

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

This Agreement is made by and between the City of San José (CITY) and the County of Santa Clara (COUNTY) on the _____ day of _____ 2021.

RECITALS

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

WHEREAS, CITY desires to provide residents with convenient opportunities to safely dispose of their 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, CITY desires to provide a safe, convenient, and economical means for residents to dispose of HHW. These wastes include, but are not limited to, common household products such as household cleaning products, furniture polish, solvents, oven cleaner, pesticides, oil based paints, motor oil, antifreeze, car batteries, mercury thermostats, fluorescent lamps, household batteries, and electronic waste; and

WHEREAS, CITY desires to schedule Household Hazardous Waste Collection Events (Events) for residents for FY 2022 through FY 2024 (July 1, 2021 – June 30, 2024); and

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

WHEREAS, CITY desires to participate in the Countywide Household Hazardous Waste Collection Program to meet these objective; and

WHEREAS, pursuant to Public Resources Code Section 41901, the County Board of Supervisors has approved the collection of a \$4.10 per ton Countywide AB939 Implementation fee, including a \$2.60 Household Hazardous Waste Fee (AB939 HHW Fee), for FY 2022 through FY 2024 (July 1, 2021 – June 30, 2024) on wastes 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; and.

WHEREAS, the AB939 HHW Fee is allocated to the Countywide Household Hazardous Waste Program and participating jurisdictions to fund HHW program cost in accordance with the terms of the Countywide AB939 Implementation Fee Agreement; and

WHEREAS, CITY desires for COUNTY to utilize CITY's share of the AB939 HHW Fee to provide HHW services for CITY residents.

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 AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM with the County.

2. PROGRAM FUNDING SOURCE

HHW Program services are mandated by State law, Public Resources Code Section 41500 et seq. State law authorizes cities and counties to impose fees in amounts sufficient to support planning and implementation of integrated waste management programs, including HHW elements. The AB939 HHW Fee, of \$2.60 per ton, imposed by the County as part of the AB939 Implementation Fee and collected and distributed in accordance with the AGREEMENT FOR COUNTYWIDE AB939 IMPLEMENTATION FEE will be the primary source of funding for CoHHW Program services. CITY agrees that COUNTY may utilize CITY's share of the AB939 HHW Fee to provide HHW Program services in accordance with the terms and conditions of this Agreement.

Funds derived from the AB939 HHW Fee will be allocated among five 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 recent Report, "Population Estimates for California Cities and Counties."
- B. San José Facility Use Surcharge will be apportioned based on CITY residents' participation at the County Household Hazardous Waste Collection Facility located at 1608 Las Plumas Avenue, San José, CA 95133.
- C. Variable Cost Per Car is the cost associated with labor, waste disposal, transportation, and other services provided to residents at the County HHW Collection Facilities and at temporary HHW collection events. The Variable Cost Per Car is based on the estimated cost of providing a base level service to 4% of

households in all participating jurisdictions. 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 recent Report, "Population Estimates for California Cities and Counties."

- D. Available Discretionary Funding is allocated based on tonnage generated per participating jurisdiction, and after allocation of Fixed Program Costs, San Jose Facility Use Surcharge, and Variable Cost Per Car allocation.
- E. Abandoned Waste Disposal Costs will fund disposal of HHW illegally abandoned at Nonprofit Charitable Reuser organizations as defined in Public Resources Code Section 41904.

The projected AB939 HHW Fee Allocation by jurisdiction is set out in Attachment A, attached hereto and incorporated herein.

3. FIXED PROGRAM COST

Estimated HHW Fixed Program Costs are projected in Attachment B, attached hereto and incorporated herein. Fixed Program Costs are allocated to CITY at the conclusion of each fiscal year based on CITY's proportional share of the County population and will not exceed \$3.75 per household for Fiscal Years 2022, 2023, and 2024. Fixed Program Costs may include, but are not limited to up to eleven (11) CoHHW Program staff members, facility lease 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 changes.

