



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: John Stufflebean

SUBJECT: SEE BELOW

DATE: 05-21-07

Approved

Date

5/29/07

COUNCIL DISTRICT: City-Wide

SUBJECT: FY 2007-08 COUNTYWIDE AB 939 IMPLEMENTATION FEE AND PARTICIPATION IN COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE PROGRAM AND FY 2006-07 AMENDMENT TO PARTICIPATION AGREEMENT

RECOMMENDATION

Approval of:

1. The First Amendment to the Agency Agreement for Countywide AB 939 Implementation Fee with the County of Santa Clara to establish the Implementation Fee for FY 2006-07 at \$3.72, for FY 2007-08 at \$3.55, and for FY 2008-09 at \$3.35.
2. The First Amendment to the Agency Agreement with the County of Santa Clara Countywide Household Hazardous Waste Collection Program for FY 2006-07 to increase the City's contribution by \$50,000 for a total cost not to exceed \$50,000.
3. The Second Amendment to the Agency Agreement with the County of Santa Clara Countywide Household Hazardous Waste Collection Program for the term July 1, 2007 through June 30, 2009, at no cost to the City of San José.

OUTCOME

With the approval of these agreements, the City of San José will continue to provide its residents with free household hazardous waste disposal. The City will also continue to provide a means for reducing the amount of toxics that enters the City's landfills, storm sewers, and sanitary sewers and which could threaten groundwater supplies.

BACKGROUND

Countywide AB 939 Fee

The California Integrated Waste Management Act of 1989 (AB 939) authorizes local jurisdictions to impose fees to recover the costs of implementing and administering source reduction and recycling programs. In consultation with the cities, through the Santa Clara County Recycling and Waste Reduction Commission and its Technical Advisory Committee, staff of the County's Department of Environmental Health has prepared an agreement for adjustments of the AB 939 Implementation Fee. Upon approval of all participating jurisdictions, the fee will be decreased by \$0.17 per ton for a total fee of \$3.55 per ton for FY 2007-08. The proposed amendment to the Agency Agreement will further reduce the AB 939 Implementation Fee by \$0.20/ton in FY2008-09. Once approved by Council, the fee adjustments will take effect July 1, 2007.

Household Hazardous Waste (HHW) Program

This year, increased HHW Program promotion has created a substantial rise in the demand for HHW drop-off service to such an extent that the current year's funding will not meet the service demand from San José residents through the June 30, 2007. Thus, staff is proposing to increase current year's funding by \$50,000. Since the beginning of the HHW Program in FY91-92, through the end of FY06-07, the Countywide HHW Program will have provided collection services to over 80,000 San José households. If the additional funding is approved, nearly 11,000 households will be served this fiscal year.

The Countywide Household Hazardous Waste (HHW) Program provides the only legal means for residents to dispose of most of these types of wastes. The County administers all operational aspects of the HHW Program and is responsible for recycling and waste disposal. The Countywide Program also provides drop-off service for small businesses on a cost-recovery basis and is far less expensive than if the business had to contract out for service.

ANALYSIS

Countywide AB 939 Fee

The proposed decrease in the HHW portion of the fee is an adjustment of the cost-recovery fee that pays for the recycling of Universal Waste (UW). UW is comprised of common household items such as consumer electronics, batteries and other items that have been banned from landfill disposal as of February 2006. The cost of handling UW was initially estimated to be \$0.37 per ton for FY2006-07.

By mid FY2006-07, this estimate was revised downward to \$0.20 per ton. Thus, the AB 939 Implementation Fee has been adjusted from \$3.72 per ton in FY06-07 to the proposed \$3.55 per ton for FY07-08. This funding level will allow the HHW Program to continue collecting

Universal Wastes and other newly regulated special wastes in FY2007-08. The County will continue to collect the fees from County landfill operators and distribute the funds to the City based on the tons of San José material disposed as reported by the landfills.

Per the service agreement with the County, funds collected from the HHW Program portion of the fee will be allocated to participating cities. A base service level of 3% of the total number of households within each City has been established. For San José, funds remaining after servicing a city's base service level are distributed back to the cities to fund city-specific household hazardous waste programs.

Household Hazardous Waste Program

The HHW Program is the only legal disposal pathway for many unwanted household products. This includes consumer products containing mercury such as fluorescent bulbs, thermometers, and mercury switches. For the past few years, facilities programs responsible for protecting water quality, such as the Santa Clara Valley Urban Runoff Pollution Prevention Program and the San José-Santa Clara Water Pollution Control Plant, have conducted numerous mercury reduction campaigns to educate residents on proper disposal of their mercury containing products. These public education campaigns and the highly visible ban of UW have created an unprecedented increase in demand for HHW drop-off service. Staff estimates that \$50,000 in addition to the City's share of the funding through the AB 939 Implementation Fee will be necessary to bridge the anticipated shortfall in funding needed to provide services for San José residents. Staff expects demand to continue trending up as more of the public becomes aware of the program.

Environmental Services and the County continue to target areas of the City where under participation has been documented. While pockets of under participation can be identified in the north and east portions of the City, the largest area of under participation has been identified in the City's geographic center. In addition to City and County staff conducting outreach in these areas, the City has contracted with the Center for Training and Careers (CTC) for conduct outreach in the Strong Neighborhood Initiative areas of Central San José. CTC's outreach efforts include house-to-house, community groups, and business groups.

Additionally, the County will continue to allocate funding to cover disposal costs associated with household hazardous waste left at facilities of local non-profit recyclers, such as Goodwill, the Salvation Army, and Hope Services. These funds will absorb costs previously covered by General Fund subsidies from both the City and County.

ALTERNATIVES

Alternative 1:

City does not provide HHW Program service.

Pros:

The City would have no administrative costs related to the HHW Program. This would save the City 0.5 FTE. In addition the City would establish its own AB 939 Implementation Fee to be used for other City solid waste diversion programs.

Cons:

Without an HHW Program, San Jose residents would have no legal or safe disposal pathway for many discarded household toxics. This would create a public health and safety issue for residents, small businesses, and solid waste and recycling workers.

The City would also lose a significant compliance program element of its National Pollution Discharge Elimination Permit System (NPDES) permits. In this instance, the City would be put at risk for adverse regulatory action from State and Federal regulators, as well as citizen law suits.

Reasons for not recommending:

The savings in administrative costs are very limited. Not providing an HHW program to San Jose residents places the City in significant risk of NPDES permit non-compliance and places the City in the position of eliminating a much needed service to residents.

Alternative 2:

City opts out of participation in the Countywide HHW Program and establishes a City administered HHW program. The City would impose its own AB 939 Fee at landfills within San José to finance the program.

Pros:

The would provide the same service for its residents without any need to cooperate with other local governments. New City staff positions would be created to provide this service.

Cons:

In developing its own capacity for providing HHW services for residents and small businesses, the City would lose the cost advantages of the economies of scale that it now enjoys from participating in a countywide program. There will also be negative cost effects for all other cities if San José no longer participates in the program. In addition, the non-profit recyclers would no longer receive free disposal for waste that is abandoned on their property by the public. Funding for this service would be eliminated.

Reasons for not recommending:

Under the current arrangement, the City enjoys significant cost advantages from sharing overhead and other fixed costs Countywide. Furthermore, since the City represents approximately half of the participation in the Countywide HHW Program, the greater economies of scale enjoyed by other participating cities in would be eliminated without the City participation.

PUBLIC OUTREACH

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet the criteria listed above, this program has been discussed at publicly noticed meeting of the Santa Clara County Recycling and Waste Reduction Commission. Agendas for these meetings are distributed to representatives of all cities in the County and to other interested parties. Agendas and minutes are also posted on the Commission's website.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

COST IMPLICATIONS

This program is primarily funded through a landfill fee administered by the County of Santa Clara. This fee is paid by the City for any City facility and Recycle Plus program waste disposed at Newby Island Landfill under the Disposal Agreement with International Disposal Corporation.

The City and County will be proposing an increase in this fee before the end of calendar year 2007. The purpose of the future increase will be to finance the construction of the HHW Drop-off Facility relocation to 1608 Las Plumas Ave. Staff is studying the precise amount of the fee increase.

The \$50,000 first amendment that will increase the number of residents served is a one-time cost funded by savings in FY 2006-2007 budgeted contractual services funds. There are no other cost implications to the City.

This recommendation is consistent with the Mayor's budget strategy, providing much needed services to San José residents and small businesses while protecting vital core services, managing recycling and garbage services and managing urban runoff quality.

BUDGET REFERENCE

Fund #	Appn #	Appn. Name	RC #	Total Appn.	Amt. for Contract	2006-2007 Adopted Operating Budget (Page)	Last Budget Action (Date, Ord. No.)
423	0762	Non-Personal/ Equipment	500537	\$5,837,589	\$50,000	VIII-38	02/13/07 Ord No 27973

CEQA

Not a project. The proposed program funding actions are not anticipated to result in direct or reasonably foreseeable indirect physical changes in the environment in that they provide adequate funding for existing HHW program services and extend the term of the existing agreement with the County. The HHW facility at the Central Service Yard (CSY) had been in operation since 1996 but was closed on November 15, 2006 to make room for the final phase development of the Central Service Yard. The Council actions recommended in this memo address program funding and are not related to the particular facility location.

Environmental Services Department is pursuing locating the San José HHW Program collection facility at the City-owned property at 1608 Las Plumas Avenue. An Environmental Impact Report (EIR) has been prepared to address potential environmental impacts associated with locating the San José HHW facility at the Las Plumas Avenue location, and the EIR is currently circulating for public comment, ending May 24, 2007. The Final EIR will be completed in June 2007. The City Council would make a decision to locate the San José HHW facility independent of the actions proposed in this memo.



JOHN STUFFLEBEAN
Director, Environmental Services

For questions please contact Paul Ledesma, Environmental Services Specialist at (408) 975-2538.