



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Kerrie Romanow

**SUBJECT:** SEE BELOW

**DATE:** May 14, 2018

Approved

Date

5-23-18

**SUBJECT: ACTIONS RELATED TO THE AGREEMENTS BETWEEN CITY OF SAN JOSE AND SANTA CLARA COUNTY FOR AB939 IMPLEMENTATION FEE AND PARTICIPATION IN THE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM**

## RECOMMENDATION

Approve the following Agreements with the County of Santa Clara:

1. Agreement for Household Hazardous Waste Collection Program for Fiscal Year 2018-2019 through 2020-2021, for \$200,000 each year, subject to the appropriation of funds; and
2. Agreement for Countywide Assembly Bill (AB) 939 Implementation Fee for FY 2018-2019 through 2020-2021.

## OUTCOME

Approval of these two Agreements will authorize the County of Santa Clara (County) to continue performing Household Hazardous Waste (HHW) collection services and to continue collecting the AB939 Implementation fee at \$4.10 per landfilled ton, on behalf of the City through June 30, 2021. Continuing these services ensures the City will be able to accommodate the growing number of residents utilizing the HHW drop-off service. Organized collection of household hazardous waste reduces the amount of toxins that enter the City's landfills, recycling facilities, storm sewers, and sanitary sewers, and preventing these toxins from threatening both the San Francisco Bay and local groundwater.

## BACKGROUND

The HHW Program supports the City's Green Vision by diverting waste from landfills and by protecting the ecological integrity of the Bay and the City's drinking water supply. Additionally, the California Integrated Waste Management Act of 1989 (AB939) requires local jurisdictions to

provide community services regarding the management and disposal of HHW wastes, and in 2006, the California Department of Toxic Substances Control banned the disposal of universal wastes (materials such as batteries, electronics, mercury thermometers and thermostats, non-empty aerosol cans, fluorescent tubes, and compact fluorescent lamps) in landfills and required the disposal of such materials at a facility that accepts hazardous wastes. If not properly handled, universal wastes can be hazardous to human health and the environment. The Countywide HHW program is one of the only legal means for residents to dispose of these materials, and also provides drop-off service for small businesses on a cost-recovery basis, which is less expensive than requiring businesses to contract out for service.

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 and 14 cities in the County created 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 services through the Agency Agreement for Countywide Household Hazardous Waste Collection Program. The County administers all operational aspects of the Program and is responsible for recycling and waste disposal of HHW dropped off at collection facilities.

The County Recycling and Waste Reduction Commission (RWRC) is the principal advisory body to the County, City Councils, and the Board of Supervisors regarding countywide solid waste planning issues. On February 28, 2018, the RWRC approved reauthorization of the AB939 fee for 2018-19 through 2020-21. Subsequently, all participating cities must approve the Agency Agreement for Countywide AB939 Implementation Fee by June 30, 2018. Should one or more jurisdictions not approve this agreement, the AB939 Implementation Fee will not be collected effective July 1, 2018.

## ANALYSIS

The AB939 Implementation Fee is charged by the landfills for each ton of material disposed. For 2018-2019 through 2020-2021, there will be no fee increase; the rate of \$4.10 per ton, established in 2009-2010, will 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 County's 15 cities and unincorporated areas of the County.

In 2018-2019, staff projects 725,000 tons of waste generated in San José will be disposed in County landfills, representing nearly half of the total countywide tonnage. Accordingly, the total revenue generated from the AB939 Implementation Fee to fund San José's share of the County provided HHW services is estimated at \$1,885,000 ( $\$2.60 \times 725,000$ ). In addition, approximately \$1,087,500 ( $\$1.50 \times 725,000$ ) in revenue generated from the AB939 Implementation Fee will support the City's share of the County Integrated Waste Management

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Plan. If approved by City Council and the County Board of Supervisors, the fee will be effective July 1, 2018.

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 permanent HHW collection facility located at the San José Environmental Innovation Center (1608 Las Plumas Avenue) opened in September 2014. 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 facility at 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 supports approximately half the 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 is adjusted annually based on actual participation at the facility.

### **EVALUATION AND FOLLOW-UP**

The agreements required RWRC approval on February 28, 2018, and Santa Clara County Board of Supervisors approval on June 19, 2018. If the agreements are approved by Council, the County will collect the AB939 Implementation Fee on behalf of the City and will provide HHW collection services for the City beginning July 1, 2018.

### **PUBLIC OUTREACH**

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 will be posted on the City's website for the Council Agenda of June 5, 2018.

### **COORDINATION**

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

**COMMISSION RECOMMENDATION/INPUT**

There is no commission recommendation/input associated with this action.

**COST IMPLICATIONS**

The total cost for additional appointments in 2018-2019, 2019-2020, and 2020-2021 will be \$200,000 respectively, 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 the Environmental Services Non-Personal/Equipment appropriations, subject to the appropriation of funds in the respective Operating Budget. These funds were previously approved by the City Council on an ongoing basis in the 2010-2011 Adopted Operating Budget.

**BUDGET REFERENCE**

The table below identifies the 2018-2019 funds and appropriations proposed to fund the contract recommended as part of this memorandum.

Fund #	Appn. #	Appn. Name	Total Appn.	Amount of Agreement	2017-2018 Adopted Operating Budget (Page)	Last Budget Action (Date, Ord. No.)
541	0762	ESD Non-Personal/Equipment	\$675,298	\$100,000	1040	02/13/2018, Ord. No. 30070
446	0762	ESD Non-Personal/Equipment	\$2,624,740	\$100,000	1045	2/13/2018, Ord. No. 30070

**CEQA**

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

/s/  
KERRIE ROMANOW  
Director, Environmental Services

For questions, please contact Shikha Gupta, Interim Environmental Services Deputy Director, at (408) 975-2520.