4. ABANDONED WASTE DISPOSAL COST

The Abandoned Waste Disposal Cost will fund disposal of HHW illegally abandoned at Nonprofit Charitable Reuser organizations. The Abandoned Waste Disposal Cost is based on the cost to the County to dispose of abandoned waste allocated among participating jurisdictions based on their proportional share of the County population and shall not exceed \$0.05 per household. Projected Abandoned Waste Disposal Cost to the CITY based on a charge of \$0.05 per household are set forth in Attachment A, attached hereto and incorporated herein.

For the purposes of this Agreement, "Nonprofit Charitable Reuser Organization" is defined in accordance with Public Resources Code Section 41904 as follows: a charitable organization, as defined in Section 501(c)(3) of the federal Internal Revenue Code, or a distinct operating unit or division of the charitable organization, that reuses and recycles donated goods or materials and receives more than 50 percent of its revenues from the handling and sale of those donated goods or materials.

5. SAN JOSÉ FACILITY USE SURCHARGE

The total San José Facility Use Surcharge for CITY will be based on CITY resident's proportional participation at the County Household Hazardous Waste Collection Facility located at 1608 Las Plumas Avenue, San José. Estimated San José Facility Use Surcharges are projected

in Attachment A, attached hereto and incorporated herein. The San José Facility Use Surcharge will vary depending on facility usage but will not exceed \$8.29 per car for Fiscal Years 2022, 2023, and 2024.

6. 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 \$58.20 per participating resident car for Fiscal Years 2022, 2023 and 2024. The estimated cost per car will be adjusted to reflect actual service costs. After Fixed Program Costs are allocated on a per household basis and San José Facility Use Surcharge is allocated on a participation 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 the CITY, the CoHHW Program may use the remaining balance of funds, in cooperation with the CITY, to increase public outreach and/or provide additional services in that jurisdiction the following year.

7. 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, San José Facility Use Surcharge, and Variable Cost Per Car allocation. 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, the support of capital infrastructure projects to accommodate HHW drop-off and collection events, or providing special programs such as retail collection of certain waste and/or door-to-door collection of HHW for the elderly and/or persons with disabilities and neighborhood clean-up events. COUNTY has discretion to determine appropriate uses of Available Discretionary Funding in accordance with the terms and conditions in this Agreement, and to apply the funding toward those uses.

8. ADMINISTRATION AND PAYMENT OF THE AB939 HHW FEE

The County of Santa Clara Recycling and Waste Reduction Division will administer the AB939 HHW Fee, as part of the existing online disposal reporting and payment system. Administration and payment will be made in accordance with the AGREEMENT FOR COUNTYWIDE AB939 IMPLEMENTATION FEE and this Agreement. 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.

9. PROGRAM PUBLICITY

The CoHHW Program shall produce and make available to the public an HHW brochure for distribution. The brochure will be made available at various events, including but not limited to, environmental events and community fairs. The brochure may 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 HHW promotion communications to residents for local and CITY newsletters, newspapers and to the electronic media;
- Providing the CoHHW Program with a copy of HHW promotion materials produced by the CITY; and,
- Conducting and supporting outreach and publicity to attain the goal of 4% of households in the CITY participating in the CoHHW Program.

10. TEMPORARY HHW EVENTS

COUNTY shall conduct Temporary 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.

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11. HOUSEHOLD HAZARDOUS WASTE COLLECTION FACILITIES

COUNTY shall conduct collection operations at two County Household Hazardous Waste Collection Facilities (CoHHWCF).

