



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kerrie Romanow

SUBJECT: SEE BELOW

DATE: March 26, 2012

Approved

Date

4/5/12

SUBJECT: 2012-2015 COUNTYWIDE AB939 IMPLEMENTATION FEE AND PARTICIPATION IN THE COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM

RECOMMENDATION

Adopt a resolution authorizing the City Manager to execute the Agency Agreement with the County of Santa Clara for Countywide Household Hazardous Waste Collection Program for 2012—2015, at a cost of \$200,000 each year, subject to appropriation of funds, and the Agency Agreement with the County of Santa Clara for Countywide AB939 Implementation Fee for 2012—2015, contingent on and in conjunction with the execution of a Sublease between the City of San José and the County of Santa Clara for use of City property for the Household Hazardous Waste Collection Program.

OUTCOME

With execution of these agreements, the County of Santa Clara will continue performing household hazardous waste (HHW) collection services and will collect the AB939 Implementation Fee at \$4.10 per land filled ton, on behalf of the City through June 30, 2015. Continuing these services ensures the City will be able to accommodate the growing number of residents utilizing the HHW drop-off service. The City will also continue to provide a means for reducing the amount of toxins that enter the City's landfills, recycling facilities, storm sewers, and sanitary sewers, and prevent these toxins from threatening both San Francisco Bay and local groundwater.

BACKGROUND

The HHW program supports the goals of the City's Green Vision, Zero Waste Plan, and Urban Environmental Accords by helping to divert hazardous waste from landfills and by protecting the

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ecological integrity of the Bay and the City's drinking water supply. This program also provides a legal means that residents have available to dispose of hazardous materials, as well as products classified as Universal Wastes (UW) such as batteries, fluorescent tubes, and compact fluorescent lamps that contain mercury, lead, cadmium, copper, and other substances hazardous to human health and the environment if not properly handled. 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.

The California Integrated Waste Management Act of 1989 (AB939) authorizes local jurisdictions to impose fees to recover the costs of implementing and administering source reduction and recycling programs. To comply with state law and local needs, the County of Santa Clara (County) and fourteen cities in the County cooperated in the creation of the HHW Program. Since 1992, all cities except for the City of Palo Alto have contracted with the County to collect the AB939 Implementation Fee and provide HHW services through an Agency Agreement for Countywide Household Hazardous Waste Collection Program. The County administers all operational aspects of the HHW Program and is responsible for recycling and waste disposal.

On February 22, 2012, the County Recycling and Waste Reduction Commission (RWRC), which is the principal advisory body to the County city councils and the Board of Supervisors on Countywide solid waste planning issues approved reauthorization of the AB939 fee for 2012—2015. Subsequently, all participating cities must approve the Agency Agreement for Countywide AB939 Implementation Fee by June 30, 2012. The fee is proposed to remain at \$4.10 per ton land filled for the period 2012—2015. Should one or more jurisdictions not approve this agreement, the AB939 Implementation Fee will not be collected, effective July 1, 2012.

ANALYSIS

The AB939 Implementation Fee is charged by the landfills to the franchised haulers for each ton of material disposed. For 2012—2015, there will be no fee increase; the rate of \$4.10 per ton established in 2009—2010 is proposed to remain unchanged. The AB939 Implementation Fee is comprised of two components: \$2.60 per ton for household hazardous waste services, and \$1.50 per ton to assist in funding the costs of preparing, adopting, and implementing the State-mandated County Integrated Waste Management Plan for the 15 cities and the unincorporated area of the County. Staff projects that waste disposed in Santa Clara County from San José will be approximately 539,000 tons for 2012—2013, representing half of the total Countywide tonnage.

For 2012—2013, the total revenue generated from the AB939 Implementation Fee to fund San José's share of County provided HHW services is estimated at \$1,400,000. In addition, approximately \$809,000 in revenue generated from the AB939 Implementation Fee will support the City's share of the County Integrated Waste Management Plan. Once approved by Council and the County Board of Supervisors, the fee will be effective July 1, 2012.

To accommodate approximately 3,000 additional HHW drop-off appointments from San José residents, and to decrease the estimated average wait time for an appointment from six to four weeks, additional funding will be required beyond the AB939 Implementation Fee allocation. Ongoing funding was approved as part of the 2010-2011 Adopted Operating Budget in both the Sewer Service and Use charge Fund (\$100,000) and the Storm Sewer Operating Fund (\$100,000) to support these additional services, and will be available in future years, subject to appropriation of funds.

The new, permanent San José HHW collection facility located at the San José Environmental Innovation Center is expected to be available for occupation in early 2013. On December 8, 2011, the RWRC Technical Advisory Committee (TAC) approved a funding strategy to support the lease charged by the City to the County for use of the HHW portion of the San José Environmental Innovation Center. The funding strategy consists of a cost share between the fixed cost allocation of the AB939 Implementation Fee, which would support approximately half of the anticipated lease charge, and by a facility use surcharge to each participating city in the program to equitably distribute the remainder of the lease charge. The facility use surcharge would be adjusted annually based on actual participation at the facility.

EVALUATION AND FOLLOW-UP

Upon approval, the agreements will require RWRC approval on April 25, 2012, and County Board of Supervisors approval on May 22, 2012. The County will then collect the AB939 Implementation Fee on behalf of the City and will provide HHW collection services for the City beginning July 1, 2012. Staff does not anticipate any additional Council action for the administration of this program during the term of these agreements.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 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)**
- Criterion 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)**

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Although this item does not meet the criteria listed above, this program has been discussed at publicly noticed meetings of the TAC and RWRC. 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 April 17, 2012.

COORDINATION

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

COST IMPLICATIONS

The total cost for the additional appointments in 2012—2013 is \$200,000 and will be funded from Fund 541 - Sewer Service and Use Charge Fund (\$100,000) and from Fund 446 - Storm Sewer Operating Fund (\$100,000) in Environmental Services Non-Personal/Equipment appropriations, subject to appropriation of funds. These funds were approved by the City Council on an ongoing basis in the 2010—2011 Adopted Operating Budget by Council in June 2010. The recommended agreement will incorporate this additional funding.

CEQA

File No. PP09-138, Mitigated Negative Declaration for the San José Environmental Innovation Center, adopted December 1, 2009.

/s/

KERRIE ROMANOW

Acting Director, Environmental Services

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