

**AGREEMENT FOR COUNTYWIDE  
HOUSEHOLD HAZARDOUS WASTE  
COLLECTION PROGRAM**

This Agreement is made by and between the City of San Jose (CITY) and the County of Santa Clara (COUNTY) on the \_\_\_\_\_ day of \_\_\_\_\_ 2010.

**RECITALS**

WHEREAS, the County Board of Supervisors has approved a Countywide Household Hazardous Waste Collection Program whereby residents of the County and participating jurisdictions will have an opportunity to safely dispose of household hazardous wastes, regardless of the specific location at which the collection has been scheduled; and

WHEREAS, the participating jurisdictions desire to provide residents with convenient opportunities to safely dispose of their household hazardous waste (HHW) in order to encourage the proper disposal of toxic products, and avoid unauthorized or improper disposal in the garbage, sanitary sewer, storm drain system, or on the ground, in a manner which creates a health or environmental hazard; and

WHEREAS, the participating jurisdictions desire to provide a safe, convenient, and economical means for residents to dispose of household hazardous wastes. These wastes include, but are not limited to, common household products such as household cleaning products, spot remover, furniture polish, solvents, oven cleaner, pesticides, oil based paints, motor oil, antifreeze, car batteries, mercury thermostats, fluorescent lamps containing mercury, household batteries, and electronic waste. Residents of the CITY listed above will be eligible to bring household hazardous wastes to any household hazardous waste collection event or facility where these wastes will be accepted for proper disposal as described below; and

WHEREAS, the County Board of Supervisors approved on February 7, 2006 to modify the Countywide Household Hazardous Waste Program to include the collection and management of electronic waste (e-waste) which includes, but not limited to, radios, televisions, computers, printers, monitors, photocopying machines, fax machines, oscilloscopes, computing accessories; and

WHEREAS, the participating jurisdictions desire to schedule Household Hazardous Waste Collection Events (Events) for residents for FY 2011; and

WHEREAS, the participating jurisdictions desire to provide household hazardous waste collection services to a minimum of 4% of the households per fiscal year in each participating jurisdiction; and

WHEREAS, the County Board of Supervisors has approved a Countywide AB939 Household Hazardous Waste Fee (AB939 HHW Fee), as authorized by Public Resources Code 41901, to be collected at \$2.60 in FY 2011 on each ton of waste

landfilled or incinerated within the county, received at any non-disposal or collection facility located within the county and subsequently transported for disposal or incineration outside of the county, collected from any location within the county by a solid waste hauler operating pursuant to a franchise, contract, license, or permit issued by any local jurisdiction and subsequently transported for disposal or incineration outside of the county, or removed from any location in the county by any person or business for disposal or incineration outside the county.

NOW, THEREFORE, CITY and COUNTY AGREE AS FOLLOWS:

## **1. PURPOSE**

The purpose of this Agreement is to state the terms and conditions under which CITY will participate in the Countywide Household Hazardous Waste Collection Program (CoHHW Program) available to its residents. Participating jurisdictions are those jurisdictions that enter into an AGENCY AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM.

## **2. PROGRAM FUNDING SOURCE**

HHW Program services are directly mandated under AB939, which establishes statutory authority to provide for funding to support planning and implementation of integrated waste management programs. The AB939 HHW Fee, \$2.60 per ton in FY 2011, collected as part of the AGENCY AGREEMENT FOR COUNTYWIDE AB939 IMPLEMENTATION FEE will be the primary source of funding for CoHHW Program services.

Funds derived from the AB939 HHW Fee will be allocated among four types of CoHHW Program service costs as follows:

- A. Fixed Program Costs will be apportioned based on the number of households in each participating jurisdiction. The number of households will be determined at the beginning of each Fiscal Year by statistics compiled by the California Department of Finance, Demographic Research Unit from their most Report, "Population Estimates for California Cities and Counties."
- B. Abandoned Waste Disposal Costs will fund disposal of HHW illegally abandoned at nonprofit charitable reuse organizations. The existing fund balance of \$112,000 from previous years will fund Abandoned Waste Disposal Costs for FY 2011.
- C. Variable Cost Per Car to provide a base level service to 4% of households in all participating jurisdictions. The number of households is determined by the most recent "Population Estimates for California Cities and Counties" Report as published by the California Department of Finance, Demographic Research Unit.
- D. Available Discretionary Funding funded on tonnage generated per participating jurisdiction.

The projected Fiscal Year 2011 AB939 HHW Fee funding allocation by jurisdiction is set out in Attachment A, attached hereto and incorporated herein.

### **3. FIXED PROGRAM COST**

Fixed Program Costs shall be \$1.85 for FY 2011. Estimated HHW Fixed Costs for FY 2011 are projected in Attachment B, attached hereto and incorporated herein. Fixed Program Costs may include, but are not limited to eight (8) CoHHW Program staff members, facility leasing costs, vehicle lease costs, office rent, office supplies, county administrative overhead, county legal counsel, training costs, equipment and facility maintenance and union negotiated salary and benefit increases.

### **4. ABANDONED WASTE DISPOSAL COST**

The existing unexpended non-profit abandoned waste fund balance of \$112,000 will fund disposal of HHW illegally abandoned at nonprofit charitable reuser organizations as defined in Public Resources Code Section 41904.

### **5. VARIABLE COST PER CAR**

The Variable Cost Per Car is the cost associated with actual labor, waste disposal, transportation and other services provided to the residents at the County Household Hazardous Waste Collection Facilities (CoHHWCF) and at Temporary Events. The Variable Cost Per Car is estimated to be approximately \$67 per car for Fiscal Year 2011. The estimated cost per car will be adjusted to reflect actual service costs. After Fixed Program Costs are allocated on a per household basis, the Variable Cost Per Car will be used to calculate the costs to service 4% of households across all participating jurisdictions. If the level of 4% of households is not reached in a particular jurisdiction, the CoHHW Program will use the remaining balance of funds, in cooperation with the CITY that has less than 4% participation levels, to increase public outreach and/or provide additional services in that jurisdiction the following year.