The CoHHWCF are located at:

- ◆ *San Martin, 13055 Murphy Avenue, San Martin, CA 95046*
- ◆ *San José, 1608 Las Plumas, San José, CA 95133*

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) in accordance with California Health and Safety Code Section 25218.3, as amended from time to time. Eligible businesses within the County will be allowed to bring their hazardous waste to CoHHWCF. These services to businesses located within the CITY 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 fee collection from participating businesses. The CITY may choose to pay for services for CESQG's within the City of San José and will notify the COUNTY in writing with 30-day advance notice in order to exercise this option. If the CITY exercises this option, the COUNTY will invoice the CITY for all costs associated with CSQG's within the CITY. If CITY has available Discretionary Funding, COUNTY may use this funding to pay for CESQG costs. For purposes of this Agreement, CESQG has the meaning provided by Health and Safety Code Section 25218.1.

13. ABANDONED HOUSEHOLD HAZARDOUS WASTE

The CoHHW Program will allow for the disposal of abandoned HHW by government agencies and qualified 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.

A) GOVERNMENT AGENCIES

Government agencies shall be charged for disposal of abandoned HHW according to the CoHHW Program's published rates for CESQGs.

B) NONPROFIT CHARITABLE REUSER

In order to qualify as a Nonprofit Charitable Reuser, the business must submit to the County Executive a request to be so designated. The County Executive 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.

14. 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, 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.

15. 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.

16. ADDITIONAL SERVICES UNDER THIS AGREEMENT

CITY must augment funding provided under this Agreement to cover the cost of a minimum participation level of 4% of CITY household; CITY may also elect to augment funding to provide additional services to increase CITY participation beyond the 4% minimum participation level. Additional services shall be made available upon written agreement between the CITY's authorized representative and the County Executive Officer or designee. 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 \$200,000 to the Countywide HHW Program during Fiscal Year 2022 for the purpose of attaining or increasing CITY household participation above the 4% minimum participation level at the scheduled collection dates listed in Attachment C, attached hereto and incorporated herein. COUNTY will calculate the augmentation where applicable, at the Variable Cost Per Car rate. COUNTY will charge CITY for other services 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 offset the above agreed additional augmentation amount.

At the end of each fiscal year, COUNTY will prepare and issue a final annual cost statement by November 30th. The annual cost statement will account for costs incurred on behalf of CITY for additional services and all payments made by CITY to COUNTY. If CITY owes any balance to COUNTY, CITY shall pay it within 30 days of receipt of the annual cost statement. If COUNTY owes CITY any credit, COUNTY will refund that amount to CITY within 30 days of delivery of the annual cost statement.

17. INFORMATION AND APPOINTMENT LINE

COUNTY will operate a telephone information and appointment desk Monday through Friday, from the hours of 9:00 a.m. to 5:00 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 if resident participation approaches a level of service that may not be supported by available funding.

18. 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 2022 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. The COUNTY determines the adequate number of collection days by tracking attendance at each event.

19. OUTSIDE FUNDING

During the term of this Agreement, COUNTY may seek outside funding sources to for services that would supplement existing HHW services such as permanent collection sites, equipment, retail take-back collection and operational funding. If outside funding is obtained, the CoHHW Program will, at COUNTY's discretion, proceed with development of additional programs using that outside funding without drawing on CITY's funding provided under this agreement.

20. REGIONAL GRANT AND OIL PAYMENT PROGRAM PARTICIPATION

The CITY authorizes the CoHHW Program to apply for lead agency grants, including but not limited to Used Oil Payment Program grants, from the California Department of Resources Recycling and Recovery (CalRecycle), on behalf of participating jurisdictions. The CoHHW Program will act on behalf of all participating jurisdictions, as the lead applicant and 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

the COUNTY or a participating jurisdiction from applying for grant funds in any case where the CoHHW Program does not apply for the grant opportunity.

21. 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 D 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 D, COUNTY Household Hazardous Waste Emergency Collection Plan.

COUNTY agrees to conduct the Emergency Collection 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 Collection Events on a cost recovery basis and all payments shall be due COUNTY within thirty days following the receipt of the invoice.

22. 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, including the CITY, and the COUNTY, as described in Section 26 of this Agreement. Summary information concerning these corporate sponsored events, if any, will be included in the CoHHW Program's annual report to the participating jurisdictions.

