

**Council Meeting: May 13, 2008****SUBJECT: Amendments to Countywide AB 939 Fee and Household Hazardous Waste Agreements for FY 2008/09****REPORT IN BRIEF**

Since 1992, a Countywide AB 939 Fee has been imposed on all solid waste landfilled in Santa Clara County. The County distributes the revenues from the fee to all of the cities in Santa Clara County based on how much landfilled waste each jurisdiction generated. Fee revenues are used by the cities and the County to implement programs and services designed to meet the state mandate that local jurisdictions reduce the amount landfilled by 50% and reduce the amount of household hazardous waste (HHW) that is improperly disposed. The collection, distribution, and use of the fee are governed by an Agency Agreement among the County of Santa Clara and the 15 cities in the county.

In a separate but related matter, the City is one of 15 jurisdictions that participate in the Countywide Household Hazardous Waste Collection Program. This program, partially funded by the AB 939 Fee discussed above, provides events at which residents may dispose of hazardous wastes. Each participating jurisdiction has a separate operating agreement with Santa Clara County that describes the operational and financial aspects of the relationship.

The basic Agency Agreements governing the AB 939 Fee and the Countywide HHW Program will not expire until June 30, 2009. However, the jurisdictions are being asked to approve the annual amendments to both agreements. These amendments specify the AB 939 Fee amounts for FY 2008/09 and each city's "augmentation" amount for the HHW Program. The AB 939 Fee Agreement Amendment must be approved by the County Board of Supervisors and by each of the 15 cities in the county if the fee is to continue to be collected at landfills located in the county and the revenues distributed to the cities. The Countywide Household Hazardous Waste Collection Program Agreement Amendment must be approved by both the City and the County if Sunnyvale is to continue to participate in the Countywide Program.

Staff is recommending that Council authorize the City Manager to execute the Amendments to the Agreements for the Countywide AB 939 Fee and Countywide Household Hazardous Waste Collection Program. Staff

recommends that the augmentation amount remain unchanged at \$180,000 and that the Council continue to delegate to the City Manager the authority to increase the City's augmentation amount by up to 20% as needed to assure resident access to the service.

BACKGROUND

AB 939 Fee Agreement

The AB 939 Fee is divided into two parts

- 1) A Program Fee of \$1.50 per ton to assist in funding the costs of preparing, adopting, and implementing integrated waste management plans in the fifteen cities and the unincorporated area of the county
- 2) A Household Hazardous Waste (HHW) Fee of \$2.05 per ton in FY 2008/09 to provide funding to implement the Countywide HHW Program.

Policy oversight of the Countywide HHW Program is provided by the Santa Clara County Recycling and Waste Reduction Commission. Councilmember Howe represents the SMaRT Station® cities (Mountain View, Palo Alto and Sunnyvale) on the Commission and currently serves as Chair.

During fiscal years 2003/04 through 2005/06, the HHW portion of the AB 939 fee was set at \$1.85. On June 26, 2006, the City Council approved a new Agency Agreement that provided for an additional \$0.37 per ton disposed to be collected and retained by the County to be used to manage the increase in Universal Waste, the regulatory term for a class of very common but relatively low risk hazardous waste that includes household batteries, mercury containing devices and fluorescent tubes and bulbs. The Santa Clara County Recycling and Waste Reduction Commission (RWRC) endorsed this increase to \$2.22 per ton in FY 2006/07. However, because the HHW program was successful in recruiting Retail Battery and Fluorescent Lamp Recycling Partners, the County felt the quantity of the recycling partners was adequate for the next year and implemented cost saving measures that reduced the fee to \$2.05 for FY 2007/08. The RWRC is recommending that the HHW portion of the fee continue at \$2.05 for FY 08/09, as reflected in the proposed amendment.

The per ton amount of the fee has little financial impact on the City's Solid Waste Fund. If the fee is higher, the City's landfill disposal charges are higher, and its direct payment to the Countywide HHW Program is lower. If the fee is lower, the opposite occurs.

On balance, the amount the City must collect from refuse collection ratepayers is actually slightly higher if the fee amount is lower. This is because the fee captures revenue at the landfills from self-haulers and from waste originating

outside Santa Clara County and a portion of that revenue is credited to Sunnyvale on a *per capita* basis. This extra revenue currently totals about \$4,000 per year for the entire \$3.55/ton AB 939 Fee

Countywide HHW Program Agreement

The Countywide Household Hazardous Waste (HHW) Collection Program provides events at which residents may dispose of hazardous wastes. Each of the 15 participating jurisdictions has a separate operating agreement with Santa Clara County that describes the operational and financial aspects of the relationship.