### **6. AVAILABLE DISCRETIONARY FUNDING**

The Available Discretionary Funding portion of the AB939 HHW Fee will be allocated based on the tons of waste generated within each jurisdiction, and after allocation of Fixed Program Costs and Variable Per Car Costs. Available Discretionary Funds will be paid as directed by each jurisdiction. Available Discretionary Funds must be used for HHW purposes. Options for how to spend these funds include, but are not limited to, increasing the number of residents served in that jurisdiction by the CoHHW Program, subsidizing curbside used motor oil collection, electronic waste (e-waste) collection, universal waste collection, emergency HHW services, funding HHW public education, or providing special programs such as door-to-door collection of HHW for the elderly and/or persons with disabilities and neighborhood clean-up events.

## **7. ADMINISTRATION AND PAYMENT OF THE AB939 HHW FEE**

The Santa Clara County Integrated Waste Management Program (IWMP) will administer the AB939 HHW Fee, as part of the existing landfill billing system.

Administration and payment will be made in accordance with the AGENCY AGREEMENT FOR COUNTYWIDE AB939 IMPLEMENTATION FEE.

Notwithstanding the foregoing, the COUNTY shall maintain records of the amount, use, and distribution of Fixed Program Cost expenditures for at least five (5) years after the termination date of this Agreement, unless otherwise required by law to retain such records for a longer period. CITY may request in writing a review by COUNTY of the Fixed Program Cost records. The review shall be performed within 30 days of request and results shall be reported to participating cities in writing.

## **8. PROGRAM PUBLICITY**

The CoHHW Program shall have available to the public a HHW brochure for distribution. The brochure will be made available at various events, including but not limited to, environmental events, community fairs. The brochure will also be distributed, upon request, to cities within the County and to County residents and businesses. The CITY shall be responsible for developing and coordinating citywide awareness of the HHW Program. The CoHHW Program shall be responsible for Countywide public education for used oil recycling. CoHHW Program public awareness responsibilities shall include, but not be limited to, the following activities:

- Serving as the formal contact to the local media such as local newspapers and television news stations;
- Providing participating jurisdictions with educational materials developed for the CoHHW Program;
- Promoting oil and oil filter recycling by developing, purchasing, and distributing educational materials, media relations materials, basic art work and camera ready advertising materials for distribution countywide and for use by jurisdictions;
- Representing the program through educational presentations at schools and businesses and attendance at community events such as local fairs and festivals; and,
- Providing participating jurisdictions opportunities to review and comment on the development of countywide outreach materials.

CITY's public awareness responsibilities, at the sole discretion of the CITY, shall include, but not be limited to, the following activities:

- Providing a copy of HHW promotional materials to the CoHHW Program for review for accuracy and completeness, prior to publication;
- Developing and distributing communications to residents for local and city newsletters, newspapers and to the electronic media;
- Providing the CoHHW Program with a copy of locally produced materials; and,
- Conducting and supporting outreach and publicity to attain the 4% goal of household participation.

## **9. DELEGATION OF AUTHORITY**

The Board of Supervisors delegates all CoHHW Program management to the Department of Agriculture and Environmental Management. The Director of the Department of Agriculture and Environmental Management has the authority to execute all vendor contracts necessary to operate the program, to execute any necessary license agreements, to add additional HHW services provided on a cost recovery basis, to amend any contracts or agreements, and to terminate any contracts or agreements. All contracts, agreements, and amendments shall first be approved by County Counsel as to form and legality and the Office of the County Executive.

## **10. TEMPORARY HHW EVENTS**

COUNTY shall conduct HHW Events at various sites located in Santa Clara County. COUNTY shall obtain all necessary permits and licenses required for the Temporary HHW Events and shall provide or contract for the services of properly trained, qualified personnel and hazardous waste haulers, and shall provide or secure suitable equipment and supplies to properly receive, package, label, haul, recycle and dispose of the household hazardous wastes collected at the Temporary HHW Events.

## **11. HOUSEHOLD HAZARDOUS WASTE COLLECTION FACILITIES**

COUNTY shall conduct collection operations at the following two County Household Hazardous Waste Collection Facilities (CoHHWCF): Sunnyvale Recycling Center, 164 Carl Road, Sunnyvale, and 13055 Murphy Avenue, San Martin.

The CoHHWCF will operate a reuse program, offering usable materials to the public at no charge. The COUNTY shall obtain all necessary permits and licenses required for the CoHHWCF and shall provide or contract for services, equipment, and supplies to properly receive, package, label, haul, recycle and dispose of wastes collected.

## **12. SMALL BUSINESS RECYCLING AND DISPOSAL PROGRAM**

COUNTY will provide services to accept hazardous waste from Conditionally Exempt Small Quantity Generators (CESQG). A CESQG is defined by federal regulation as a business that generates less than 100 Kilograms (220 lbs.) of hazardous waste or 1 Kilogram (2.2 lbs.) of extremely hazardous waste per month. Eligible businesses within the County will be allowed to bring their hazardous waste to CoHHWCF. This program will not be subsidized by participating jurisdictions. Services to businesses will be provided on a cost recovery basis, which will include program administration, on-site collection, transportation, and disposal costs. COUNTY will assume responsibility for collecting fees from participating businesses. The fees collected by the COUNTY are established in Attachment D, Santa Clara County CESQG Drop-off Price List. The COUNTY retains the discretion to change the Santa Clara County CESQG Drop-off Price List at any time to reflect increases or decreases in CoHHW Program costs.