23. INSURANCE REQUIREMENTS

Contractors who provide hazardous waste transportation, treatment, or disposal services shall have the required insurance as outlined in Attachment E, 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.

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24. WASTE TRACKING AND REPORTING

COUNTY will provide a mid-year report to CITY regarding participation rates from each participating jurisdiction by March 15 of each year. 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.

25. PARTICIPATION REPORTING

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

26. 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 23 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, at minimum 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.

27. TERMINATION

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

28. TERM OF AGREEMENT

The term of this Agreement shall be from July 1, 2021 to June 30, 2024, or until all revenue from the last quarter's Fee payments has been distributed, whichever is later except that a condition precedent to this Agreement taking effect is the COUNTY's extension of the current 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..

29. 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, employees, contractors and subcontractors, if any. Nothing herein shall be considered as creating a partnership or joint venture between the parties.

30. 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.

31. CONTROLLING LAW

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

32. 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.

33. 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 José</u>	City Representative <u>Kerrie Romanow</u> Representative's Title <u>Director of Environmental Services</u> City Address <u>200 E. Santa Clara Street, 10th Floor</u> <u>San José, CA 95113</u>
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Santa Clara County	Director Consumer and Environmental Protection Agency 1553 Berger Drive San José, CA 95112
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34. CONTRACT EXECUTION

Unless otherwise prohibited by law or County policy, the parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term “electronic copy of a signed contract” refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format. The term “electronically signed contract” means a contract that is executed by applying an electronic signature using technology approved by the County.

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

Date: _____

COUNTY OF SANTA CLARA

JEFFREY V. SMITH
County Executive

Date: _____

“CITY”

CITY OF SAN JOSE, a municipal
corporation

TONI J. TABER, CMC
City Clerk

APPROVED AS TO FORM AND
LEGALITY:

APPROVED AS TO FORM:

STEPHANIE SAFDI
Deputy County Counsel

MARK VANNI
Senior Deputy City Attorney

Attachments:

- A Projected Fiscal Years 2022, 2023, and 2024 AB939 HHW Fee Funding Allocation by Jurisdiction
- B Estimated HHW Program Fixed Costs for Fiscal Years 2022, 2023, and 2024
- C HHW Schedule of Collection Events for Fiscal Year 2022
- D Household Hazardous Waste Emergency Collection Plan
- E Exhibit B-2D (revised) Insurance Requirements for Environmental Services Contracts