Sunnyvale relies on the HHW portion of the AB 939 Fee to fund program participation by 3% of its households per year, and augments this with direct payments to the Countywide Program to fund the remainder of its resident participation, which totals 7% of households. Every year at this time, each jurisdiction amends its program participation agreement to restate the service level it wishes to fund in the form of its “augmentation amount.” On June 19, 2007, Council approved an augmentation of \$180,000 for FY 2007/08. Staff is recommending that Council maintain the same service level and approve the same \$180,000 augmentation amount for FY 08/09.

Because it can be difficult to accurately forecast the number of residents who will use the HHW events, it is not unusual for staff to learn, late in the fiscal year, that resident use of the service has increased to the point where the cost of providing service at the last HHW event of the year will exceed the City’s contractual augmentation commitment¹.

If the City does not increase its augmentation amount in such a situation, the Countywide HHW Program could respond by turning away Sunnyvale residents from an event at the end of the fiscal year (e.g. the event scheduled for June 20, 2009). To reduce the chances of this happening, staff is also recommending that the Council continue to delegate to the City Manager the authority to approve an increase of up to 20% (\$36,000) in the City’s augmentation amount (consistent with the program budget).

EXISTING POLICY

Solid Waste Sub-element, Policy 3.2E.3—Minimize illegal and inappropriate disposal of Household Hazardous Waste (HHW).

¹ Note that this is a contractual issue between the City and the County, not necessarily a budget issue for the City.

DISCUSSION

In order to continue to collect the AB 939 fee and distribute its revenues to the cities after June 30, 1997, each city and the County must act to approve the Countywide AB 939 Implementation Fee Amendment (Attachment A). Similarly, each of the 15 jurisdictions participating in the Countywide HHW Waste Collection Program Agreement must approve the Amendment (Attachment B) in order for the Countywide HHW Program to continue providing service to residents of Sunnyvale and the other participating jurisdictions. Policy oversight of the Countywide HHW Program is provided by the Santa Clara County Recycling and Waste Reduction Commission. Councilmember Howe represents the SMaRT Station® cities (Mountain View, Palo Alto and Sunnyvale) on the Commission and currently serves as Chair.

The key points of the proposed AB 939 and HHW Program Amendments shown as Attachments A and B are summarized below.

- The Countywide Household Hazardous Waste Agreement will remain in place for FY 2008/2009.
- The City will continue funding participation above the 3% of households funded by the AB 939 landfill fee with supplemental funding of \$180,000.
- The amount of the AB 939 Fee will be \$3.55 per ton with \$2.05 earmarked for HHW services in FY 2008/09.
- Two County HHW Facilities will be operating throughout FY 2008/09; Sunnyvale and San Martin. The San Jose facility closed in 2007/08 and will reopen in late FY 2008/09 at a new location bringing the total number of facilities back to three.

The proposed HHW funding and service agreements and amendments promote an equitable regional cooperative approach to funding the services necessary to meet the State of California's solid waste and household hazardous waste diversion mandate (AB 939).

Sunnyvale has relied exclusively on the Countywide HHW Program for service to City residents for the past seven years. Customer satisfaction with the service has been high and costs have been lower than the City was able to achieve on its own in the past. In order to become effective, the AB 939 Fee Amendment must also be approved by each of the 15 cities in the county and by the County Board of Supervisors.

Because the proposed fee and program extension has only benefits and no drawbacks for the City and its refuse collection ratepayers, staff recommends that the Council authorize the City Manager to execute the amendments (Attachments A and B).

Because it is difficult to accurately forecast the City's supplemental commitment, it is not unusual for staff to learn, late in the fiscal year, that resident use of the service has increased to the point where the cost of providing service at the last HHW event of the year will exceed the City's contractual commitment².

If the City does not increase its funding commitment in such a situation, the Countywide HHW Program could respond by turning away Sunnyvale residents from an event at the end of the fiscal year. To reduce the chances of this happening, staff is recommending that the Council delegate to the City Manager, as it did during FY 2007/08, the authority to approve an increase of up to 20% (\$36,000) in the City's augmentation amount.

FISCAL IMPACT

The recommended actions continue the current fee amounts and the current level of service. The recommended actions have no fiscal effect and do not affect refuse collection rates.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, in the Council Chambers lobby, in the Office of the City Clerk, at the Library, Senior Center, Community Center and Department of Public Safety; posting the agenda and report on the City's Web site; and making the report available at the Library and the Office of the City Clerk.

ALTERNATIVES

1. Authorize the City Manager to execute both the Agency Agreement for Countywide AB 939 Fee and the Agency Agreement for Countywide Household Hazardous Waste Collection Program (with an augmentation amount of \$180,000) and continue to delegate to the City Manager the authority to approve an increase of up to 20% (\$36,000) in the City's augmentation amount.
2. Authorize the City Manager to execute the Agency Agreement for Countywide AB 939 Fee, but not the Agreement for Countywide HHW Collection Program. Assuming approval of the AB 939 Fee by the other jurisdictions, the fee would be collected and returned to the City (except for the \$0.12 per household retained by the County to pay for the Facility Closure Cost Account in FY 2006/07). The apportionment for FY 2007/08 and FY 2008/09 will then be returned to the City. The City would not participate in the Countywide HHW Collection

² Note that this is a contractual issue between the City and the County, not necessarily a budget issue for the City.