### **13. ABANDONED HOUSEHOLD HAZARDOUS WASTE**

The CoHHW Program will allow for the disposal of abandoned HHW by government agencies and nonprofit charitable reusers. Abandoned HHW means HHW left at a property by an unknown party. Abandoned household hazardous waste does not include waste generated by a known organization or agency in the course of normal business operations such as, but not limited to, the assembly or manufacture of products from new or used materials or the provision of charitable services such as classroom education, meal preparation, and shelter, or the provision of services for a fee. Government agencies shall be charged for disposal of abandoned HHW according to the CoHHW Program's published rates for conditionally exempt small quantity generators (CESQGs).

### **14. NONPROFIT CHARITABLE REUSER**

A Nonprofit Charitable Reuser organization as established in Public Resources Code Section 41904, is a nonprofit as defined in Section 501(c) (3) of the United States Internal Revenue Code, or a distinct operating unit or division of the charitable organization. A Nonprofit Charitable Reuser is further defined as an organization that reuses and recycles donated material and receives more than 50% of its revenues from the handling and sale of those donated goods or materials. In order to qualify as a Nonprofit Charitable Reuser, the business must submit to the COUNTY Director of Environmental Health a request to be so designated. The Director shall review the request and supporting documentation and shall make a final decision on the designation. COUNTY will accept abandoned HHW from Nonprofit Charitable Reusers and will waive disposal fees on the cost of disposal of the abandoned HHW in an annual amount not to exceed funds available from the existing unexpended abandoned waste fund. Funding for disposal available to Nonprofit Charitable Reuser shall be on a first come first serve basis. Once the cost for disposal of the abandoned HHW from Nonprofit Charitable Reusers is equal to the available funds, disposal fees shall no longer be waived, and Nonprofit Charitable Reusers shall be charged for disposal of abandoned HHW according to the CoHHW Program's published rates for CESQGs. No additional costs shall be applied to the budget of a participating jurisdiction.

### **15. HOUSEHOLD HAZARDOUS WASTES ACCEPTED**

HHW accepted by the CoHHW Program shall be limited to materials as defined in Health and Safety Code Section 25218.1(e), as amended from time to time, and include, but are not limited to, automotive fluids, automotive and other types of batteries, latex and oil paint, oil filters, garden chemicals, household cleaners, pool chemicals, mercury thermostats, fluorescent lamps containing mercury, household batteries, e-waste and other common hazardous consumer products.

### **16. WASTES NOT ACCEPTED**

Certain hazardous wastes shall not be accepted for collection and disposal. These include, but are not limited to, compressed gas cylinders larger than 5 gallons,

radioactive materials, and explosives. Other wastes not accepted by the CoHHW Program are wastes generated as part of operating a business, including a home operated business, except that waste from CESQGs as provided for in Section 12 of this Agreement shall be accepted.

#### **17. ADDITIONAL SERVICES UNDER THIS AGREEMENT**

CITY may elect to augment funding provided for in this Agreement with CITY funds. Additional services shall be made available upon written agreement between the CITY's authorized representative and the Director of the Department of Agriculture and Environmental Management. Additional services may include, but are not limited to, additional appointments (charged at the variable cost per car rate), door-to-door HHW collection, used oil filter collection, universal waste collection, electronic waste collection, and abandoned waste collection.

CITY agrees to augment up to an additional \$15,000 to the Countywide HHW Program during Fiscal Year 2011 for the purpose of increased resident participation above the 4% service level at the scheduled collection dates listed in Attachment C, attached hereto and incorporated herein. Augmentation will be calculated at the Variable Cost Per Car rate which is estimated at \$67.00 per car. Other services will be charged based on a cost recovery basis. CITY authorizes the COUNTY to use CITY'S Available Discretionary Funding portion of the AB939 HHW Fee, if available, to pay for the above agreed additional augmentation amount.

At the end of each fiscal year, a final annual cost statement shall be prepared by COUNTY and issued to CITY by November 30th. The annual cost statement will take into consideration costs incurred on behalf of CITY for additional services and all payments made by CITY to COUNTY. If any balance is owed to COUNTY, it will be due within 30 days following receipt of the annual cost statement. If any credit is owed to CITY, COUNTY will refund that amount to CITY within 30 days following delivery of the annual cost statement.

#### **18. INFORMATION AND APPOINTMENT LINE**

COUNTY will operate a telephone information and appointment desk Monday through Friday, from the hours of 8:30 a.m. to 4:30 p.m. The information service will register residents for the Temporary HHW Events and the collections at CoHHWCF. The information service will provide information about hazardous household materials. CITY will be notified immediately when indicated resident participation approaches the 4% base level of service.

#### **19. SCHEDULING AND SITE SELECTION**

COUNTY shall work with CITY to determine the date(s) of Temporary Events and collections at the CoHHWCF. CITY shall coordinate with COUNTY in locating and securing sites for Temporary HHW Events. It is recognized that some of the jurisdictions participating in the CoHHW Program may not have appropriate sites available. A proposed HHW schedule for Fiscal Year 2011 of Temporary Events and

collections at CoHHWCF is included as Attachment C. COUNTY will schedule an adequate number of collection days to serve the 4% level of service in each participating jurisdiction. The COUNTY determines the adequate number of collection days by tracking attendance at each event.

## **20. OUTSIDE FUNDING**

During the term of this agreement, COUNTY will seek outside funding sources to begin services that would supplement existing services such as permanent collection sites, equipment, and operational funding. If funding is obtained, the Program will, at COUNTY's discretion, proceed with development of additional programs without affecting CITY's available funding allocation.

