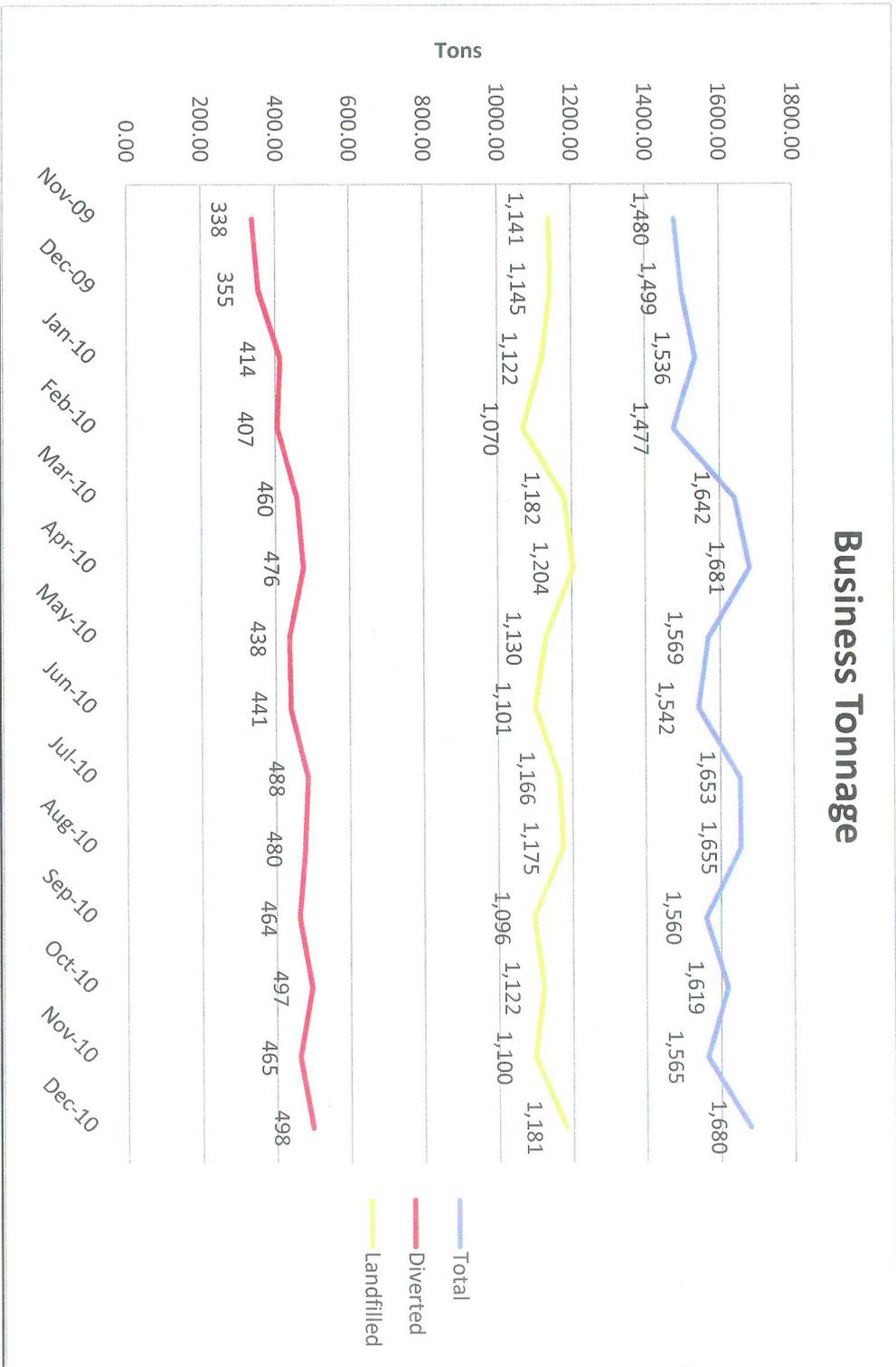
ATTACHMENT - C

Increase in the monthly service volume in yards from City of Santa Barbara commercial customers



ATTACHMENT - D

Increase in monthly tonnage from City of Santa Barbara commercial customers



March 15, 2011

Mr. Robert Samario
Finance Director
City of Santa Barbara
735 Anacapa Street
Santa Barbara, CA 93101

Dear Bob:

This letter serves to memorialize our conversation on Wednesday, March 9, 2011 regarding the City's request for Allied Waste to surrender \$60,387 in guaranteed revenues from our business sector collection activities for fiscal year 2012. You have requested this concession in light of the fact that the City has experienced a decline in revenues from hauling services in the business sector.

We understand that you are moving quickly to get a final Proposition 218 notice to our customers and that staff does not have enough time to determine the impacts of all of the various forces that may be negatively impacting revenues in the business sector. These forces include, but are not limited to, Environmental Services staff efforts (beginning in earnest in early 2009 to get businesses to maximize their recycling and right-size their service levels in advance of the new rates taking effect), the Council-approved November 2009 rate changes (making recycling, foodscraps and greenwaste 85% less expensive than trash service), and the current economic climate.

As we discussed, we believe it is important to note that when the City was split into two zones in 2003, with MarBorg assuming Zone 2 or the eastern half of the City, the differential in total monthly revenues was approximately \$5,000 in their favor. However, over the ensuing several years this difference grew by many tens of thousands of dollars per month in MarBorg's favor. For such a dramatic increase in Zone 2 revenues to have occurred, staff suspected that a good deal of trash and recycling capacity was being sold to Zone 2 customers that was not warranted or needed by the customer. Fast forward to the present and it appears that our intuitions were on the mark. As noted by ES staff earlier this month, the total business shortfall on MarBorg's side of the City is approximately \$460,000 per year, or nearly 4 times that of our shortfall. It is clear that customers in Zone 2 have right-sized their services and maximized recycling in response to ES outreach efforts, the new rates and the economy. I am pleased to say that Allied Waste did not oversell its customers during the past 8 years of our contract.

We are willing to assist the City with this shortfall because we are your partner. We are proud to have provided these critical services to the City of Santa Barbara and ratepayers for the past 39 years. Finally, we look forward to revisiting the data in the fall to better understand the relative impacts of the various factors at play to determine if further concessions, or a rate increase, will be warranted for FY 2013.

Sincerely,

Stephen MacIntosh
General Manager

cc: Jim Armstrong, City Administrator
Kristy Schmidt, Employee Relations Manager
Matt Fore, Environmental Services Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA GRANTING AN EXCLUSIVE TEN-YEAR FRANCHISE FOR CITYWIDE SOLID WASTE COLLECTION AND DISPOSAL SERVICES TO MARBORG INDUSTRIES, INC., A CALIFORNIA CORPORATION AND APPROVING AND AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE, A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND MARBORG INDUSTRIES, INC. PROVIDING FOR MARBORG'S WAIVER OF CERTAIN COMPENSATION UNDER THE EXISTING ZONE ONE AND ZONE TWO FRANCHISE AGREEMENTS IN CONSIDERATION OF THE GRANT OF THE NEW CITYWIDE FRANCHISE TO MARBORG.

WHEREAS, On December 13, 2011, the Council of the City of Santa Barbara directed the Finance Director to enter into sole source negotiations with MarBorg Industries, Inc. ("MarBorg") for a new Solid Waste Franchise;

WHEREAS, the City and MarBorg have subsequently reached agreement on terms for a new and exclusive ten-year franchise for Citywide solid waste collection and disposal services;

WHEREAS, the terms of the new franchise include acceptable rates for customers and a reasonable profit for MarBorg, similar to what the City could likely expect to achieve through a competitive procurement process;

WHEREAS, the terms of the new franchise include desirable new services for ratepayers and the City and new diversion requirements that will help the City to meet anticipated future State mandates;

WHEREAS, on December 11, 2012, the Council of the City of Santa Barbara publicly declared its intention to grant a franchise to MarBorg through the adoption of a resolution in accordance with Section 1401 of the City Charter;

WHEREAS, a public hearing regarding the grant of the new franchise to MarBorg was noticed in a local newspaper of general circulation as required by Section 1401 of the City Charter; and

WHEREAS, on February 5, 2013, the Council of the City of Santa Barbara held a public hearing to hear any objections on the proposed ordinance to grant the new franchise to MarBorg as required by Section 1401 of the City Charter.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 1. Pursuant to Section 1401 of the City Charter, the City Council of the City of Santa Barbara grants an exclusive ten-year franchise (“Franchise”) for Citywide solid waste collection and disposal services to MarBorg Industries, Inc. and authorizes the City Administrator to execute a new franchise agreement, in a form of agreement acceptable to the City Attorney, with MarBorg Industries, Inc. for said MSW services. The City Administrator is further authorized to make those revisions, amendments, and changes which he deems appropriate and which do not change the material terms of the Franchise provided that such revisions, amendments, and changes are approved as to form by the City Attorney.

SECTION 2. The Council approves and authorizes the City Administrator to execute, a Memorandum of Understanding (“MOU”) between the City and MarBorg Industries, Inc. providing for MarBorg’s waiver of certain rights and compensation under the existing 2003-2013 Zone One and Zone Two Franchise Agreements during the remaining term of those Franchises in consideration of the grant of the new City-wide franchise to Marborg.

SECTION 3. A copy of the Franchise agreement and the MOU have been made available for review by the public at the Santa Barbara City Clerk’s Office.