Program, and would have to separately contract and pay for HHW collection events.

3. Decline to authorize the City Manager to execute the Agency Agreement for Countywide AB 939 Fee. In this case, the AB 939 Fee could not be collected by the County and distributed to the cities and the HHW Collection Program Agreement would be nullified. The City receives a share of fee revenues generated by imported and “orphan” wastes, so elimination of the fee would reduce Solid Waste Fund revenues by approximately \$4,000 per year. Under this scenario, in which the Countywide HHW Program would no longer be available, providing residents with the same level of HHW service through a City-run program would cause Solid Waste Program expenses to increase. The City has found from experience that it is more costly to provide its own, separate HHW events than it is to participate in the Countywide HHW Program.

RECOMMENDATION

Staff recommends Alternative 1: Authorize the City Manager to execute the proposed amendments to the Agency Agreement for Countywide AB 939 Fee and the Agency Agreement for Countywide Household Hazardous Waste Collection Program (with an augmentation amount of \$180,000) and continue to delegate to the City Manager the authority to approve an increase of up to 20% (\$36,000) in the City's augmentation amount.

These actions will allow for uninterrupted delivery of HHW services to Sunnyvale residents.

Reviewed by:

Marvin A. Rose Director, Public Works

Prepared by: Mark Bowers, Solid Waste Program Manager

Approved by:

Amy Chan

City Manager

Attachments

A. Amendment to the Agency Agreement for Countywide AB 939 Implementation Fee

B. Amendment to the Agency Agreement for Countywide Household Hazardous Waste Collection Program

**SECOND AMENDMENT TO THE AGENCY AGREEMENT
FOR COUNTYWIDE AB939 IMPLEMENTATION FEE**

This is the Second Amendment to the "Agency Agreement for Countywide AB 939 Implementation Fee," (AGREEMENT) by and between the City of Sunnyvale (CITY/TOWN) and the County of Santa Clara, (COUNTY), which AGREEMENT was effective on July 1, 2006 and previously amended effective July 1, 2007.

The COUNTY and the CITY agree that:

1. Section 1 **Purpose** is amended in full as follows

The purpose of this Agreement is to state the terms and conditions under which the COUNTY will collect and distribute the Fee of \$3.72 per ton in FY 2007, \$3.55 per ton in FY 2008 and \$3.55 per ton in FY 2009 of waste to be disposed. The Fee is divided into two parts: 1) a Program Fee of \$1.50 per ton to assist in funding the costs of preparing, adopting, and implementing the integrated waste management plan in the fifteen cities and the unincorporated area of the County; and 2) a HHW Fee of \$2.22 per ton in FY 2007, \$2.05 per ton in FY 2008 and \$2.05 per ton in FY 2009 to provide funding to implement the Countywide HHW Program. The Program Fee will be allocated among jurisdictions as described in Exhibit B. The HHW Fee will be allocated to the COUNTY, CITIES, and Countywide HHW Program and Participating Jurisdictions as described in Exhibit C. The Fee shall be imposed 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. Non-disposal facilities are defined as those facilities included in the County of Santa Clara Non-Disposal Facility Element (and subsequent amendments to that Element).

2. Exhibit C. **COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE PROGRAM FEE (HHW Fee)** is amended in full as set forth in Attachment 1 which is incorporated herein by this reference.

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Except as amended herein, all terms and conditions of said AGREEMENT and the First Amendment shall remain in full force and effect.

The effective date of this Amendment is July 1, 2008.

IN WITNESS WHEREOF, COUNTY and CITY/TOWN through their duly authorized representatives, have entered into this Second Amendment to the AGREEMENT on the date shown below:

COUNTY OF SANTA CLARA

CITY

Signature:

Signature:

Pete McHugh, Chair Date
BOARD OF SUPERVISORS

Name: Date

ATTEST:

Phyllis A. Perez, Clerk Date
BOARD OF SUPERVISORS

APPROVED AS TO FORM AND LEGALITY:



Kathy Krstchmer Date
Deputy County Counsel 7/1/08

ATTACHMENT 1

COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE PROGRAM FEE (HHW Fee)

1. 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 HHW Fee, \$2.22 per ton in FY 2007, \$2.05 per ton in FY 2008 and \$2.05 per ton in FY 2009, collected as part of the AB939 Implementation Fee, will be the primary source of funding for CoHHW Program services.