## **21. ELECTRONIC WASTE COLLECTION**

The CoHHW Program will accept electronic waste (e-waste) from residents and businesses throughout the county. A contractor has been selected to perform services and shall reimburse the County Pursuant to the Electronic Waste Recycling Act of 2003 (California State Senate Bill 20) and the Electronic Waste Recycling Act Amendments of 2004 (California State Senate Bill 50), contractor shall remit to COUNTY, recycling and disposal reimbursements for the electronic equipment designated under this Act that are collected by contractor on behalf of the COUNTY. Any and all revenues generated by this service will be applied to lowering the Variable Cost Per Car for all cities and COUNTY.

## **22. REGIONAL GRANT PARTICIPATION**

The CoHHW Program is hereby given permission by all participating jurisdictions to apply for future grants from the California Integrated Waste Management Board which are available under the California Oil Recycling Enhancement Act of 1991 and all Household Hazardous Waste grants under the California Integrated Waste Management Act. The CoHHW Program will act on behalf of all participating jurisdictions, as the lead applicant and grant administrator. The CoHHW Program will oversee how the moneys are used and work in cooperation with CITY as to how the funds will be spent. Nothing in this section shall preclude a participating jurisdiction from applying for grant funds in any case where the CoHHW Program does not apply.

## **23. EMERGENCY SERVICES**

Participating jurisdictions, at their option, may desire to provide residents with convenient emergency opportunities to safely dispose of their HHW in the event of a disaster. The purpose of this emergency planning for HHW is to minimize potential public health and safety impacts, as well as to minimize costs and confusion. Attachment E sets out CITY and COUNTY responsibilities for the collection of household hazardous wastes in response to an emergency. CITY shall make good faith efforts to provide the public with information related to the problems associated with HHW. Upon the decision to hold an emergency collection event, it is CITY's

responsibility to make a good faith effort to prepare and disseminate the necessary outreach to notify the public of an emergency collection event. An emergency collection event shall be initiated by a written request from CITY to COUNTY. Emergency collection events can be scheduled in as little as ten (10) working days of CITY's written request or at an agreed upon date thereafter. The emergency collection plan is set out in Attachment E, Household Hazardous Waste Emergency Collection Plan.

COUNTY agrees to conduct the event at a mutually agreeable site and time. The COUNTY will obtain the necessary permit from the State Department of Toxic Substances Control and will handle wastes in accordance with State law. COUNTY will bill CITY for all emergency events on a cost recovery basis and all payments shall be due COUNTY within thirty days following the receipt of the invoice.

#### **24. PRIVATE SPONSORED EVENTS**

COUNTY may also secure funding from corporations or agencies to conduct HHW Collection Events for corporate employees and residents of participating jurisdictions and to pay for special programs such as Universal Waste collection at retail locations. The transportation, treatment and disposal liability for nonresident employee participation in these events shall be shared by all participating jurisdictions and the COUNTY, as described in Section 28 of this Agreement. Summary information concerning these corporate sponsored events will be included in the CoHHW Program's annual report to the participating jurisdictions.

#### **25. INSURANCE REQUIREMENTS**

Contractors who provide hazardous waste transportation, treatment, or disposal services shall have the required insurance as outlined in Attachment F, Exhibit B-2D (revised) Insurance Requirements for Environmental Services Contract. Other contractors shall have insurance in amounts to be determined by COUNTY Insurance Manager, after consultation with CITY. COUNTY shall obtain insurance certificates from each of the contractors prior to the contractor providing service to the program naming the COUNTY as an additional insured.

#### **26. WASTE TRACKING AND REPORTING**

COUNTY will provide a mid-year report to CITY regarding participation rates from each participating jurisdiction by March 15, 2011. Mid-year and year end reports will outline the types and quantities of waste collected, the amount of waste diverted for reuse or recycling and the waste management method for each waste stream and associated costs for services. COUNTY will prepare a report summarizing program activities which will be delivered to the participating jurisdictions no later than six months after the end of COUNTY's fiscal year.

It will be assumed for cost and reporting purposes that each participating jurisdiction is contributing to the waste stream in proportion to the number of its residents who directly participate.

COUNTY shall take steps to assure that the bi-annual statements to jurisdictions reflect the funds necessary to cover costs for CITY participation in services scheduled during the next quarter. COUNTY will make every effort to keep the Variable Cost Per Car at approximately \$67.

## **27. PARTICIPATION REPORTING**

COUNTY shall employ means necessary to verify the place of residence of all participants in the CoHHW Program.

## **28. HOLD HARMLESS AND INDEMNIFICATION**

In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between CITY and COUNTY pursuant to Government Code Section 895.6, the parties agree that all losses or liabilities incurred by a party shall not be shared pro rata but instead COUNTY and CITY agree that pursuant to Government Code Section 895.4, each of the parties hereto shall fully indemnify and hold each of the other parties, their officers, board members, employees and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this Agreement. No party, nor any officer, board member, employee or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other parties hereto, their officers, board members, employees or agents, under or in connection with or arising out of any work authority or jurisdiction delegated to such other parties under this Agreement.

Additionally, CITY shall indemnify COUNTY for CITY's apportioned share of any liability incurred and attributed to the Countywide HHW Program for the transportation, treatment, or disposal of the household hazardous waste, once the waste has been accepted by a licensed hazardous waste hauler. Apportionment for disposal liability shall be determined by each participating jurisdiction's pro rata proportion of household participation in the Program. Apportionment for transportation and treatment liability shall be determined by each participating jurisdiction's pro rata household participation at the event where the waste was generated. COUNTY will use reasonable efforts to obtain recovery from all available resources, including insurance, of any liable hauler or liable disposal facility operator. No liability shall be apportioned to CITY for transportation, treatment or disposal in any case where COUNTY has contracted for such services and has failed to require the contractor to maintain the insurance requirements set forth in Section 25 above.

