



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: John Stufflebean

SUBJECT: SEE BELOW

DATE: 04-28-08

Approved

Date

5/8/08

COUNCIL DISTRICT: City-Wide

SUBJECT: 2008-2009 COUNTYWIDE AB 939 IMPLEMENTATION FEE AND PARTICIPATION IN COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE PROGRAM AND 2008-2009 AMENDMENT TO PARTICIPATION AGREEMENT

RECOMMENDATION

Approval of:

1. The Second Amendment to the Agency Agreement with the County of Santa Clara for Countywide AB 939 Implementation Fee to maintain the AB 939 Implementation Fee at \$3.55 per ton for 2008-2009.
2. The Third Amendment to the Agency Agreement with the County of Santa Clara for Countywide Household Hazardous Waste Collection Program for one-time funding of \$57,000, for a total cost not to exceed \$57,000, for 2007-08.
3. The Fourth Amendment to the Agency Agreement with the County of Santa Clara for Countywide Household Hazardous Waste Collection Program, which includes one-time funding of \$67,000, for a total cost not to exceed amount of \$67,000 for 2008-2009.

OUTCOME

With approval of the amendments to these agreements, the City will continue to provide its residents with free household hazardous waste drop-off service and disposal. The City will also continue to provide a means for reducing the amount of toxics that enter the City's landfills, storm sewers and sanitary sewers, which could threaten both San Francisco Bay and local groundwater supplies. The household hazardous waste program supports the goals of the City's Green Vision, Zero Waste Plan, and Urban Accords by helping to divert hazardous waste from

our landfills and by protecting the ecological integrity of the Bay and the City's drinking water supply.

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, the County has prepared an amendment to the agreement for the continuation and adjustment of the AB 939 Implementation Fee. Upon approval of all participating jurisdictions, the fee will be maintained at \$3.55 per ton for 2008-2009. This fee consists of \$2.05 per ton for household hazardous waste services, and \$1.50 per ton to assist in funding the costs of preparing, adopting, and implementing the Integrated Waste Management plan in the 15 cities and the unincorporated area of the County. Once approved by Council, the fee adjustment will take effect July 1, 2008. Unless the Council, as well as the remaining 14 cities, adopts the recommendation to maintain the Fee at \$3.55 per ton, the rate will revert back to \$3.35 on July 1, 2008, for the one year remaining in the term of the Agreement, which ends June 30, 2009. At the lower rate, the share of the Fee designated for the HHW Program would be inadequate to serve the present demand for services, especially in the collection of Universal Waste.

Household Hazardous Waste (HHW) Program

As with the previous year, increased HHW Program promotion and public environmental awareness 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 June 30, 2008. The City's initial contribution to the Countywide HHW Program for 2007-2008, through landfill tipping fees, was \$1,103,007. Staff is proposing to increase the 2007-2008 funding by \$57,000 to accommodate the additional residential drop-offs. Similarly, in anticipation for higher participation levels next year, staff is also proposing to increase 2008-2009 funding by \$67,000. The City's projected contribution for 2008-2009, including this increase, is \$1,191,336. This amount is included in the 2008-2009 Proposed Operating Budget. Since the beginning of the HHW Program in 1991-1992, through the end of 2007-2008, the Countywide HHW Program will have provided collection services to over 90,000 San José households. If the additional funding is approved, nearly 10,000 households will be served in the next fiscal year.

The 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 was required to contract out for service.

ANALYSIS

Countywide AB 939 Fee

Maintaining the AB 939 Implementation Fee at \$3.55 per ton will allow the HHW Program to continue collecting and recycling Universal Wastes (UW) and other newly regulated special wastes in 2008-2009, such as pharmaceutical sharps which will be banned from the solid waste stream in September 2008. 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.

HHW 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, which are considered UW. For the past few years, 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 \$57,000 in addition to the City's share of the funding through the AB 939 Implementation Fee for 2007-2008 will be necessary to bridge the anticipated shortfall in funding needed to provide services for San José residents. As staff expects demand to continue trending up as more of the public becomes aware of the program, staff estimates an additional \$67,000 will be needed in 2008-2009.

Environmental Services and County staff 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 is within 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, Inc. (CTC) to perform outreach in the Strong Neighborhood Initiative areas of Central San José. CTC's outreach efforts include house-to-house, community groups, and business groups. The new San José HHW drop-off facility will also be situated in central San José, with an anticipated opening in 2008-2009.

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 an HHW Program.

Pros:

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

Cons:

Without an HHW Program, San José 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. The failure to provide a HHW program to San José residents may cause the City to be in non-compliance with its NPDES permit

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:

This would provide the same service for its residents without any need to cooperate with the County. 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 could lose economies of scale from participating in a Countywide program. There could also be negative cost effects for all other cities if San José no longer participates in the program.

Reasons for not recommending:

Under the current arrangement, the City may benefit in 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, it is possible that economies of scale offered to the other participating cities would be eliminated without the City's 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 meetings of the Santa Clara County Recycling and Waste Reduction Commission and its Technical Advisory Committee. 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. In addition, this memorandum is posted on the City's website for the Council Agenda of May 20, 2008.

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 that is disposed at Newby Island Landfill under the Disposal Agreement with International Disposal Corporation.

The \$57,000 increase detailed in the Third Amendment, as well as the \$67,000 increase detailed in the Fourth Amendment, shall be used to serve a higher participation level of San José residents. There are no other cost implications to the City. Funding for the Fourth Amendment will be contingent upon the approval and adoption of the 2008-2009 Operating Budget.

This recommendation is consistent with the Mayor's budget strategy, Green Vision and UN Environmental Accords, 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	2007-2008 Adopted Operating Budget (Page)	Last Budget Action (Date, Ord. No.)
423	0762	Non-Personal/ Equipment	500537	\$5,667,713	\$57,000	VIII-40	10/16/2007 Ord No 28143

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 terms of the existing agreement with the County. The HHW facility at the Central Service Yard (CSY) had been in operation since 1996 but closed on November 15, 2006 to provide adequate space 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.



JOHN STUFFLEBEAN
Director, Environmental Services

For questions, please contact Jo Zientek, Deputy Director, Environmental Services Department, at (408) 535-8557.