Funds derived from the 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 Department of Finance, Demographic Research Unit in their most recent 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 from previous years will fund the Abandoned Wastes Disposal Costs for fiscal years 2007 to 2009. The \$.12 per household Abandoned Waste Disposal apportionment for Fiscal Year 2007 will be redirected to the Facility Closure Cost Account. The apportionment for Fiscal Years 2008 to 2009 will be redirected to the City Discretionary Fund.
- C. Facility Closure Costs will cover the estimated cost of closing the three County Household Hazardous Waste Collection Facilities (CoHHWCF) when the time comes. The \$.12 per household Abandoned Waste Disposal apportionment for Fiscal Year 2007 will be redirected to this account to satisfy Permit By Rule requirements [California Code of Regulations, Title 22, sections 67450.25 (a) (2) (E) and 66265.110-66265.115]. There will be no further apportionment for FY 2008 and 2009.
- D. Variable Cost Per Car to provide a base level service to 3% of households in all participating jurisdictions.
- E. Available Discretionary Funding funded on tonnage generated per participating jurisdiction.

2. FIXED PROGRAM COST

Funds shall be distributed on a per household basis for Fixed Program Costs. This portion of the funds shall be distributed directly to the Countywide HHW Program. Fixed Program Costs funding shall be calculated at \$1.68, \$1.61, and \$1.68 per household for fiscal years 2007 through 2009 respectively. Fixed Program Costs may include, but are not limited to six

(6) CoHHW Program staff members, facility leasing costs, vehicle lease costs, office rent, office supplies, county administrative overhead, county legal counsel, program publicity, training costs, equipment and facility maintenance, and union negotiated salary and benefit increases.

3. ABANDONED WASTE DISPOSAL COST

The existing unexpended abandoned waste fund balance of \$210,000 will fund disposal of HHW illegally abandoned at nonprofit charitable reuse organizations for FY 2007 through FY 2009. The \$.12 per household Abandoned Waste Disposal apportionment for Fiscal Year 2007 will be redirected to the Facility Closure Cost Account. This portion of the funds shall be distributed directly to the Countywide HHW Program. All jurisdictions throughout the COUNTY contribute to this cost including jurisdictions not participating in the AGENCY AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM. The apportionment for Fiscal Years 2008 to 2009 will be suspended, and funding will be redirected to the City Discretionary Fund.

For the purposes of this agreement, the PUBLIC RESOURCES CODE SECTION 41904 defines a nonprofit charitable reuse organizations as follows: "Nonprofit charitable reuser" means 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.

4. FACILITY CLOSURE COST

The Facility Closure Costs are costs associated with the closing of the three HHW facilities when the time comes and is required by Permit-by Rule Regulations. During the first three years of the AB939 Implementation Fee for HHW services, \$20,000 per year was set aside to pay for facility closure. The closure account was \$60,000 at the beginning of FY 2007. The FY 2007 apportionment (\$70,000) for abandoned waste disposal will be redirected to the Facility Closure Account maintained by Countywide HHW Program to satisfy Permit-by-Rule requirements. This portion of the funds shall be distributed directly to the Countywide HHW Program. This would be a one-time cost from the AB939 Implementation Fee funding.

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 HHW Collection Facilities and Temporary Events. This portion of the funds shall be distributed directly to the Countywide HHW Program. The Variable Cost Per Car is estimated to be \$67 per car for Fiscal Year 2008 and 2009. The estimated cost per car will be adjusted annually to reflect actual service costs. After fixed costs and facility closure costs are allocated on a per household basis, the variable cost per car will be used to calculate the costs to service 3% of households across all participating jurisdictions. If the level of 3% of households is not reached, the Countywide HHW Program will use the remaining balance of funds, in

cooperation with the CITIES, to increase public outreach and/or provide additional services in that jurisdiction the following year.

6. AVAILABLE DISCRETIONARY FUNDING

The Available Discretionary Funding portion will be allocated based on the tons of waste generated within each jurisdiction and after allocation of fixed cost, facility closure cost and variable per car cost. 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 the jurisdiction by the Countywide HHW Program, subsidizing curbside used motor oil collection, electronic 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.

7. PROGRAM FUNDING PASS-THROUGH

Annual funding calculations include HHW Fees collected on behalf of all County jurisdictions. CITIES, at their option, may participate in the Countywide HHW Program by entering into the AGENCY AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM. CITIES not participating in the Agency Agreement will receive their pro-rata share of funding received by the COUNTY from the HHW Fee, with the exception of funds for the abandoned waste cost, described above.