CITY shall further indemnify COUNTY for CITY's apportioned share of liability incurred and attributed to the Countywide HHW Program for the transportation, treatment or disposal of household hazardous waste at corporate sponsored events where non-county resident employees of the corporate sponsor are authorized to participate in the event. Liability for the nonresident portion of the disposal of waste

shall be shared by the cities and the county as described above. The nonresident portion shall be determined by calculating the percentage of nonresidents participating in the event. This percentage will then be subtracted from the total liability for the household hazardous waste prior to assessing CITY's apportioned share of any liability for the household hazardous waste.

COUNTY shall require CESQGs and Nonprofit Charitable Reusers to indemnify COUNTY for their apportioned share of any liability incurred and attributed to the Countywide HHW Program for the transportation, treatment, or disposal of their hazardous waste, once the waste has been accepted by a licensed hazardous waste hauler. The CESQG and Nonprofit Charitable Reuser portion of the waste shall be determined by calculating the percentage, by weight, of the total household hazardous waste accepted by the CoHHW Program. This percentage will be used to calculate the portion of liability attributed to CESQGs and Nonprofit Charitable Reusers and will be subtracted from the total liability prior to assessing CITY's apportioned share of any liability for household hazardous waste.

## **29. TERMINATION**

This Agreement may be terminated by either the COUNTY or CITY upon thirty (30) days written notice given by the terminating party.

## **30. TERM OF AGREEMENT**

The term of this Agreement shall be from July 1, 2010 to June 30, 2011, or until all revenue from the last quarter's Fee payments has been distributed, whichever is later.

## **31. EXTENSION OF TERM**

This Agreement may be extended for succeeding one-year term if COUNTY and participating jurisdictions so agree in writing.

## **32. INDEPENDENT CONTRACTOR**

Each party shall perform responsibilities and activities described herein as an independent contractor and not as an officer, agent, servant or employee of any of the parties hereto. Each party shall be solely responsible for the acts and omissions of its officers, agents, employee, contractors and subcontractors, if any. Nothing herein shall be considered as creating a partnership or joint venture between the parties.

## **33. EXECUTION BY COUNTERPART**

This Agreement may be executed in any number of counterparts, each of which shall for all purposes be deemed an original and all of which shall together constitute one and the same instrument.

### 34. CONTROLLING LAW

This Agreement shall be governed and construed in accordance with the laws of the State of California.

### 35. ENTIRE AGREEMENT

This document embodies the entire Agreement between the parties with respect to the subject matter hereof. No modification of this Agreement shall be effective unless and until modification is evidenced by writing signed by all parties or their assigned designates.

### 36. NOTICES

All notices and communications herein required shall be in writing to the other party as follows, unless expressly changed in writing:

CITY of <u>San Jose</u>	City Representative	<u>Lee Price</u>
	Representative's Title	<u>City Clerk</u>
	City Address	<u>200 East Santa Clara Street</u>
		<u>San Jose, CA 95113</u>

Santa Clara County	Director
	Department of Agriculture and Environmental Management
	1553 Berger Drive
	San Jose, CA 95112

#### Attachments:

- A Projected FY 2011 AB939 HHW Fee Funding Allocation by Jurisdiction
- B Estimated HHW Program Fixed Costs for FY 2011
- C HHW Schedule of Temporary Events Collection Dates for FY 2011
- D Santa Clara County CESQG Drop-off Price List
- E Household Hazardous Waste Emergency Collection Plan
- F Exhibit B-2D (revised) Insurance Requirements for Environmental Services Contracts

IN WITNESS WHEREOF, the parties have executed this AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM on the dates as stated below:

“COUNTY”

Signature: \_\_\_\_\_

Kevin O’Day  
Acting Director of Department of Agriculture and Environmental Management  
Date: \_\_\_\_\_

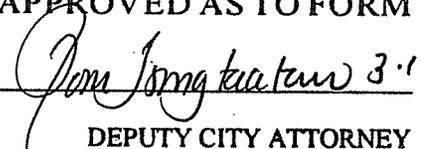
“CITY”

CITY OF San Jose,  
A municipal corporation

By: \_\_\_\_\_  
Title: City Clerk

Date: \_\_\_\_\_

APPROVED AS TO FORM

 3.15.10  
DEPUTY CITY ATTORNEY

APPROVED AS TO FORM AND LEGALITY:

  
Elizabeth G. Pianca  
Deputy County Counsel  
Date: 02/26/2010

APPROVED BY THE OFFICE OF THE COUNTY EXECUTIVE

\_\_\_\_\_  
Sylvia Gallegos  
Deputy County Executive  
Date: \_\_\_\_\_

APPROVED BY THE BOARD

DATE: \_\_\_\_\_

BY: \_\_\_\_\_

Attachment A: Projected FY 2011 AB 939 HHW Fee Funding Allocation by Jurisdiction

Fiscal Years 2011 at 4% of Households

Jurisdiction	Number of Households 6/1/2008	4% of HHs	Total Tons of Waste for AB939 Fee Share	Annual Revenue \$2.60	Fixed Cost \$1.85/HH	Est Variable Cost at \$67/car	City Discretionary Fund
Campbell	16,955	678	27,643.8	\$71,874	\$31,367	\$45,439	(\$4,932)
Cupertino	20,269	811	30,643.47	\$79,673	\$37,498	\$54,321	(\$12,146)
Gilroy	14,874	595	34,692.78	\$90,201	\$27,517	\$39,862	\$22,822
Los Altos	10,829	433	18,636.07	\$48,454	\$20,034	\$29,022	(\$602)
Los Altos Hills	3,126	125	2,029.80	\$5,277	\$5,783	\$8,378	(\$8,883)
Los Gatos	12,973	519	18,181.90	\$47,273	\$24,000	\$34,768	(\$11,495)
Milpitas	19,376	775	50,393.21	\$131,022	\$35,846	\$51,928	\$43,249
Monte Sereno	1,262	50	841.25	\$2,187	\$2,335	\$3,382	(\$3,530)
Morgan Hill	12,952	518	26,628.54	\$69,234	\$23,961	\$34,711	\$10,562
Mountain View	33,680	1,347	54,737.97	\$142,319	\$62,308	\$90,262	(\$10,252)
Palo Alto	28,291	1,132	54,483.74	\$141,658		\$75,820	\$65,838
San Jose	311,452	12,458	566,186.94	\$1,472,086	\$576,186	\$834,691	\$61,208
Santa Clara	44,729	1,789	112,522.99	\$292,560	\$82,749	\$119,874	\$89,937
Saratoga	11,093	444	14,020.75	\$36,454	\$20,522	\$29,729	(\$13,797)
Sunnyvale	55,630	2,225	88,768.14	\$230,797	\$102,916	\$149,088	(\$21,207)
Unincorporated	29,168	1,167	39,378.60	\$102,384	\$53,961	\$78,170	(\$29,747)
<b>Countywide Totals</b>	<b>626,659</b>	<b>25,066</b>	<b>1,139,790</b>	<b>\$2,963,454</b>	<b>\$1,106,981</b>	<b>\$1,679,446</b>	<b>\$177,027</b>