ATTACHMENT A: PROJECTED FISCAL YEARS 2022-2024 ANNUAL HHW FEE FUNDING ALLOCATION BY JURISDICTION

Cities	No of Households	4% of Households	Disposal Tonnage	AB939 HHW Fee \$2.60 per Ton	Fixed Cost \$3.75 per HH	SJ Facility \$8.29 Surcharge	Variable Cost \$58.20 per Car	Abandoned Waste Disposal Cost \$.05 per Household	Discretionary Fund	Estimated Augmentation	Anticipated Participation	Anticipated Participation at SJ Facility
Campbell	18,158	726	40,970	\$ 106,521	\$ 68,093	\$ 7,162	\$ 42,272	\$ 908	\$ (11,913)	\$ 45,525	1,268	1,221
Cupertino	21,050	842	41,603	\$ 108,168	\$ 78,938	\$ 4,242	\$ 49,004	\$ 1,053	\$ (25,068)	\$ 36,963	1,034	723
Gilroy	16,676	667	53,681	\$ 139,571	\$ 62,535	\$ 1,086	\$ 38,822	\$ 834	\$ 36,295	\$ 23,027	1,038	185
Los Altos	11,677	467	17,678	\$ 45,963	\$ 43,789	\$ 4,188	\$ 27,184	\$ 584	\$ (29,781)	\$ 90,803	1,451	714
Los Altos Hills	3,180	127	9,303	\$ 24,188	\$ 11,925	\$ 958	\$ 7,403	\$ 159	\$ 3,743	\$ 4,413	259	163
Los Gatos	13,637	545	25,338	\$ 65,878	\$ 51,139	\$ 6,784	\$ 31,747	\$ 682	\$ (24,474)	\$ 66,018	1,216	1,157
Milpitas	22,553	902	100,225	\$ 260,586	\$ 84,574	\$ 5,247	\$ 52,503	\$ 1,128	\$ 117,135	\$ 24,851	1,303	895
Monte Sereno	1,383	55	1,278	\$ 3,323	\$ 5,186	\$ 789	\$ 3,220	\$ 69	\$ (5,941)	\$ 11,138	139	135
Morgan Hill	15,350	614	43,759	\$ 113,774	\$ 57,563	\$ 2,252	\$ 35,735	\$ 768	\$ 17,456	\$ 78,579	1,881	384
Mountain View	36,727	1,469	77,033	\$ 200,285	\$ 137,726	\$ 4,700	\$ 85,500	\$ 1,836	\$ (29,478)	\$ 39,356	1,628	802
Palo Alto	29,298	0	63,437	\$ 164,936		\$ -	\$ -	\$ 1,465	\$ 163,471			
San Jose	336,507	13,460	810,331	\$ 2,106,860	\$ 1,261,901	\$ 114,172	\$ 783,388	\$ 16,825	\$ (69,427)	\$ 476,507	20,026	19,470
Santa Clara	48,975	1,959	160,175	\$ 416,455	\$ 183,656	\$ 9,178	\$ 114,014	\$ 2,449	\$ 107,157	\$ 121,604	3,920	1,565
Saratoga	11,301	452	19,996	\$ 51,990	\$ 42,379	\$ 4,458	\$ 26,309	\$ 565	\$ (21,720)	\$ 45,244	831	760
Sunnyvale	60,273	2,411	116,128	\$ 301,932	\$ 226,024	\$ 6,717	\$ 140,316	\$ 3,014	\$ (74,138)	\$ 152,321	3,672	1,145
Unincorporated	18,558	742	38,112	\$ 99,092	\$ 69,593	\$ 4,640	\$ 43,203	\$ 928	\$ (19,271)	\$ 57,932	1,677	791
Total	665,303	25,440	1,619,047	\$ 4,209,522	\$ 2,385,019	\$ 176,572	\$ 1,480,620	\$ 33,265	\$ 134,047	\$ 1,274,282	41,345	30,110

Notes: Number of HH and Disposal tonnage are based on FY2019-2020 actuals. Anticipated participation and anticipated participation at SJ facility are based on 15% increase from FY2018-2019 actual participation.

**ATTACHMENT B: ESTIMATED ANNUAL HHW PROGRAM FIXED COSTS
FOR FISCAL YEARS 2022, 2023, AND 2024**

FIXED COST		
Staff Salary and Benefits	.2 HMPD, .65 HMPM, Sup HMS, 3 HMTs, .85 Acct II, .85 SR. MA, .85 AMA, .15 MA, OSIII.	\$ 1,568,215.75
County Admin Overhead		\$421,899
County Counsel		\$13,650
Phones and Communications		\$10,605
Facilities Lease Costs	San Jose	\$176,572
Vehicle Costs		\$34,125
Office Supplies and postage		\$1,916
Maintenance, Software		\$115,500
HHW Hotline		\$50,000
Garbage & Utilities		\$36,488
Membership & Dues		\$15,750
Training & Conference		\$5,250
Safety Wear		\$21,840
Printing		\$13,583
Other Services & Supplies		\$56,175
ESTIMATED ANNUAL TOTAL		\$2,541,568