If CITIES not participating in the AGENCY AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM desire to permit residents to participate in HHW Program services on an emergency basis, then services to these residents will be provided on a cost recovery basis. A charge equal to the established rates charged by the Countywide HHW Program to Conditionally Exempt Small Quantity Generators will be billed to the CITIES. A CITIES' representative must call the Countywide HHW Program appointment line to schedule an appointment for the resident. The pro-rata share of liability will be shared as defined in Section 28 of AGENCY AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM and as described in Exhibit D.

Third AMENDMENT TO THE AGENCY AGREEMENT FOR
COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION
PROGRAM

This is the 3rd Amendment to the "Agency Agreement for Countywide Household Hazardous Waste Collection Program," (AGREEMENT) by and between the City/Town of Sunnyvale (CITY) and the County of Santa Clara, (COUNTY), which AGREEMENT was effective on July 1, 2006 and previously amended effective 6/29/2007 and 7/1/2007.

The COUNTY and the CITY agree that:

1. Section 2 Program Funding Source is amended in full as follows:

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, \$2.22 per ton in FY 2007, \$2.05 per ton in FY 2008 and \$2.05 per ton in FY 2009, 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 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 Department of Finance, Demographic Research Unit in its most recent 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 \$210,000 from previous years will fund Abandoned Waste Disposal Costs for Fiscal Years 2007 to 2009. The \$.12 per household Abandoned Waste Disposal apportionment for Fiscal Year 2007 will be redirected to the Facility Closure Cost Account. The apportionment for Fiscal Years 2008 to 2009 will be redirected to the City Discretionary Fund.
- C. Facility Closure Cost Account will cover the estimated cost of closing the County Household Hazardous Waste Collection Facilities (CoHHWCF) when the time comes. The \$.12 per household Abandoned Waste Disposal apportionment for Fiscal Year 2007 will be redirected to this account to satisfy Permit By Rule requirements [California Code of Regulations, Title 22, sections 67450.25 (a) (2) (E) and 66265.110-66265.115]. There will be no further apportionment for Fiscal Years 2008 and 2009.
- D. Variable Cost Per Car to provide a base level service to 3% of households in all participating jurisdictions.

E. Available Discretionary Funding funded on tonnage generated per participating jurisdiction.

Attachment A "Projected AB 939 HHW Fee Fiscal Year 2007" is amended in full as set forth in Attachment 1 "Projected AB 939 HHW Fee Fiscal Years 2007, 2008 and 2009" which is incorporated herein by this reference.

2. Section 3 **Fixed Program Costs** is amended as follows:

Fixed Program Costs shall be \$1.68, \$1.61 and \$1.68 per household per jurisdiction for Fiscal Years 2007, 2008 and 2009 respectively. Estimated HHW Fixed Costs projected for Fiscal Year 2009 as shown in Attachment 2 which is incorporated herein by this reference. Fixed Program Costs may include, but are not limited to six (6) CoHHW Program staff members, facility leasing costs, vehicle lease costs, office rent, office supplies, county administrative overhead, county legal counsel, program publicity, training costs, equipment and facility maintenance and union negotiated salary and benefit increases.

3. Section 6 **Variable Cost Per Car** is amended as follows:

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 FY 2008 and FY 2009. The estimated cost per car will be adjusted annually to reflect actual service costs. After Fixed Program Costs and Facility Closure Costs are allocated on a per household basis, the Variable Cost Per Car will be used to calculate the costs to service 3% of households across all participating jurisdictions. If the level of 3% 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 3% participation levels, to increase public outreach and/or provide additional services in that jurisdiction the following year.

4. Section 12. **Household Hazardous Waste Collection Facilities** is amended as follows:

COUNTY shall conduct collection operations at three County HHW Facilities (CoHHWCF) in FY 2007 and two CoHHWCF in FY 2008 and FY 2009. The third CoHHWCF will operate at San Jose when the facility is ready. 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. The old San Jose facility closed in November 2006 and a new facility is expected to be ready at a new location in FY 2009.

The CoHHWCFs are located at:

- ◆ 164 Carl Road, Sunnyvale
- ◆ 13055 Murphy Avenue, San Martin

5. Section 18. ADDITIONAL SERVICES UNDER THIS AGREEMENT is amended in full as set forth in **Exhibit A**, attached hereto and incorporated by reference herein.
6. The following attachments of said AGREEMENT are amended in full as shown in the attachment hereto and incorporated by reference herein.

Attachment 1, "Projected AB 939 HHW Fee Fiscal Years 2007, 2008 and 2009"

Attachment 3, "HHW Schedule for Fiscal Year 2008/2009"

Except as amended herein, all terms and conditions of said AGREEMENT and the prior amendments shall remain in full force and effect.

The effective date of this Amendment is July 1, 2008.