**ATTACHMENT B Estimated HHW Program Fixed Costs By Fiscal Year 2011**

<b>FIXED COST</b>	<b>FY 2011</b>
Staff Salary And Benefits	\$842,000
County Admin Overhead	\$168,400
County Counsel	\$10,000
Phones and Communications	\$10,000
Facilities Lease Costs	\$30,000
Vehicle Lease Costs	\$28,000
Software License	\$5,000
Office Supplies and postage	\$6,000
Maintenance	\$5,000
Staff Training	\$2,500
<b>ESTIMATED ANNUAL TOTAL</b>	<b>\$1,106,900</b>

HMPM, Sr. HMS, .5 AMA, 3  
HMT, Acct, Sr MA  
20% of Salary above  
Sunnyvale

## HHW SCHEDULE FOR FISCAL YEAR 2010/2011

2010/Month	Day	Date	Location	Type of Event	County Holidays/ Notes
July	Saturday	3	No Event	No Event	FOURTH OF JULY
	Friday	9	San Martin	Permanent	
	Saturday	10	San Martin	Permanent	
	Saturday	17	Sunnyvale	Permanent	
	Saturday	24	San Jose	Temporary	
	Saturday	31	Santa Clara	Temporary	
August	Friday	6	San Martin	Permanent	
	Saturday	7	San Martin	Permanent	
	Saturday	14	San Jose	Temporary	
	Saturday	21	Sunnyvale	Permanent	
	Saturday	28	No Event	No Event	
September	Saturday	4	No Event	No Event	SEPT 6/LABOR DAY
	Saturday	11	San Jose	Temporary	
	Saturday	18	Sunnyvale	Permanent	
	Saturday	25	Santa Clara	Temporary	
October	Friday	1	San Martin	Permanent	
	Saturday	2	San Martin	Permanent	
	Saturday	9	No Event	No Event	OCT 11/COLUMBUS DAY
	Saturday	16	Sunnyvale	Permanent	
	Saturday	23	San Jose	Temporary	
	Saturday	30	Cupertino	Temporary	
November	Friday	5	San Martin	Permanent	
	Saturday	6	San Martin	Permanent	
	Friday	13	San Jose	Temporary	
	Saturday	20	Sunnyvale	Permanent	
	Saturday	27	No Event	No Event	THANKSGIVING
December	Friday	3	San Martin	Permanent	
	Saturday	4	San Martin	Permanent	
	Friday	10	San Martin	Permanent	
	Saturday	11	San Martin	Permanent	
	Saturday	18	San Jose	Temporary	
	Saturday	25	No Event	No Event	CHRISTMAS
2011/Jan	Saturday	1	No Event	No Event	NEW YEARS
	Friday	7	San Martin	Permanent	
	Saturday	8	San Martin	Permanent	
	Saturday	15	Sunnyvale	Permanent	
	Saturday	22	San Jose	Temporary	
	Saturday	29	Santa Clara	Temporary	

**HHW SCHEDULE FOR FISCAL YEAR 2010/2011-continued**

<b>2011/Month</b>	<b>Day</b>	<b>Date</b>	<b>Location</b>	<b>Type of Event</b>	<b>County Holidays/ Notes</b>
<b>February</b>	Friday	4	San Martin	Permanent	
	Saturday	5	San Martin	Permanent	
	Saturday	12	No Event	No Event	FEB 14/PRESIDENTS DAY
	Saturday	19	Sunnyvale	Permanent	
	Saturday	26	San Jose	Temporary	
<b>March</b>	Friday	4	San Martin	Permanent	
	Saturday	5	San Martin	Permanent	
	Friday	11	San Martin	Permanent	
	Saturday	12	San Martin	Permanent	
	Saturday	19	Sunnyvale	Permanent	
	Saturday	26	San Jose	Temporary	
<b>April</b>	Friday	1	San Martin	Permanent	
	Saturday	2	San Martin	Permanent	
	Saturday	9	Los Altos	Temporary	
	Saturday	16	Sunnyvale	Permanent	
	Saturday	23	Santa Clara	Temporary	
	Saturday	30	San Jose	Temporary	
<b>May</b>	Friday	6	San Martin	Permanent	
	Saturday	7	San Martin	Permanent	
	Saturday	14	San Jose	Temporary	
	Saturday	21	Sunnyvale	Permanent	
	Saturday	28	No Event	No Event	MAY 30/MEMORIAL DAY
<b>June</b>	Friday	3	San Martin	Permanent	
	Saturday	4	San Martin	Permanent	
	Saturday	11	San Jose	Temporary	
	Saturday	18	Sunnyvale	Permanent	
	Saturday	25	Milpitas	Temporary	

\*SUBJECT TO CHANGE

1/7/2010

**SANTA CLARA COUNTY CESQG DROP-OFF PRICE LIST**

Attachment D:

HAZARD CATEGORY	DESCRIPTION OF WASTES	ESTIMATE COST
	<b>MOTOR OIL</b>	FREE
	<b>ANTIFREEZE, TRANSMISSION FLUID, HYDRAULIC FLUID</b>	\$3.00/GAL
<b>RECYCLE</b>	<b>CAR BATTERIES</b>	\$5.00 EACH
	<b>PCB BALLASTS (MOST TODAY ARE NON-PCB--&gt;Goes to E-WASTE RECYCLER)</b>	\$2.00/LB
	<b>MIXED BATTERIES (Li-Ion batteries must be taped)</b>	\$2/LB
<b>AEROSOL</b>	<b>AEROSOL CANS</b>	\$1.25 EACH
<b>FLAMABLE LIQUID W/O SOLIDS</b>	<b>POURABLE LIQUIDS: ALCOHOLS, SOLVENTS, GASOLINE, ACETONE, MEK, KEROSENE, DIESEL, CLEAN PAINT THINNER (SLUDGE FREE)</b>	\$7.00/GAL
<b>LATEX PAINT</b>	<b>LATEX/WATER-BASED</b> CHARGED BY LIQUID AMOUNT (BULKED) CHARGED BY CONTAINER, REGARDLESS OF AMOUNT OF PAINT	\$8.00/GAL \$2/QUART CONTAINER
	<b>POURABLE LIQUIDS WITH SOLIDS: INK (LIQUID), FLUX, OIL &amp; WATER, DIRTY PAINT THINNER (W/SLUDGE), MACHINE OIL, COMPRESSOR OIL</b>	\$10/GAL
<b>FLAMABLE LIQUIDS W/ SOLIDS</b>	<b>OIL BASE PAINT</b> CHARGED BY LIQUID AMOUNT CHARGED BY CONTAINER, REGARDLESS OF AMOUNT OF PAINT	\$10.00/GAL \$2/QUART CONTAINER
	<b>ADHESIVES, ROOFING TAR, SLUDGES/SOLIDS, GREASE, EPOXY PART A (RESIN), INK (POWDERED), EPOXY, RESINS</b>	\$2/QUART CONTAINER
	<b>CONTAINER CHARGE, PRICE REGARDLESS OF AMOUNT OF MATERIAL</b>	\$10/1 GAL CONTAINER \$50/5 GAL CONTAINER
<b>LAB PACK</b>	<b>LAB CHEMICALS, POISONS, BASES, ACIDS, NON-CORROSIVE AQUEOUS SOLUTIONS, GLUTARALDEHYDE, PHOTOCHEMICALS, NEUTRAL CLEANERS, COMPATIBLE MIXTURES, AMMONIA, ACIDS, BASES, METALS (LIQUID OR SOLID), OIL FILTERS, ABSORBENT, CONTAMINATED SOIL, CHLORINATED LIQUIDS, REFRIG. OIL, FREON, COLD STERILE, VAPO STERILE, CONTAMINATED OIL, DEGREASER, EPOXY PART B (HARDENER), MERCURY WASTE, ASBESTOS, ETC</b> CONTAINER CHARGE, PRICE REGARDLESS OF AMOUNT OF MATERIAL	\$20/1 GAL CONTAINER, \$100/5 GAL CONTAINER, (LIQUID) OR \$2/LB (SOLID)
<b>LAB PACK PRM</b>	<b>PAINT RELATED MATERIALS (OILY RAGS, FLAM LIQUIDS SMALLER THAN 1 GALLON, ETC)</b>	\$10/GAL CONTAINER
	<b>PROPANE TANKS</b>	16.4 OZ/\$5 OR 5 GAL/\$10 EA
	<b>TREATED WOOD</b>	REFER TO LANDFILLS
	<b>PAINT CHIPS</b>	\$11.55/GAL
<b>OTHER</b>	<b>FLUORESCENT TUBES</b> + MUST BE BOXED AND LABELED	\$0.15/FT
	<b>SODIUM &amp; HID BULBS</b> + MUST BE BOXED AND LABELED	\$2 EA
	<b>COMPACT FLUORESCENT BULBS (U, Circ, CFL)</b> + MUST BE BOXED AND LABELED	\$1.50 EA
	<b>FIRE EXTINGUISHERS</b>	\$10 SMALL & \$20 LARGE
	<b>FIXER &amp; DEVELOPER</b> + DO NOT MIX	\$15/GAL CONTAINER
	<b>MINIMUM CHARGE FOR ANY DROP-OFF regardless of type or quantity of waste</b>	\$40.00
	<b>HOURLY OFFICE/SITE FEE (PER HOUR WHEN APPLICABLE)</b>	\$40.00/HR.

PRICES AS OF 3/13/2009. PRICES SUBJECT TO CHANGE. FOR QUESTIONS PLEASE CALL (408) 299-7300.

**Attachment E**

**HOUSEHOLD HAZARDOUS WASTE  
EMERGENCY COLLECTION PLAN**

**1: PURPOSE**

The purpose of the Household Hazardous Waste Emergency plan is to minimize potential public health and safety impacts, as well as to minimize costs and confusion during an emergency or disaster. This Attachment describes the services the County can provide and the responsibilities of each party for the collection of household hazardous wastes (HHW) in response to an emergency as defined by the local jurisdiction.

Jurisdictions should contact local emergency agencies, the Governor's Office of Emergency Services (OES), and the Department of Toxic Substances Control (DTSC) for more specific information on hazardous materials emergency response.

**2. Timing of HHW**

While it is important to have special collection opportunities for disaster-related HHW as soon as possible to avoid illegal disposal or harm to people and/or the environment, having an event or service too soon after a disaster may result in low participation. Sufficient public notification, assessment and monitoring of the disaster, and cleanup process by the City HHW Coordinators is essential.

**3. Public Information/Notification:**

Cities should be prepared to provide the public with information related to the problems associated with HHW along with information about special collection events and services. Upon the decision to hold an emergency collection event, it is the City's responsibility to prepare and deliver the necessary public outreach to notify the public of an upcoming event. A City's public outreach program should evaluate all forms of media including: newspaper ads, posters, flyers, press releases, banners, door -to-door notices, roadside signs, signs on dumpsters, radio public service announcements, and television public access stations. Be aware of communities where multiple language ads will be necessary.

**4. State HHW Collection Permits**

The State Department of Toxic Substances Control (DTSC) is responsible for issuing the necessary state permits for HHW collection facilities. During an emergency, the County will obtain the necessary emergency permit, for special collection of household hazardous waste, from DTSC through their expedited approval process.

## 5. Collection Events

Temporary collection events can be set-up at various sites including parking lots, city maintenance yards, neighborhoods needing service, and at landfills or a centralized location to service larger segments of the population. Waste collected can be transported with the HHW Program's hazardous waste transportation vehicle. In addition, events can be scheduled at the two existing Countywide Household Hazardous Waste Collection Facilities (CoHHWCF). The following options are available to each participating City.

- **Neighborhood Drop-off Events:** The County is able to provide localized service to specific areas in need of household hazardous waste collection services. The County will work with City Solid Waste Coordinators to conduct coordinated efforts to residents in the affected area. After a specific event, waste will be transported by County staff or a hazardous waste contractor to an appropriate facility.
- **Mobile HHW Event:** The County conducts Household Hazardous Waste Collection Event (Events) at various sites located in Santa Clara County throughout the year. Events will be expanded to give priority to disaster victims when requested by the City. The County shall obtain all necessary permits and licenses required for the events and shall provide and/or contract for the services of properly trained personnel and hazardous waste haulers. The County shall also provide or secure suitable equipment and supplies to properly receive, package, label, haul, recycle and dispose of the household hazardous wastes collected at events.
- **CoHHWCF:** The County operates two permitted HHW collection facilities for the collection and storage of HHW. The County shall provide or contract for services, equipment, and supplies to properly receive, package, label, haul, recycle and dispose of wastes collected at the CoHHWCF.

The CoHHWCF are located at:

- *Sunnyvale Recycling Center, 164 Carl Ave., Sunnyvale*
- *San Martin, 13055 Murphy Ave, San Martin*

## 6. Costs, Documentation and Reimbursements

Cities will be billed on a cost recovery basis. Costs of emergency events will be tracked and billed separately. Emergency funding applications pending from the State or Federal government for reimbursements in no way relieves the City of responsibility to make timely payment to the County in accordance with the terms of the AGENCY AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM.

The County agrees to provide the City with a detailed accounting of services provided for an emergency collection. Documentation will track the time and materials of staff, outside contractor expenses, and quantities and types of waste collected to demonstrate that the wastes were generated above and beyond existing collection programs.

Services to businesses will be provided on a cost recovery basis and according to Attachment D of the AGENCY AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM, which includes program administration, on-site collection, transportation, and disposal costs. The County will assume responsibility for collecting fees from participating businesses.

## **7. State and Federal Assistance and Funds**

It is the city's responsibility to pursue reimbursement from State or Federal agencies.

### State Office of Emergency Services (OES)

The OES is responsible for requesting assistance on behalf of local jurisdictions for resources beyond the capability of the jurisdiction. State assistance may include assistance available from State, Federal, or private sources. If a local jurisdiction is declared a state disaster area, and the local jurisdiction deems that the needs of the disaster response are beyond its capabilities, then the local jurisdiction can request assistance and reimbursement of costs from OES.

### Follow Standardized Emergency Management System (SEMS)

All requests and emergency responses must be in accordance with the SEMS. The State Department of Toxic Substances Control may have funding available for hazardous waste response and collection.

### Federal Assistance

If a state disaster area is declared a federal disaster, then federal funding assistance may be available through the State OES. Funding and assistance may be available from Federal agencies such as FEMA and the U.S. EPA.

**Damage estimates:** The city should provide to the State OES estimates of damages and a "scope of work requested." It is recommended that the local HHW coordinator meet ahead of time with local emergency agencies or State OES contacts regarding the proper procedures and wording of requests for assistance.

**Funding Process:** The funding process may vary depending on the unique circumstances of the disaster. The process can either be the traditional FEMA reimbursement process, or by direct assistance from EPA.

## **REFERENCES**

California Integrated Waste Management Board, Integrated Waste Management Disaster Plan: Guidance for local government on disaster debris management, January 1997.

## Emergency Planning Contacts and Personnel

**Primary County Contact:** County of Santa Clara  
Department of Environmental Health  
Household Hazardous Waste Program  
Rob D'Arcy  
Hazardous Materials Program Manager  
408-918-1967

**Responsibility:** Coordinate and establish proper collection and disposal methods for household hazardous waste. Assess the need for HHW and CESQG services in consultation with the City and other operations.

### Information and Public Affairs

2800 Meadowview Road  
Sacramento, CA 95832  
916/262-1843  
916/262-1841 (voice/TDD)

### OES - Coastal Region

1300 Clay Street, Suite 400  
Oakland, CA 94612  
510/286-0895  
510/286-0877 (voice/TDD)

**CHEMTREC**      Emergency number, (800) 424-9300  
Non-emergency (800) 262-8200

Chemtrec is a public service established by the Chemical Manufacturers Association. The Center was developed as a resource for obtaining immediate emergency response information to mitigate accidental chemical releases, and as a means for emergency responders to obtain technical assistance from chemical industry product safety specialists, emergency response coordinators, toxicologists, physicians, and other industry experts to safely mitigate incidents involving chemicals.