**ATTACHMENT C: HHW SCHEDULE OF PERMANENT & TEMPORARY
COLLECTION EVENTS FOR FISCAL YEAR 2021-2022***

2021/Month	Day	Date	Location	Type of Event	County Holidays/ Notes
July	Thurs,Fri	1,2	San Jose	Permanent	
	Saturday	3	No Event	No Event	4th OF JULY WEEK
	Wed,Thurs,Fri,Sat	7,8,9,10	San Jose	Permanent	
	Fri,Sat	9,10	San Martin	Permanent	
	Thurs,Fri,Sat	15,16,17	San Jose	Permanent	
	Saturday	17	Sunnyvale	Temporary	TBD
	Wed,Thurs,Fri,Sat	21,22,23,24	San Jose	Permanent	
	Thurs,Fri,Sat	29,30,31	San Jose	Permanent	
August	Wed,Thurs,Fri,Sat	4,5,6,7	San Jose	Permanent	
	Fri,Sat	6,7	San Martin	Permanent	
	Thurs,Fri,Sat	12,13,14	San Jose	Permanent	
	Saturday	14	Mountain View	Temporary	TBD
	Wed,Thurs,Fri,Sat	18,19,20,21	San Jose	Permanent	
	Thurs,Fri,Sat	26,27,28	San Jose	Permanent	
September	Wed,Thurs,Fri	1,2,3	San Jose	Permanent	
	Saturday	4	No Event	No Event	LABOR DAY WEEKEND
	Thurs,Fri,Sat	9,10,11	San Jose	Permanent	
	Fri,Sat	10,11	San Martin	Permanent	
	Wed,Thurs,Fri,Sat	15,16,17,18	San Jose	Permanent	
	Saturday	18	Santa Clara	Temporary	TBD
	Wed,Thurs,Fri,Sat	22,23,24,25	San Jose	Permanent	
	Thursday	30	San Jose	Permanent	
October	Fri,Sat	1,2	San Jose	Permanent	
	Fri, Sat	1,2	San Martin	Permanent	
	Wed,Thurs,Fri,Sat	6,7,8,9	San Jose	Permanent	
	Thurs,Fri,Sat	14,15,16	San Jose	Permanent	
	Saturday	16	Sunnyvale	Temporary	TBD
	Wed,Thurs,Fri,Sat	20,21,22,23	San Jose	Permanent	
	Thurs,Fri,Sat	28,29,30	San Jose	Permanent	
November	Wed,Thurs,Fri,Sat	3,4,5,6	San Jose	Permanent	
	Fri, Sat	5,6	San Martin	Permanent	
	Fri,Sat	12,13	San Jose	Permanent	
	Wed,Thurs,Fri,Sat	17,18,19,20	San Jose	Permanent	
	Tuesday	23	San Jose	Permanent	
	Thurs,Fri,Sat	25,26,27	No Event	No Event	THANKSGIVING
December	Wed,Thurs,Fri,Sat	1,2,3,4	San Jose	Permanent	
	Fri, Sat	3,4	San Martin	Permanent	
	Wed,Thurs,Fri,Sat	8,9,10,11	San Jose	Permanent	
	Thurs,Fri,Sat	16,17,18	San Jose	Permanent	
	Tues,Wed,Thurs	21,22,23	San Jose	Permanent	
	Fri,Sat	24,25	No Event	No Event	CHRISTMAS
	Tues,Wed,Thurs	28,29,30	San Jose	Permanent	
	Friday	31	No Event	No Event	NEW YEAR'S DAY