IN WITNESS WHEREOF, COUNTY and CITY/TOWN, through their duly authorized representatives, have entered into the 3rd Amendment to the AGREEMENT on the date shown below:

COUNTY OF SANTA CLARA

CITY

Signature:

Signature:

Pete McHugh, Chair Date
BOARD OF SUPERVISORS

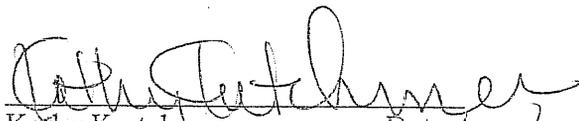
Name Date

Title

ATTEST:

Phyllis A. Perez, Clerk Date
BOARD OF SUPERVISORS

APPROVED AS TO FORM AND LEGALITY:



Kathy Kretchmer Date
Deputy County Counsel 4/18/08

EXHIBIT A

18. 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, Neighborhood Clean-Up and Locker Clean Out, and electronic waste (e-waste) collection.

The County will select a contractor to provide electronic waste (e-waste) recycling. The selected recycler will conduct e-waste collection events in Fiscal Year 2009. Any revenue derived from these events will be apportioned to each jurisdiction based on the number of households in each participating jurisdiction.

CITY agrees to augment up to an additional \$ _____ to the Countywide HHW Program during Fiscal Year 2009 for the purpose of increased resident participation above the 3% service level at the scheduled collection dates listed in Attachment 3 of this Amendment. Augmentation will be calculated at the variable cost per car rate which is estimated at \$67.00 per car. Additional funding augmentations shall be agreed upon in writing by the Director of the Department of Agriculture and Environmental Management and the designated CITY representative. Additional services will be charged on a cost recovery basis.

If the CITY elects to augment funding, the COUNTY will bill CITY at the end of each fiscal quarter for additional resident participation above the 3% service level. Payment is due within 30 days of the invoice date. At the end of each fiscal year, a final annual cost statement shall be prepared by the COUNTY and issued to the CITY. The annual cost statement will take into consideration costs incurred on behalf of the CITY for additional services and all payments made by the CITY to the COUNTY. If any balance is owed to the COUNTY, it will be due within 30 days following receipt of the annual cost statement. If any credit is owed to the CITY, COUNTY will refund that amount to the CITY within 30 days of the annual cost statement.

ATTACHMENT 1: Projected AB 939 HHW Fee Fiscal Years 2007, 2008 and 2009

Fiscal Year 2007

Jurisdiction	Number of Households 1/1/2005	3% of HHs	Total Tons for AB939 Fee Share	Annual Revenue \$2.22/ton	Fixed Cost at \$1.68/HH	Facility Closure Cost at 12¢ per HH	Est Variable Cost at \$76/car	City Discretionary Fund
Campbell	16,459	494	36,999.44	\$82,139	\$27,651	\$1,975	\$37,527	\$14,986
Cupertino	19,724	592	39,162.67	\$86,941	\$33,136	\$2,367	\$44,971	\$6,467
Gilroy	14,054	422	53,705.44	\$119,226	\$23,611	\$1,686	\$32,043	\$61,886
Los Altos	10,731	322	20,625.53	\$45,789	\$18,028	\$1,288	\$24,467	\$2,006
Los Altos Hills	3,035	91	4,730.32	\$10,501	\$5,099	\$364	\$6,920	(\$1,881)
Los Gatos	12,579	377	28,231.44	\$62,674	\$21,133	\$1,509	\$28,680	\$11,351
Milpitas	18,095	543	68,717.61	\$152,553	\$30,400	\$2,171	\$41,257	\$78,725
Monte Sereno	1,249	37	1,205.41	\$2,676	\$2,098	\$150	\$2,848	(\$2,420)
Morgan Hill	12,092	363	32,451.91	\$72,043	\$20,315	\$1,451	\$27,570	\$22,708
Mountain View	33,148	994	55,734.21	\$123,730	\$55,689	\$3,978	\$75,577	(\$11,514)
Palo Alto	27,522	-	67,735.18	\$150,372			\$0	\$150,372
San Jose	298,901	8,967	671,783.94	\$1,491,360	\$502,154	\$35,868	\$681,494	\$271,844
Santa Clara	42,454	1,274	134,811.87	\$299,282	\$71,323	\$5,094	\$96,795	\$126,070
Saratoga	11,009	330	16,507.54	\$36,647	\$18,495	\$1,321	\$25,101	(\$8,270)
Sunnyvale	54,476	1,634	97,302.35	\$216,011	\$91,520	\$6,537	\$124,205	(\$6,251)
Unincorporated	31,507	945	55,428.48	\$123,051	\$52,932	\$3,781	\$71,836	(\$5,497)
Countywide Totals	607,035	17,385	1,385,133	\$3,074,996	\$973,582	\$69,542	\$1,321,290	\$710,583

Fiscal Year 2008

Jurisdiction	Number of Households 6/1/2006	3% of HHs	Total Tons for AB939 Fee Share	Annual Revenue \$2.05/ton	Fixed Cost 1.61/HH	Facility Closure \$.12/HH	Est Variable Cost \$67/car	City Discretionary Fund
Campbell	16,475	494	37,187	\$76,234	\$26,525	\$1,977	\$33,115	\$14,617
Cupertino	19,892	597	37,461	\$76,795	\$32,026	\$2,387	\$39,983	\$2,399
Gilroy	14,328	430	52,581	\$107,792	\$23,068	\$1,719	\$28,799	\$54,205
Los Altos	10,741	322	19,756	\$40,500	\$17,293	\$1,289	\$21,589	\$329
Los Altos Hills	3,050	92	4,367	\$8,952	\$4,911	\$366	\$6,131	(\$2,455)
Los Gatos	12,599	378	27,690	\$56,765	\$20,284	\$1,512	\$25,324	\$9,644
Milpitas	18,197	546	66,490	\$136,304	\$29,297	\$2,184	\$36,576	\$68,248
Monte Sereno	1,253	38	1,358	\$2,783	\$2,017	\$150	\$2,519	(\$1,903)
Morgan Hill	12,331	370	33,238	\$68,137	\$19,853	\$1,480	\$24,785	\$22,019
Mountain View	33,168	995	56,646	\$116,123	\$53,400	\$3,980	\$66,668	(\$7,925)
Palo Alto	27,767	-	66,850	\$137,042				\$137,042
San Jose	301,848	9,055	733,164	\$1,502,987	\$485,975	\$36,222	\$606,714	\$374,075
Santa Clara	43,168	1,295	143,624	\$294,429	\$69,500	\$5,180	\$86,768	\$132,981
Saratoga	11,016	330	16,272	\$33,357	\$17,736	\$1,322	\$22,142	(\$7,843)
Sunnyvale	54,728	1,642	99,053	\$203,060	\$88,112	\$6,567	\$110,003	(\$1,623)
Unincorporated	31,568	947	49,154	\$100,765	\$50,824	\$3,788	\$63,452	(\$17,299)
Countywide Totals	612,129	17,531	1,444,890	\$2,962,025	\$940,823	\$70,123	\$1,174,568	\$776,511

Fiscal Year 2009

Jurisdiction	Number of Households 6/1/2007	3% of HHs	Total Tons for AB939 Fee Share	Annual Revenue \$2.05	Fixed Cost \$1.68/HH	Est Variable Cost at \$67/car	City Discretionary Fund
Campbell	16,855	506	37,187.24	\$76,234	\$28,316	\$33,879	\$14,039
Cupertino	20,146	604	37,461.13	\$76,795	\$33,845	\$40,493	\$2,457
Gilroy	14,490	435	52,581.25	\$107,792	\$24,343	\$29,125	\$54,323
Los Altos	10,810	324	19,756.07	\$40,500	\$18,161	\$21,728	\$611
Los Altos Hills	3,059	92	4,366.89	\$8,952	\$5,139	\$6,149	(\$2,336)
Los Gatos	12,636	379	27,690.00	\$56,765	\$21,228	\$25,398	\$10,138
Milpitas	18,359	551	66,489.94	\$136,304	\$30,843	\$36,902	\$68,560
Monte Sereno	1,257	38	1,357.61	\$2,783	\$2,112	\$2,527	(\$1,855)
Morgan Hill	12,629	379	33,237.64	\$68,137	\$21,217	\$25,384	\$21,536
Mountain View	33,362	1,001	56,645.52	\$116,123	\$56,048	\$67,058	(\$6,982)
Palo Alto	27,763	-	66,849.82	\$137,042			\$137,042
San Jose	304,698	9,141	733,164.22	\$1,502,987	\$511,893	\$612,443	\$378,651
Santa Clara	44,033	1,321	143,623.97	\$294,429	\$73,975	\$88,506	\$131,947
Saratoga	11,089	333	16,271.64	\$33,357	\$18,630	\$22,289	(\$7,562)
Sunnyvale	54,976	1,649	99,053.42	\$203,060	\$92,360	\$110,502	\$198
Unincorporated	31,013	930	49,153.81	\$100,765	\$52,102	\$62,336	(\$13,673)
Countywide Totals	617,175	17,682	1,444,890	\$2,962,025	\$990,212	\$1,184,718	\$787,095

ATTACHMENT 2

Estimated HHW Fixed Costs For Fiscal Year 2009

FIXED COST		2009
Staff Salary And Benefits	HMPM,HMS, .25 MA, 3 HMT,Acct	\$747,000
County Admin Overhead	20% of Salary above	\$149,400
County Counsel		\$6,000
Phones and Communications		\$10,000
Supplies Storage		\$2,400
Facilities Lease Costs	SJ,Sun	\$17,000
Vehicle Lease Costs		\$44,000
Office Supplies		\$5,000
Maintenance		\$7,412
Staff Training		<u>\$2,000</u>
ESTIMATED ANNUAL TOTAL		\$990,212

ATTACHMENT 3: HHW SCHEDULE FOR FISCAL YEAR 2008/2009

2008/Month	Day	Date	Location	Type of Event	County Holidays/ Notes
July	Saturday	5	No Event	No Event	FOURTH OF JULY
	Friday	11	San Martin	Permanent	
	Saturday	12	San Martin	Permanent	
	Saturday	19	Sunnyvale	Permanent	
	Saturday	26	<i>Santa Clara</i>	<i>Temporary</i>	
August	Friday	1	San Martin	Permanent	
	Saturday	2	San Martin	Permanent	
	Saturday	9	<i>San Jose</i>	<i>Temporary</i>	
	Saturday	16	Sunnyvale	Permanent	
	Saturday	23	<i>Cupertino</i>	<i>Temporary</i>	
	Saturday	30	No Event	No Event	SEPT 1/LABOR DAY
September	Friday	5	San Martin	Permanent	
	Saturday	6	San Martin	Permanent	
	Saturday	13	<i>San Jose</i>	<i>Temporary</i>	
	Saturday	20	Sunnyvale	Permanent	
	Saturday	27	<i>Santa Clara</i>	<i>Temporary</i>	
October	Friday	3	San Martin	Permanent	
	Saturday	4	San Martin	Permanent	
	Saturday	11	No Event	No Event	OCT 13/COLUMBUS DAY
	Saturday	18	Sunnyvale	Permanent	
	Saturday	25	<i>San Jose</i>	<i>Temporary</i>	
November	Friday	Oct. 31	San Martin	Permanent	
	Saturday	1	San Martin	Permanent	
	Friday	7	San Martin	Permanent	
	Saturday	8	San Martin	Permanent	
	Saturday	15	Sunnyvale	Permanent	
	Saturday	22	<i>San Jose</i>	<i>Temporary</i>	
	Saturday	29	No Event	No Event	27/28/THANKSGIVING
December	Friday	5	San Martin	Permanent	
	Saturday	6	San Martin	Permanent	
	Friday	12	San Martin	Permanent	
	Saturday	13	San Martin	Permanent	
	Friday	19	San Jose	Permanent	
	Saturday	20	<i>San Jose</i>	<i>Temporary</i>	
	Saturday	27	No Event	No Event	DEC 25/CHRISTMAS
2009/Jan	Saturday	3	No Event	No Event	Jan 1/NEW YEARS
	Friday	9	San Jose	Permanent	
	Saturday	10	San Jose	Permanent	
	Saturday	17	Sunnyvale	Permanent	
	Friday	23	San Jose	Permanent	
	Saturday	24	San Jose	Permanent	
	Saturday	31	<i>Santa Clara</i>	<i>Temporary</i>	

HHW SCHEDULE FOR FISCAL YEAR 2008/2009-continued

2009/Month	Day	Date	Location	Type of Event	County Holidays/ Notes
February	Friday	6	San Martin	Permanent	
	Saturday	7	San Martin	Permanent	
	Friday	13	San Jose	Permanent	
	Saturday	14	San Jose	Permanent	
	Saturday	21	Sunnyvale	Permanent	
	Friday	27	San Jose	Permanent	
	Saturday	28	San Jose	Permanent	
March	Friday	6	San Martin	Permanent	
	Saturday	7	San Martin	Permanent	
	Friday	13	San Jose	Permanent	
	Saturday	14	San Jose	Permanent	
	Saturday	21	Sunnyvale	Permanent	
	Saturday	28	No Event	No Event	CAESAR CHAVEZ DAY
	April	Friday	3	San Martin	Permanent
Saturday		4	San Martin	Permanent	
Saturday		11	Los Altos	Temporary	
Saturday		18	Sunnyvale	Permanent	
Saturday		25	Santa Clara	Temporary	
May	Friday	1	San Martin	Permanent	
	Saturday	2	San Martin	Permanent	
	Friday	8	San Jose	Permanent	
	Saturday	9	San Jose	Permanent	
	Saturday	16	Sunnyvale	Permanent	
	Saturday	23	No Event	No Event	MAY 25/MEMORIAL DAY
	Friday	29	San Jose	Permanent	
Saturday	30	San Jose	Permanent		
June	Friday	5	San Martin	Permanent	
	Saturday	6	San Martin	Permanent	
	Friday	12	San Jose	Permanent	
	Saturday	13	San Jose	Permanent	
	Saturday	20	Sunnyvale	Permanent	
	Saturday	27	Milpitas	Temporary	

*SUBJECT TO CHANGE

2/27/2008