**ATTACHMENT C: HHW SCHEDULE OF PERMANENT & TEMPORARY
COLLECTION EVENTS FOR FISCAL YEAR 2021-2022* (Continued)**

2022/Month	Day	Date	Location	Type of Event	County Holidays/ Notes
2022/Jan	Saturday	1	No Event	No Event	NEW YEAR's DAY
	Thurs,Fri,Sat	6,7,8	San Jose	Permanent	
	Fri, Sat	7,8	San Martin	Permanent	
	Wed,Thurs,Fri,Sat	12,13,14,15	San Jose	Permanent	
	Saturday	15	Sunnyvale	Temporary	TBD
	Wed,Thurs,Fri,Sat	19,20,21,22	San Jose	Permanent	
	Thurs,Fri,Sat	27,28,29	San Jose	Permanent	
	Saturday	29	Santa Clara	Temporary	TBD
February	Wed,Thurs,Fri,Sat	2,3,4,5	San Jose	Permanent	
	Fri, Sat	4,5	San Martin	Permanent	
	Thurs,Fri,Sat	10,11,12	San Jose	Permanent	
	Wed,Thurs,Fri,Sat	16,17,18,19	San Jose	Permanent	
	Thurs,Fri,Sat	24,25,26	San Jose	Permanent	
March	Wed,Thurs,Fri,Sat	2,3,4,5	San Jose	Permanent	
	Fri, Sat	4,5	San Martin	Permanent	
	Thurs,Fri,Sat	10,11,12	San Jose	Permanent	
	Wed,Thurs,Fri,Sat	16,17,18,19	San Jose	Permanent	
	Wed,Thurs,Fri,Sat	23,24,25,26	San Jose	Permanent	
April	Fri,Sat	1,2	San Jose	Permanent	
	Fri, Sat	1,2	San Martin	Permanent	
	Wed,Thurs,Fri,Sat	6,7,8,9	San Jose	Permanent	
	Saturday	9	Los Altos	Temporary	TBD
	Thurs,Fri,Sat	14,15,16	San Jose	Permanent	
	Saturday	16	Sunnyvale	Temporary	TBD
	Wed,Thurs,Fri,Sat	20,21,22,23	San Jose	Permanent	
	Thurs,Fri,Sat	28,29,30	San Jose	Permanent	
	Saturday	30	Santa Clara	Temporary	TBD
May	Wed,Thurs,Fri,Sat	4,5,6,7	San Jose	Permanent	
	Fri, Sat	6,7	San Martin	Permanent	
	Thurs,Fri,Sat	12,13,14	San Jose	Permanent	
	Wed,Thurs,Fri,Sat	18,19,20,21	San Jose	Permanent	
	Thurs,Fri	26,27	San Jose	Permanent	
	Saturday	28	No Event	No Event	MEMORIAL DAY WEEKEND
June	Wed,Thurs,Fri,Sat	1,2,3,4	San Jose	Permanent	
	Fri, Sat	3,4	San Martin	Permanent	
	Thurs,Fri,Sat	9,10,11	San Jose	Permanent	
	Wed,Thurs	15,16	San Jose	Permanent	
	Friday	17	No Event	No Event	JUNETEENTH DAY
	Saturday	18	San Jose	Permanent	
	Saturday	25	Milpitas	Temporary	TBD
	Thurs,Fri,Sat	23,24,25	San Jose	Permanent	
	Wed,Thurs	29,30	San Jose	Permanent	
*SUBJECT TO CHANGE					

ATTACHMENT D:

**COUNTY HOUSEHOLD HAZARDOUS WASTE
EMERGENCY COLLECTION PLAN**

1. PURPOSE

The purpose of the Household Hazardous Waste Emergency Collection 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 designated City HHW Coordinator(s) 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, social media outlets and television public access stations. Be aware of communities where multiple language outreach efforts 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, within neighborhoods needing service, and at landfills or a centralized location to service larger segments of the population. Waste collected will be transported with a transportation vehicle provided by the HHW Program. 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:

- *San Martin, 13055 Murphy Ave, San Martin*
- *San Jose, 1608 Las Plumas, San Jose*

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 Section 12 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 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
Consumer and Environmental Protection Agency
Recycling and Waste Reduction Division
Household Hazardous Waste Program
ATTN: Hazardous Materials Program Manager
(408)-918-1967

For Non-Emergency after-hours, contact County Communications at: (408) 977-3220

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.

Cal OES Public Safety Communications Main Office

601 & 630 Sequoia Pacific Boulevard
Sacramento, CA 95811
(916) 657-9494

Cal OES

3650 Schriever Avenue
Mather, CA 95655-4203
(916) 845-8510

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.

ATTACHMENT E:

