Draft for Sustainability Commission review on April 15, 2013

Council Date: May 21, 2013

SUBJECT: Discussion and Possible Action to Approve an Agreement Creating the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee (Study Issue ESD 09-14C)

REPORT IN BRIEF

This study issue was originally proposed in 2009 by staff. It was designed to update the decades-old structure under which the 15 cities and the County of Santa Clara coordinate countywide recycling and solid waste issues, with participation by representatives of industry, environmental and academic interest groups. That structure relies on a broad-based Technical Advisory Committee (TAC) that advises the Recycling and Waste Reduction Commission (R&WRC), which is comprised of ten elected officials. Vice-Mayor Griffith currently serves as Chair of the R&WRC.

Efforts to meet and exceed the 50% diversion mandate imposed by the state and subsequent Zero Waste planning by several jurisdictions were not well-supported by the existing structure for reasons detailed in the study issue paper (see Attachment C).

The original vision was of a countywide Joint Powers Authority (JPA). Development of a future JPA is still a possibility. However, a consultant study conducted by the County as part of this process pointed to a Memorandum of Agreement as a first step in aligning the organizational structure with the goals of the jurisdictions.

After a collaborative process that involved TAC members, County staff, and a committee of the R&WRC, a Memorandum of Agreement was developed. On February 27, 2013, the R&WRC approved the final document, shown as Attachment A, and directed Integrated Waste Management (IWM) staff to distribute the MOA and a sample resolution to all 16 jurisdictions with a request that they be approved.

Staff is recommending that Council adopt the resolution shown as Attachment B and authorize the City Manager to execute the Memorandum of Agreement Creating the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee.

BACKGROUND

Countywide coordination of mandated and discretionary recycling and solid waste planning and service provision is provided by the Santa Clara County Recycling and Waste Reduction Commission (R&WRC). The R&WRC, chartered by the Board of Supervisors, is made up of elected officials representing cities or groups of cities, the County and the Santa Clara Valley Water District. Vice-Mayor Griffith represents the SMaRT Station cities (Sunnyvale, Mountain View and Palo Alto) on the R&WRC and currently chairs the Commission.

A Technical Advisory Committee (TAC) advises the Commission. The TAC is made up of staff from the 15 cities and the County, plus representatives of the solid waste industry, recyclers, San Jose State University and environmental organizations.

Staff support for the R&WRC and the TAC is provided by the County Integrated Waste Management Division (IWM), part of the County's Department of Agriculture and Environmental Management. Funding for this work comes from a Plan Fee charged by Santa Clara County on all disposed waste originating in the county.

The IWM staff also provides recycling and waste management services for the County unincorporated area, using County-specific funding, primarily from franchise fees charged on refuse collection companies serving customers in the unincorporated area.

This study issue arose from a desire to update the decades-old structure governing the TAC and its support from IWM staff. The roles of TAC and the IWM staff broadened as the jurisdictions implemented many new state requirements, including those of the California Integrated Waste Management Act (AB 939). More information on the origins of the study is provided in the study issue paper, Attachment C.

The IWM Division contracted with a consulting firm, Arroyo Associates, to study the current organizational structure and recommend alternatives. Arroyo interviewed current and former members of the Commission, TAC and IWM staff to identify the strengths and weaknesses of the current organizational structure. The consultant researched the advantages and disadvantages of organizational structures used by similar bodies elsewhere in California. In its November 5, 2010 report, Arroyo recommended that the jurisdictions select from among three options:

1. The existing organizational structure (while noting that the needed improvements would essentially require the establishment of a formal and documented Memorandum of Understanding or Agreement).

2. Establishment of a Memorandum of Understanding or Agreement that would address these key components, at a minimum:
   - Mission, purpose and objectives of the MOU/MOA
   - Rights and duties of participating jurisdictions to address meeting attendance, termination of participation, and other terms of the agreement
   - Timeframe, if any, of the MOU/MOA
   - Composition of the management committee, as well as voting rights and terms of members
   - Management controls and self-audit procedure
   - Budget monitoring and reporting requirements
   - Process in the selection of consultants, individual managers and contractors, as well as the roles and responsibilities of the fiscal agent
   - Process and parameters involved in the determination, allocation and management of landfill disposal surcharges and monies collected from late fees and/or fines

3. A Joint Powers Agreement/Authority, i.e. a separate governmental entity

Arroyo recommended either Option 1 or Option 2, but noted that, "the current situation does not appear to necessarily require the establishment of a separate, independent organization through a JPA arrangement that would require more time and resources to develop and implement. Furthermore, it would likely be more difficult to obtain unanimous agreement among the jurisdictions, including the County, to form a JPA."

Staff presented Arroyo's findings in a presentation to the R&WRC in December 2010, and on February 28, 2011, the Recycling and Waste Reduction Commission directed IWM staff to work collaboratively with the TAC members to prepare a memorandum of agreement (MOA) that addressed the issues and recommendations identified by the Arroyo study.

Throughout 2011, an ad-hoc TAC subcommittee met, and with the assistance of IWM staff defined the scope of work and outlined an MOA document that addressed governance and representation issues. The MOA outline reflected many concepts from the agreement that governs the multi-jurisdictional Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP). The jurisdictions participating in SCVURPPP appear to be satisfied with how Sunnyvale performs the host agency role, which aided discussions on how the roles and duties of the Administrator, Fiscal Agent and Contracting Agent are described in the MOA.

On July 16, 2012, an R&WRC committee comprised of three commissioners (past Chair Jamie McLeod, current Chair Jim Griffith and Commissioner Mike Wasserman) reviewed the outline, gave direction on key issues and selected

from among alternatives presented by the TAC subcommittee and IWM staff. With that direction, the subcommittee and IWM staff developed an MOA structure that addressed the issues and was generally acceptable to the participants.

The IWM Division then hired consultant Cerene St. John of It's a Natural Product, Inc., to expand the structure into the form of an MOA suitable for adoption. The R&WRC reviewed and commented on a preliminary draft in December 2012. At its February 2013 meeting, it approved the final document, shown as Attachment A, and directed IWM staff to distribute the MOA and a sample resolution to all 16 jurisdictions with a request that they be approved.

EXISTING POLICY

General Plan Goal EM-14 – Reduce Solid Waste Through Recycling, Source Reduction, Education and Special Programs.

General Plan Goal EM-15 – Dispose of Solid Waste in an Environmentally Sound, Dependable and Cost-Effective Manner

DISCUSSION

Key provisions of the MOA include:

- Identifies the four key roles currently played by Santa Clara County and allows for the possibility that one or more could be played by another entity if the parties so desire in the future:
    - Fiscal Agent
    - Contracting Agent
    - Administrator
    - Legal Counsel

- If the County continues to play all four roles, requires clarity and disclosure on which staffer is playing which role.
- Requires an annual work plan and year-end reporting on progress.
- Requires a financial audit every other year.
- Non-governmental organizations (NGOs) participating in the TAC are identified by category, not name.
- R&WRC determines TAC NGOs, NGOs determine their representatives.
- NGOs can serve as TAC subcommittee chairs (currently this is reserved for jurisdiction representatives).
- Separate TAC and Implementation Committee (modeled after SCVURPP Management Committee).
- Implementation Committee includes 16 jurisdictional "Parties," plus the Santa Clara Valley Water District. San Jose gets two votes, all others, one vote.
- A jurisdiction that has difficulty attending meetings can appoint an Alternate (e.g. Morgan Hill represents Gilroy).

- All 16 Parties must approve the MOA for it to take effect.
- The MOA may be terminated by eight Parties that represent 50%+ of county population (i.e. San Jose plus seven others).
- An individual Party may withdraw but not withdraw Plan Fee revenue.

The MOA addresses the issues that prompted City staff to initiate this study issue and results in more effective and transparent countywide coordination on recycling and solid waste issues, as well as appropriate accountability on the part of those doing the work. While it does not provide a Joint Powers Authority, the MOA does formalize the relationships of the jurisdictions in a way that would make it easier to move to a JPA arrangement, should they desire to do so in the future.

The MOA is a significant improvement over the current arrangements for coordinating countywide recycling and solid waste management planning and services. Staff recommends approval.

FISCAL IMPACT

There is no fiscal impact.

PUBLIC CONTACT

Public Contact was made through posting of the Sustainability Commission agenda on the City's official-notice bulletin board, on the City's Web site, and the availability of the agenda and report in the Office of the City Clerk.

ALTERNATIVES

Alternative 1 – Adopt the resolution (Attachment B) and authorize the City Manager to execute the Memorandum of Agreement Creating the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee (Attachment A)

Alternative 2 – Take no action.

Taking the actions shown in Alternative 1 will allow the Agreement to become effective after it has been approved by the 15 cities in the county and the County Board of Supervisors.

If the Council takes no action, the Agreement will not take effect and the current structure of the TAC will remain in place.

RECOMMENDATION

Staff recommends Alternative 1: Adopt the resolution and authorize the City Manager to execute the Agreement Creating the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee

Reviewed by:

John Stufflebean, Director, Environmental Services
Prepared by: Mark Bowers, Solid Waste Programs Division Manager

Approved by:

Gary M. Luebbers
City Manager

Attachments

Attachment A – Agreement Creating the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee

Attachment B – Resolution

Attachment C – Study Issue Paper, ESD 09-14C

AGREEMENT
CREATING THE SANTA CLARA COUNTY RECYCLING AND WASTE REDUCTION TECHNICAL ADVISORY COMMITTEE

THIS AGREEMENT, is made and entered into this _____ day of _____ 2013 by and between the COUNTY OF SANTA CLARA, a political subdivision of the State of California; CITY OF CAMPBELL, a municipal corporation of the State of California; CITY OF CUPERTINO, a municipal corporation of the State of California; CITY OF GILROY, a municipal corporation of the State of California, CITY OF LOS ALTOS, a municipal corporation of the State of California; TOWN OF LOS ALTOS HILLS, a municipal corporation of the State of California; TOWN OF LOS GATOS, a municipal corporation of the State of California; CITY OF MILPITAS, a municipal corporation of the State of California; CITY OF MONTE SERENO, a municipal corporation of the State of California; CITY OF MORGAN HILL, a municipal corporation of the State of California, CITY OF MOUNTAIN VIEW, a municipal corporation of the State of California; CITY OF PALO ALTO, a municipal corporation of the State of California; CITY OF SAN JOSE, a municipal corporation of the State of California; CITY OF SANTA CLARA, a municipal corporation of the State of California; CITY OF SARATOGA, a municipal corporation of the State of California; and CITY OF SUNNYVALE, a municipal corporation of the State of California.

All of the above-mentioned entities are hereinafter collectively referred to as "PARTIES" or individually as "PARTY."

RECITALS:

A. In 1989 the California Legislature passed and enacted the California Integrated Waste Management Act, known as "AB 939", (Public Resources Code Section 40000 et. seq) requiring jurisdictions to divert 25% of waste from disposal by 1995 and 50% of waste from disposal by 2000. AB 939 required each County to develop and periodically update a County Integrated Waste Management Plan and to appoint an AB 939 Local Task Force.

B. Prior to 1992 the Solid Waste Committee of the Santa Clara County Intergovernmental Council advised the cities and the County on solid waste and recycling issues. The Technical Advisory Committee, also originally convened by the Intergovernmental Council, provided technical advice to the Solid Waste Committee on solid waste and recycling issues.

C. On or about February 1992, the Santa Clara County Board of Supervisors and the cities in Santa Clara County designated the Solid Waste Committee of the Intergovernmental Council as the AB 939 Task Force for Santa Clara County.

D. On February 4, 1992 the Santa Clara County Board of Supervisors replaced the Solid Waste Committee of the Intergovernmental Council with the Solid

Waste Commission of Santa Clara County ("Commission") in order to streamline the decision-making process on solid waste and recycling issues. (Ordinance No. NS-300.495) The powers and duties of the Commission are defined in Chapter XVII, Division A6 of the County of Santa Clara Ordinance Code.

E. On December 4, 2001 the Santa Clara County Board of Supervisors approved Ordinance No. NS-300.658 changing the name of the Commission to the Recycling and Waste Reduction Commission of Santa Clara County.

F. The Commission advises city councils and the Board of Supervisors in Santa Clara County on countywide solid waste and recycling planning issues and on the County Solid Waste Management Plan/County Integrated Waste Management Plan.

G. The By-Laws of the Commission (also approved by the County Board of Supervisors on February 4, 1992) continued the existence of the Recycling and Waste Reduction Technical Advisory Committee (the "TAC"). The purpose of the TAC was to provide technical advice to the Commission on solid waste management and policy; to bring together a wide spectrum of viewpoints and expertise on countywide solid waste and recycling issues affecting individual jurisdictions; and to assist in development of policies, programs and revisions and amendments to countywide plans.

H. On an annual basis, the TAC prepares and submits an Annual Workplan and Budget for review and approval by the Commission. The Commission-approved Annual Workplan is then implemented by the TAC using funds in the Commission-approved Annual Budget.

I. In accordance with the AB 939 provisions for financing solid waste diversion and planning activities, the County of Santa Clara levies and collects the Countywide Solid Waste Planning Fee ("SWPF") on each ton of solid waste disposed at landfills located within the County, on tons taken to non-disposal facilities located within the county and subsequently transported for disposal to landfills outside Santa Clara County, and on tons transported directly to disposal facilities located outside Santa Clara County. The current SWPF of $0.78 per ton was established by the County Board of Supervisors on May 19, 2009. Funds from the SWPF are used to fund the activities and programs of the Commission and the TAC. In addition, funds from grants, voluntary contributions from other agencies and other revenue sources are used to fund these activities and programs. Such funds, including monies from the SWPF, are referred to herein as "County-wide Funds".

J. In 2011 Assembly Bill 341 ("AB 341") was signed into law establishing a statewide goal of diverting 75% of solid waste from disposal by 2020 and requiring The California Department of Resources, Recycling and Recovery to prepare and submit a plan to the Legislature on or before January 1, 2014 on how to achieve this goal.

K. Since the TAC was originally established, the field of solid waste management and

recycling has become much more complex and the PARTIES must comply with an increasing number of laws and regulations. In order to achieve the statewide goal of 75% diversion, many materials currently disposed in landfills must be segregated and processed at new facilities, and channeled into useful purposes. New infrastructure, diversion systems and enhanced producer responsibility measures must be implemented in order to accomplish this goal.

L. Commensurate with changes in the breadth and complexity of the solid waste and recycling field, the work and functions of the TAC have evolved over time to encompass not only providing advice to the Commission, but also recommending, implementing and monitoring county-wide public education and diversion programs included in the Commission-approved Annual Workplan and Budget where it is cost-effective for the PARTIES to jointly provide such programs.

M. The TAC requires expanded powers and authority to monitor ongoing staffing support for programs in the Commission-approved Annual Workplan as well as the power and authority to recommend, monitor and audit the funding for these programs, at the levels contained in the Commission-approved Annual Budget.

N. In order to address these issues the Commission appointed the Ad Hoc Committee for TAC Organizational Study and the TAC appointed the TAC Ad Hoc Organizational Study Subcommittee. Pursuant to recommendations from these Committees, the County retained Arroyo Associates in 2010 to conduct an independent Organizational Study. The study evaluated the countywide integrated waste management programs and services and provided operational and organizational recommendations to enhance the efficiency and effectiveness of the countywide solid waste management system. The Commission's Ad Hoc Committee held a meeting on May 29, 2012 with representatives of the TAC and the public to discuss the recommendations of the Organizational Study and options for restructuring the operating parameters of the TAC.

O. The purpose of this Agreement is to implement the recommendations of the Commission's Ad Hoc Committee and the TAC Ad Hoc Subcommittee to revise the functions, powers, membership, structure and duties of the TAC to make these consistent with the manner in which the TAC currently functions; and to simplify the reporting relationship between the Commission and the TAC. Such changes are desired by the PARTIES in order to facilitate county-wide and regional approaches for meeting the statewide goal of 75% diversion articulated in AB 341; remaining in compliance with the existing requirements of AB 939, SB 1016 and all other state and federal laws and regulations, and planning for the goal of zero waste in the future.

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

I. PURPOSES AND FUNDING

The Santa Clara County Recycling and Waste Reduction Technical Advisory

Committee ("TAC") is hereby established to replace the Recycling and Waste Reduction Technical Advisory Committee referred to in Article V of the Commission Bylaws dated October 2001.

A. *Purposes.* The purposes of the TAC are:

1. To implement the Commission-approved Annual Workplan and Budget;
2. To advise the Commission and the decision-making bodies of all PARTIES on technical and policy issues related to solid waste management and recycling including plans to achieve the statewide AB 341 goal of 75% diversion by 2020 and plans for working toward the goal of zero waste;
3. To bring together a wide spectrum of viewpoints and expertise to focus on countywide solid waste management, issues affecting individual communities, and solid waste and recycling issues affecting public environmental health;
4. To assist in development of policies, programs and revisions and amendments to countywide plans that can meet countywide needs and thus receive countywide approval;
5. To provide a forum for exchange of solid waste, recycling, composting and other diversion information;
6. To inform the PARTIES' respective agencies and jurisdictions about issues and recommendations of the Commission, and perform follow-up actions, as necessary;
7. To recommend Commission approval of countywide programs to maximize the effectiveness of local funds spent for public education and recycling programs, and to implement and monitor such programs.
8. To assist with future master planning for facilities and infrastructure, as requested by the Commission.
9. To perform technical and policy review and make technical and policy recommendations to the Commission and technical recommendations to the PARTIES concerning best practices in solid and hazardous waste management; recycling, composting, diversion programs, source reduction; litter reduction on land; reduction of litter that originates from the storage, collection, transportation, and processing of solid waste, recyclable materials and organic materials that affects water quality in local creeks, San Francisco Bay, and oceans; and 'cradle to cradle' extended producer responsibility with regard to:
    a. The feasibility of technical proposals;
    b. Analysis of issues and problems in solid waste management;
    c. Proposed and/or needed national and state legislation and policies;
    d. New infrastructure required to achieve countywide goals, and;
    e. Financing and management options for creation of such infrastructure.
10. To perform other duties as directed by the Commission.

B. *Funding.* The TAC is funded by the Solid Waste Planning Fee ("SWPF") that is charged to customers by the operators of all disposal and non-disposal facilities located within the County of Santa Clara, and remitted, by those facility operators, to the County of Santa Clara. The SWPF is also charged on tons of solid waste that are hauled directly to out-of-county disposal facilities. The amount of the SWPF is established by the Board of Supervisors based upon input and recommendations from

the Commission and the TAC Implementation Committee. Additional revenues come from grants, voluntary contributions of other agencies and other sources. These, together with the SWPF funds constitute the County-wide Funds used to fund the Commission-approved Annual Workplan and Budget.

II. COMPOSITION

A. Voting members, not to exceed 27 in number, shall include:

1. One (1) from each City that is a PARTY
2. Three (3) from the County. The County's current designees are:
   a. One (1) from the Unincorporated Area
   b. One (1) from the Department of Environmental Health
   c. One (1) from the Integrated Waste Management Division
3. One (1) from the Santa Clara Valley Water District
4. Up to eight (8) from non-governmental organizations appointed by the Commission as follows:
   a. No more than three (3) representing for-profit industry groups and/or business organizations (however no member shall represent a single for-profit company)
   b. No more than four (4) representatives of non-profit groups that advocate for source reduction, recycling programs, sustainability, and/or producer responsibility
   c. No more than two (2) representatives of institutions of higher learning located within Santa Clara County

B. *Appointment of Members.* All members representing a public agency shall be re-designated annually via a letter on agency letterhead addressed to the Administrator. The Commission will accept requests and nominations for non-governmental organizations to serve on the TAC. The Administrator will publish a notice in a daily local newspaper of general circulation to a minimum of two-hundred fifty thousand (250,000) people in September of every other year announcing that nominations and requests to serve are being accepted. The Administrator will take other reasonable and cost-effective measures to distribute the announcement via other media, including but not limited to, web sites, local publications and social media, to reach persons who might not see the notice in a daily newspaper. The Commission will select the non-governmental organizations to be represented on the TAC. Those organizations will, in turn, submit a letter to the Administrator designating a member and an alternate. Members representing non-governmental organizations shall serve for a period of two (2) years beginning in January. At the end of that time the Commission shall select the non-governmental organizations to be represented on the TAC for the new two (2) year term. The initial group of non-governmental organization representatives will be selected by the Commission on or before December 31, 2013 and will begin serving their terms on January 1, 2014. The Administrator will publish a notice in the newspaper, and distribute the notice via other suitable media, in September 2013 announcing that the Commission will consider nominations and applications for non-governmental organizations to be represented on the TAC.

C. *Alternates.* Each PARTY may designate one or more alternate representative(s) to serve in the absence of the regular member. The alternate(s) will be designated in writing as described in Section II B. Alternates may serve on TAC committees, subcommittees, and ad hoc subcommittees.

D. *Vacancies.* Each PARTY is responsible for designating a replacement for its member if the member can no longer serve. In the event of a vacancy, the Chair shall, by letter, request that the PARTY designate a new member. If a vacancy occurs with regard to a representative of a non-governmental organization, the Administrator shall notify the non-governmental organization to designate a new member. In the event the non-governmental organization declines, the TAC shall notify the Commission and request that a new non-governmental organization be selected to fill the remainder of the term created by the vacancy.

E. *Attendance.* Attendance at meetings is vital to the proper and effective functioning of the TAC. Three (3) consecutive absences or a member missing over fifty percent (50%) of the TAC meetings in a calendar year are sufficient grounds for the Administrator to notify the member and request their attendance. Should a PARTY be unable to send its representative to meetings for an extended period of time, the PARTY shall notify the Chair in writing on letterhead and a replacement representative will not be requested from that PARTY.

III. QUORUM AND VOTING

A. *Quorum.* A quorum consists of thirteen (13) voting members physically present at a meeting.

B. *Voting.* Actions of the TAC shall be taken by a majority vote of the members present at the meeting.

C. *Attendance From A Remote Location.* In the event of an unavoidable schedule conflict, a member may participate in a meeting from a remote location via telephone or video-conference provided that all requirements of the Brown Act are met and further provided that the scheduled meeting room has the technical capability to accommodate the request. In such event the member will notify the Administrator at least ten (10) days in advance of the meeting and ask to attend from a remote location. The Administrator will advise the member if this is possible. If so, the Administrator will comply with all Brown Act requirements including stating the alternate location in the meeting notice. The member shall also comply with all Brown Act requirements in Government Code Section 54953 (b), including, but not limited to, posting a meeting notice and agenda on the door of the remote location for the duration of the meeting, and allowing members of the public to participate in the meeting from the remote location along with the member. The member's vote will be counted; however, the member will not be included in the count to determine a quorum. Attendance from a remote location is to be used only in rare cases of unavoidable schedule conflicts. In-person attendance and participation at meetings is

strongly preferred and encouraged.

D. *Bylaws.* The TAC may, as necessary, recommend adoption of Bylaws for its governance to the Commission for approval, and operate according to Bylaws approved by the Commission. In the event revisions to Commission-approved Bylaws are desired, the TAC may recommend such revisions to the Commission.

IV. OFFICERS AND THEIR RESPONSIBILITIES

A. *Officer Positions.* The officers of the TAC shall be the Chair, Vice Chair, and the Subcommittee Chairs. The Chair and Vice Chair of the TAC must be voting members or alternates representing a PARTY.

B. *Election and Term.* Each officer shall be elected by majority vote of a quorum of the voting membership at the last meeting of each calendar year or as soon thereafter as possible. All officer's terms begin with the first meeting of each calendar year.

C. *Duties.* The Chair of the TAC shall be responsible for chairing all meetings of the TAC and the Implementation Committee (IC), and representing the TAC and the IC at Commission meetings. The Chair shall approve the draft agendas for TAC and IC meetings, except that any agenda item proposed by two (2) or more voting members must be placed on the next available agenda. The Vice Chair shall serve as the Chair in the Chair's absence. The Chairs of the Subcommittees shall be responsible for calling meetings of their respective Subcommittees and Chairing those meetings. The Subcommittee Chairs shall approve the draft agendas for their respective Subcommittees except that any items proposed by two (2) or more voting members of a Subcommittee shall be placed on the next available Subcommittee agenda.

V. MEETINGS

A. *Meetings.* The TAC shall meet monthly at the time and place published on the agendas. Additional meetings may be called as needed. The Chair shall provide every member of the TAC with seven (7) days written notice of regular or additional TAC meetings. The agenda for each meeting shall be developed by the Administrator in consultation with the TAC Chair, and shall be approved by the Chair.

B. *Conduct of Meetings.* All meetings of the TAC, including all Subcommittees and any closed sessions with legal counsel, shall be properly noticed and conducted in accordance with the "Brown Act" (Government Code Section 54950 et seq.) Except for official meetings of the TAC and its Subcommittees, nothing herein shall be interpreted to require meetings between staff members of the individual PARTIES (including designated representatives of the PARTIES) to be subject to the Brown Act, where the Brown Act would not otherwise apply. Each PARTY is individually responsible for ensuring it complies with the Brown Act. Wherever this Agreement is silent with regard to procedure, Robert's Rules of Order shall apply.

VI. IMPLEMENTATION COMMITTEE

A. *Composition and Duties.* The TAC Implementation Committee (IC) is comprised of one voting member from each PARTY to this Agreement plus one voting member from the SCVWD. Each PARTY and the SCVWD may also designate an alternate. The purpose of the IC is to make decisions and recommendations on all fiscal, management and administrative issues of the TAC. The IC selects, monitors and provides oversight of the Administrator, the Fiscal Agent, the Contracting Agent, and legal counsel to the TAC. The IC recommends the level and setting of the SWPF to the Commission.

B. *Quorum, Voting and Meetings.* A quorum of the IC is nine (9) voting members The affirmative vote of at least eight (8) voting members of the IC, including PARTIES collectively representing at least forty percent (40%) of the population of the incorporated and unincorporated areas of the County of Santa Clara, is necessary to approve any measure brought before the IC. (For purposes of calculating whether or not the forty percent (40%) figure has been reached, the population of each PARTY shall be counted; however, no population shall be attributed to the SCVWD due to the fact that it encompasses such a large percentage of the population of the entire incorporated and unincorporated County.) Each member of the IC shall have one vote, with the exception of the City of San Jose which shall have two (2) votes. The IC meets at least annually to consider and recommend approval of the Annual Workplan and Budget to the Commission for the upcoming fiscal year. The Chair may call other meetings of the IC as needed. All IC meetings are open to the public and to all TAC members. Participation and discussion by all TAC members and by members of the public is encouraged. The Chair of the IC forwards all recommendations made by the IC directly to the Commission, and also makes an informational report to the TAC on the recommendations forwarded to the Commission. The Chair shall strive to achieve consensus among IC members. Consensus is defined as general agreement in sentiment or belief. If clear consensus cannot be reached, the Chair will call for a vote of the voting members present. In such event the Chair will report the recommendation of the IC along with the dissenting opinion(s) and viewpoints, to the Commission and to the TAC. In the event of a tie, the Chair will report that outcome and the viewpoint(s) expressed that led to that outcome. In the alternative, the Chair may, in the Chair's sole discretion, re-agendize the item for another IC meeting.

C. *Use of Outside Contractors.* The IC is responsible for selecting any consultant(s) or contractor(s) ("Outside Contractors") to perform tasks included in the Commission-approved Annual Workplan and Budget and who are to be paid from County-wide Funds, using a process created in consultation with the Contracting Agent. The IC is responsible for reviewing and approving the parameters of any contracts with Outside Contractors, including the scope(s) of work, schedules of performance, use of subcontractors, and compensation for such Outside Contractors. The IC then directs the Contracting Agent to conduct the procurement process for

Outside Contractors and to execute contracts with the selected Outside Contractor(s).

VII. TAC SUBCOMMITTEES

A. *Issue and Policy Subcommittees.* Issue and policy subcommittees shall be established as needed by the TAC. The TAC will evaluate and establish standing Subcommittees in December of each year. Additional Subcommittees may be established at other times throughout the year as needed.

B. *Membership and Meetings.* Membership on all issue and policy Subcommittees is open to all TAC voting members and designated alternates. There is no maximum size for each Subcommittee. A quorum is two (2) or more Subcommittee members. Subcommittees may elect a Vice-Chair to serve in the Chair's absence. Subcommittee chairs shall be responsible for calling and chairing meetings. The Subcommittee chairs shall approve the draft agenda and report the activities and recommendations of the Subcommittee to the TAC. Subcommittee chairs shall strive to achieve consensus among members. Consensus is defined as general agreement in sentiment or belief. If clear consensus cannot be reached, the Chair will call for a vote of the voting members present. In such event the Chair will report the recommendation of the Subcommittee along with the dissenting opinion(s) and viewpoints, to the TAC. In the event of a tie, the Subcommittee Chair will report that outcome and the viewpoint(s) expressed that led to that outcome. In the alternative the Subcommittee Chair, in consultation with the TAC Chair, may decide to re-agendize the item for discussion at another meeting.

C. *Ad Hoc Subcommittees.* The TAC may establish Ad Hoc Subcommittees as needed to address specific issues or problems. The TAC shall appoint a Chair for each Ad Hoc Subcommittee. All Ad Hoc Subcommittees shall follow the same operating procedures as the standing issue and policy subcommittees. The TAC Chair shall monitor the work of all Ad Hoc Subcommittees, and all such Subcommittees shall be promptly disbanded by the TAC once their tasks have been accomplished.

VIII. TAC ADMINISTRATOR

A. *Duties.* The TAC Administrator ("Administrator") provides administration and management services to the TAC and carries out the Annual Workplan. Duties of the Administrator include but are not limited to: scheduling meetings of the TAC and all committees, subcommittees, and ad hoc subcommittees; preparing agendas and meeting minutes; maintaining all TAC records and files; notifying the TAC of correspondence received and preparing outgoing correspondence; completing all tasks in the Annual Workplan; providing monthly reports at TAC meetings on the status of the Workplan; and other duties as directed by the IC. The Administrator reports to the Chair of the TAC. The Administrator shall work cooperatively and collaboratively with the IC, the Fiscal Agent and the Contracting Agent. The Administrator is paid from funds in the adopted TAC budget.

B. *Selection.* The IC shall select a PARTY or an Outside Contractor to serve as

the Administrator for the TAC. The IC will receive and evaluate proposal(s) and make a recommendation to the Commission on selection of an Administrator, as further described in Attachment 2.

C. *Initial Administrator.* The initial Administrator for the TAC shall be the County of Santa Clara, Integrated Waste Management Division ("County IWMD"). The initial staff provided is described on Attachment 1. In the event of a change in the initial staff, the procedures described in Attachment 2 shall be followed. In the event the IC determines there is a need for a change in the Administrator in the future (due to costs, availability of designated employees or for other reasons), or in the event the County IWMD is unable or unwilling to serve, the procedures for selection of a new Administrator in Attachment 2 shall be followed.

D. *If Administrator Is Also A PARTY.* In the event the Administrator is a PARTY, that PARTY shall appoint a TAC/IC representative whose function is to represent the PARTY's point of view on issues, policy and fiscal matters. The PARTY'S TAC/IC representative shall be a person who is not be involved in the work of the Administrator. This designation shall be made in writing on the PARTY'S letterhead to the Chair of the TAC. The person(s) fulfilling the duties of the Administrator shall act as staff to the TAC, TAC committees and subcommittees, and to the IC.

E. *Contract With Administrator.* All duties and responsibilities of the Administrator, and a list and description of all staff assigned to provide Administrator services, shall be included in a contract between the Contracting Agent and the Administrator. The contract term may be for a single year or for multiple years, at the discretion of the IC. In the event that the Administrator is a PARTY, a letter agreement will be prepared between the Contracting Agent and the Administrator, containing all of the duties, responsibilities, staffing commitments and costs for the Administrator to serve for the upcoming fiscal year. The letter agreement will include the Annual Workplan and costs for the Administrator's services. The letter agreement shall state that the Administrator agrees to provide the described services at the approved costs for the upcoming fiscal year and that all employee and overhead costs will be maintained at the levels specified in the agreement for that fiscal year. With regard to the initial Administrator, the first letter agreement shall be prepared and executed prior to July 1, 2014 to reflect the costs and the scope of work to be performed for FY 2014/15. If the Administrator and the Contracting Agent are the same PARTY, the letter agreement will be prepared and signed by a staff person designated to represent the Administrator and also signed by a separate staff person designated to represent the Contracting Agent.

F. *Annual Workplan and Budget.* As the work of the TAC progresses each year, the Administrator will maintain a list of potential work items to be placed in the Annual Workplan for the upcoming fiscal year. Beginning with preparation of the Annual Workplan and Budget for fiscal year 2014/15 the following schedule will apply. In November of each year, the IC will review the list of potential work items compiled by the Administrator, add additional items as needed, and direct the Administrator to

prepare a proposed Workplan and Budget for the upcoming fiscal year. The proposed Annual Workplan will contain the elements described in Attachment 3.

The Administrator shall submit the final draft of the proposed Annual Workplan and Budget to the IC no later than December 15 of each year. If required, the IC will provide revisions and comments to the Administrator who will then revise and finalize the Annual Workplan and Budget. The IC will approve the Annual Workplan and Budget on or before January 31 and forward it to the Commission for approval. Commission approval is anticipated to be during the month of February. Upon approval by the Commission, the Contracting Agent will prepare agreements with the Administrator, the Fiscal Agent and the Contracting Agent that include the approved Annual Workplan and Budget (for the Administrator) and the approved costs and duties (for the Fiscal Agent and the Contracting Agent) as described in Sections VIII E, IX D and X C. The agreements will be signed by designated representatives of the Administrator, the Fiscal Agent and the Contracting Agent. In the event the Administrator, the Fiscal Agent and/or the Contracting Agent are the same PARTY, that PARTY shall designate separate representatives to execute the agreements on behalf of the Administrator, the Fiscal Agent and the Contracting Agent. Said agreements shall be fully executed and in place prior to July 1 of each year.

G. *Annual Reporting and Evaluation.* The Administrator shall prepare a self-evaluation/audit report to the IC including significant accomplishments, work items planned but not accomplished, work items not planned but completed, and the status of all work items in the Annual Workplan. The report will include recommendations and suggestions for improving the work of the Administrator and will be submitted on or before September 15 each year. The IC will consider the report at a regular meeting and discuss and provide recommendations and feedback to the Administrator. The IC will rate the overall implementation and effectiveness of the Workplan and, in turn, rate the performance of the Administrator based upon the ability of the Administrator to meet the timelines and budget in the Workplan and to effectively support the Commission and the TAC. The final recommendations and feedback of the IC will be recorded in the minutes and also in a letter from the IC Chair to the Administrator. This feedback will be used by the Administrator to make any required changes in operations, procedures and/or work tasks for the next fiscal year. In addition to the annual review of the Administrator the IC may, at any time, discuss questions, concerns or issues of performance with the Administrator.

IX. FISCAL AGENT

A. *Duties.* The Fiscal Agent serves as the treasurer of the County-wide Funds and is responsible for collecting the SWPF from all solid waste disposal facilities and non-disposal facilities located within Santa Clara County. The Fiscal Agent also collects and receives grant funds and revenues from other sources. The Fiscal Agent shall diligently pursue collection of all SWPF funds and shall keep the IC apprised of the amount and entity owing delinquent payments, as well as of the status of collection activity initiated by the Fiscal Agent regarding the delinquent payments. The Fiscal Agent shall manage all funds in accordance with generally accepted

government accounting procedures. The Fiscal Agent shall keep County-wide Funds segregated from all other funds administered by the Fiscal Agent in separately numbered and coded accounts that are readily identifiable as those containing County-wide Funds; shall credit appropriate interest income earned on such funds in each fiscal year; and shall not expend, use or transfer any funds except in accordance with the Annual Workplan and Budget approved by the IC and the Commission, or as otherwise directed by the IC. In the event the Fiscal Agent is not also the Contracting Agent, the Fiscal Agent shall transfer County-wide Funds to the Contracting Agent as directed by the IC, in accordance with the procedures in Attachment 5. The Fiscal Agent shall work cooperatively and collaboratively with the IC, the Administrator, and the Contracting Agent.

B. *Initial Fiscal Agent.* The initial Fiscal Agent shall be the County of Santa Clara. The specific contact person shall be designated in writing to the Administrator and to the TAC Chair. In the event the IC determines there is a need for a change in the Fiscal Agent in the future (due to costs, lack of availability of designated employees or for other reasons), or in the event the County is unable or unwilling to serve, the following procedures for selection of a new Fiscal Agent shall be followed.

C. *Selection.* Any PARTY willing to serve as the Fiscal Agent may be nominated by another PARTY. The nominated PARTY(IES) will submit a letter proposal to the IC containing the costs for performing the services of the Fiscal Agent including all employee and overhead costs and all proposed expenses. If the same PARTY is also already serving, or is proposing to serve, as the Administrator, the Contracting Agent, or both, the proposed costs to perform each function shall be separately specified. The IC will hold discussions with representatives of the nominated PARTY(IES) as needed. The recommendation of the IC will be forwarded to the Commission for approval. Upon receipt of Commission approval, the Contracting Agent will execute an agreement with the new Fiscal Agent that includes the approved costs for the PARTY to provide Fiscal Agent services for the upcoming fiscal year.

D. *Payment For Services.* The Fiscal Agent shall provide the Administrator with proposed costs to perform the duties of TAC Fiscal Agent for the upcoming fiscal year upon request. The proposed costs shall be at the level of detail described in Attachment 2. If the Fiscal Agent is also serving as the Administrator, the Contracting Agent, or both, the proposed costs to perform each function shall be separately specified. The proposed costs will be reviewed by the IC as part of review of the Annual Workplan and Budget. If there is a question or concern about the proposed costs the Chair of the IC and the Administrator will meet with the Fiscal Agent concerning the issues. Upon approval of the Annual Workplan and Budget by the IC and the Commission, the Contracting Agent will prepare an agreement to be signed by the Fiscal Agent and the Contracting Agent to perform services for the new fiscal year. In the event that the Contracting Agent and the Fiscal Agent are the same PARTY, the agreement shall be signed by the designated employee of the PARTY serving as the Fiscal Agent and the (separate) designated employee of the PARTY serving as the Contracting Agent.

E. *Quarterly and Annual Budget Status.* The Fiscal Agent shall prepare and submit quarterly budget updates to the IC every three (3) months, and shall provide a Year-End Budget Report. These reports shall be formatted in a clear and concise manner such that all expenditures, revenues, movement of monies, reallocation of funds and adjustments to the budget are detailed by project and line item (i.e. numerical reference and narrative description). The Year-End Budget Report shall be submitted to the IC on or before October 31 each year. The IC may, at any time, request additional budget information, detail, documentation and updates. The Fiscal Agent shall respond promptly to all such requests.

F. *Biennial Audit.* The Fiscal Agent shall arrange for an audit by an independent third party Certified Public Accounting Firm (CPA) to be conducted every other year beginning with an audit of the 2013/14 fiscal year. The Fiscal Agent may utilize the CPA firm retained by the jurisdiction of which the Fiscal Agent is a part, to perform that PARTY's annual audit. In such event, the results of the audit of the County-wide Funds and accounts shall be clearly and separately called out in the CPA's audit report. The results of the audit shall be reported to the IC on or before January 15 every other year.

G. *Evaluation of the Fiscal Agent.* Each year the Fiscal Agent shall prepare a self-evaluation, along with the Year-End Budget Report, for submittal to the IC. The self-evaluation will include a description of key work tasks performed, any duties or tasks not completed, and any non-planned work tasks completed. The report will include recommendations and suggestions for improving the services of the Fiscal Agent. The self-evaluation shall be submitted at the same time as the Year-End Budget Report. The IC will review the report at a regular meeting and discuss any suggested or needed changes or improvements. The IC will rate the overall performance of the Fiscal Agent based upon the ability of the Fiscal Agent to perform its duties in a timely manner and in accordance with all requirements of this Agreement. The final recommendations and feedback of the IC will be recorded in the minutes and also in a letter from the IC Chair to the Fiscal Agent. This feedback will be used by the Fiscal Agent to make any required changes in operations and procedures and/or work tasks for the next fiscal year. In addition to the annual review of the Fiscal Agent, the IC may, at any time, discuss questions, concerns or issues of performance with the designated representative of the Fiscal Agent.

X. <u>CONTRACTING AGENT</u>

A. *Duties.* The Contracting Agent executes contracts with Outside Contractors, including the Administrator and the Fiscal Agent (where applicable) that have been requested and approved by the IC. The Contracting Agent consults with the IC to establish a procurement process for Outside Contractors, and then conducts that process once the IC has approved a scope of work, schedule, budget and other parameters of the contract that will be awarded by the Contracting Agent. The Contracting Agent shall conduct the procurement process and execute all contracts within a reasonable period of time after being directed to do so by the IC. The

Contracting Agent shall provide a copy of any contract executed on behalf of the TAC to any PARTY, any TAC member, and to any PARTY or person designated by any PARTY or the IC upon request. The governing body of the Contracting Agent, at its discretion, may delegate authority to execute agreements and contracts approved by the IC to a designated employee. Notice of any such delegation of authority shall be provided in writing to the Chair of the IC and to the Administrator.

In the event the Contracting Agent is not also the Fiscal Agent, the Contracting Agent shall receive County-wide Funds transferred to the Contracting Agent by the Fiscal Agent on a periodic basis as described in Attachment 5. The Contracting Agent shall manage all County-wide Funds in accordance with generally accepted government accounting procedures. The Contracting Agent shall keep County-wide Funds segregated from all other funds administered by the Contracting Agent in separately numbered and coded accounts that are readily identifiable as County-wide Funds, and shall not expend, use or transfer any funds except as specifically directed by the IC. At the close of the fiscal year, the Contracting Agent shall, pursuant to the procedures in Attachment 5, comply with all directions from the IC with regard to retention of funds for contracts with Outside Contractors that are still in effect, and with regard to return of unexpended or unencumbered funds to the Fiscal Agent. The Fiscal Agent shall work cooperatively and collaboratively with the IC, the Administrator, and the Contracting Agent.

B. *Initial Contracting Agent.* The initial Contracting Agent shall be the County of Santa Clara. The specific contact person shall be designated in writing to the Administrator and to the TAC Chair. In the event the IC determines there is a need for a change in the Contracting Agent in the future (due to costs, lack of availability of designated employees or for other reasons), or in the event the County is unable or unwilling to serve, the procedures for selection of a new Contracting Agent shall be the same as those for selection of a Fiscal Agent as described in Section IX C.

C. *Payment For Services.* The Contracting Agent shall provide the Administrator with proposed costs to perform the duties of TAC Contracting Agent for the upcoming fiscal year upon request. The proposed costs shall be at the level of detail described in Attachment 2. If the Contracting Agent is also serving as the Administrator, the Fiscal Agent, or both, the proposed costs to perform each function shall be separately specified. The proposed costs will be reviewed by the IC as part of review of the Annual Workplan and Budget. If there is a question or concern about the proposed costs the Chair of the IC and the Administrator will meet with the Contracting Agent concerning the issues. Upon approval of the Annual Workplan and Budget by the IC and the Commission, the Administrator will prepare an agreement to be signed by the Contracting Agent and the Administrator to perform services for the new fiscal year. In the event that the Administrator and the Contracting Agent are the same PARTY, the agreement shall be signed by the designated employee of the PARTY serving as the Contracting Agent and the (separate) designated employee of the PARTY serving as the Administrator.

D. *Annual Contract Status Report.* The Contracting Agent shall prepare and submit an annual report to the IC on the status of all contracts (listing all contracts in progress, expired, terminated, and the amount of work and budget remaining in each) on or before October 31 each year. The report shall also note the amount of County-wide Funds held by the Contracting Agent, and specify the amount(s) of funds encumbered for contracts, and the amount(s) of funds that are unspent and unencumbered. The IC may, at any time, request additional information, detail, documentation and updates on any or all contracts. The Contracting Agent shall respond promptly to all such requests.

E. *Audits.* The Contracting Agent shall cooperate with and provide all information and documentation required in order to complete the bi-annual audit described in Section IX F. In the event the IC decides that any actions or activities of the Contracting Agent are not in compliance with this Agreement, or if the IC determines there are other reasons for an audit to be performed, the IC may perform an audit of the County-wide Funds received and expended by the Contracting Agent. In such event the Contracting Agent shall cooperate fully, and in a timely manner, with persons performing the audit.

F. *Evaluation of the Contracting Agent.* Each year the Contracting Agent shall prepare a self-evaluation, along with the Annual Contract Status Report, for submittal to the IC. The self-evaluation will include a description of key work tasks performed, any duties or tasks not completed, and any non-planned work tasks completed. The report will include recommendations and suggestions for improving the services of the Contracting Agent. The self-evaluation shall be submitted at the same time as the Annual Contract Status Report. The IC will review the report at a regular meeting and discuss any suggested or needed changes or improvements. The IC will rate the overall performance of the Contracting Agent based upon the ability of the Contracting Agent to perform its duties in a timely manner and in accordance with all requirements of this Agreement. The final recommendations and feedback of the IC will be recorded in the minutes and also in a letter from the IC Chair to the Contracting Agent. This feedback will be used by the Contracting Agent to make any required changes in operations and procedures for the next fiscal year. In addition to the annual review of the Contracting Agent, the IC may, at any time, discuss questions, concerns or issues of performance with the designated representative of the Contracting Agent.

XI. LEGAL COUNSEL

A. *Selection.* The IC may select an attorney or firm that is experienced in solid waste, recycling and municipal law to research legal issues, proposed legislation, and to provide legal advice to the TAC ("Legal Counsel") as provided for in the Commission-approved Annual Workplan and Budget. Legal Counsel may be a City Attorney or County Counsel (i.e. an employee of one of the PARTIES) or may be an outside attorney or law firm. The IC will interview and select Legal Counsel as needed, and direct the Contracting Agent to prepare a contract with Legal Counsel for the provision of legal services. The IC shall direct the work of Legal Counsel. The Administrator may assist in coordination of activities with Legal Counsel, but shall not

give direction without prior authorization from the IC. Legal Counsel shall not be responsible for providing legal advice to individual PARTIES related to their individual compliance with Public Resources Code Section 40000 et. seq but may provide such services under separate contract with any PARTY or PARTIES.

XII. OTHER AGREEMENTS OF THE PARTIES

A. *Term of Agreement.* The term of this Agreement shall commence on the date the last duly authorized representative of the PARTIES executes it. This Agreement shall remain in effect until terminated by the PARTIES or until eight (8) or more PARTIES containing more than fifty percent (50%) of the population of the incorporated and unincorporated areas of County of Santa Clara withdraw from the Agreement, whichever occurs first. A PARTY may withdraw from the Agreement by providing written notice to the Administrator, stating the effective date of the PARTY'S withdrawal. The withdrawal of a PARTY shall not entitle that PARTY to receive or retain any portion of the SWPF.

B. *Ethical Code of Conduct.* All TAC members and Alternates shall adhere to the Ethical Code of Conduct in Attachment 4. All TAC members and Alternates shall attend a TAC-sponsored ethics training every other year beginning in FY 2013/14. The Administrator shall arrange for this training and include the cost in the Annual Workplan and Budget for each year the training is required to be conducted.

C. *Counterparts.* This Agreement may be executed and delivered in any number of copies ("counterparts") by the PARTIES, including by means of facsimile and e-mail of PDF copies. When each PARTY has signed and delivered at least one counterpart to the Administrator, each counterpart shall be deemed an original, and taken together, shall constitute one and the same Agreement, which shall be binding and effective as to the PARTIES hereto.

D. *Non-Compliance With State and Federal Laws.* No PARTY shall, by entering into this Agreement, participating in the TAC or the IC, or agreeing to serve as Administrator, Fiscal Agent, Contracting Agent, and/or Legal Counsel, assume or be deemed to assume responsibility for any other PARTY in complying with the requirements of state and federal solid waste and recycling laws, including but not limited to, the California Integrated Waste Management Act of 1989 as amended (Public Resources Code Section 400000 et seq). This Agreement is intended solely for the convenience and benefit of the PARTIES hereto and shall not be deemed for the benefit of any third party and may not be enforced by any third party, including, but not limited to, the United States Environmental Protection Agency and the California Department of Resources, Recycling and Recovery, or any person acting on their behalf or in their stead.

E. *Indemnification.* In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the PARTIES pursuant to Government Code Section 895.6, the PARTIES agree that all losses or liabilities incurred by a PARTY, or by the Santa Clara Valley Water District in carrying out its duties under

Section VI. Implementation Committee, shall not be shared pro rata, but instead the PARTIES agree that pursuant to Government Code Section 895.4, each of the PARTIES hereto shall fully defend, indemnify and hold harmless each of the other PARTIES, and the Santa Clara Valley Water District in the carrying out of its duties under Section VI. Implementation Committee, 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 agents or employees, or in connection with or arising from 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 incurred 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 from any work, authority or jurisdiction delegated to such PARTY under this Agreement.

F. *Entire Agreement.* This Agreement supersedes any prior arrangement or agreement among the PARTIES regarding the composition, structure, duties and powers of the TAC including but not limited to the TAC Rules of Procedure dated May 22, 2006, but does not supersede any other agreements between any of the PARTIES.

G. *Amendments.* This Agreement may be amended by unanimous written agreement of the PARTIES. All PARTIES agree to bring any proposed amendments to this Agreement to their Council or Board, as applicable, within three (3) months following acceptance by the IC. The IC shall, on a biennial basis, evaluate this Agreement and determine if any amendments are needed. The first biennial evaluation shall be in 2015. The IC may recommend amendments on a more frequent basis if desired.

H. *Venue.* In the event that suit shall be brought by any PARTY to this Agreement, the PARTIES agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or where otherwise appropriate, exclusively in the United States District Court, Northern District of California, San Jose, California.

I. *Attachments.* Attachments 1 through 5 are attached hereto and incorporated herein by this reference.

IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement as of the dates shown below.

COUNTY OF SANTA CLARA, a public entity of the State of California

Date:_____

By:_____
Chair, Board of Supervisors

APPROVED AS TO FORM:

By:_____
Deputy County Counsel

ATTEST:

Date:_____

By:_____

CITY OF _____

Date:_____

By:_____
Name :_____
Title:_____

APPROVED AS TO FORM:

By:_____
Name :_____
Title:_____

CITY OF _____

Date:_____

By:_____
Name :_____
Title:_____

APPROVED AS TO FORM:

By:_____
Name :_____
Title:_____

CITY OF _____

Date:_____

By:_____
Name :_____
Title:_____

APPROVED AS TO FORM:

By:_____
Name :_____
Title:_____

CITY OF _____

Date:_____

By:_____
Name :_____
Title:_____

APPROVED AS TO FORM:

By:_____
Name :_____
Title:_____

CITY OF _____

Date:_____

By:_____
Name :_____
Title:_____

APPROVED AS TO FORM:

By:_____
Name :_____
Title:_____

CITY OF _____

Date:_____

By:_____
Name :_____
Title:_____

APPROVED AS TO FORM:

By:_____
Name :_____
Title:_____

CITY OF _____

Date:_____

By:_____
Name :_____
Title:_____

APPROVED AS TO FORM:

By:_____
Name :_____
Title:_____

CITY OF _____

Date:_____

By:_____
Name :_____
Title:_____

APPROVED AS TO FORM:

By:_____
Name :_____
Title:_____

CITY OF _____

Date:_____

By:_____
Name :_____
Title:_____

APPROVED AS TO FORM:

By:_____
Name :_____
Title:_____

CITY OF _____

Date:_____

By:_____
Name :_____
Title:_____

APPROVED AS TO FORM:

By:_____
Name :_____
Title:_____

CITY OF _____

Date:_____

By:_____
Name :_____
Title:_____

APPROVED AS TO FORM:

By:_____
Name :_____
Title:_____

CITY OF _____

Date:_____

By:_____
Name :_____
Title:_____

APPROVED AS TO FORM:

By:_____
Name :_____
Title:_____

CITY OF _____

Date:_____

By:_____
Name :_____
Title:_____

APPROVED AS TO FORM:

By:_____
Name :_____
Title:_____

CITY OF _____

Date:_____

By:_____
Name :_____
Title:_____

APPROVED AS TO FORM:

By:_____
Name :_____
Title:_____

CITY OF _____

Date:_____

By:_____
Name :_____
Title:_____

APPROVED AS TO FORM:

By:_____
Name :_____
Title:_____

ATTACHMENT 1

INITIAL STAFFING OF ADMINISTRATOR

The following is the initial staff complement for the Administrator:

Staff Person	% FTE Committed To Administrator Duties	% FTE Committed To County Unincorporated Duties
Elizabeth Constantino, Program Manager II Provides oversight of all Annual Workplan Tasks and all functions of the Administrator.	0.82 FTE	0.18 FTE
Lisa Rose, Senior Management Analyst Coordinates the Green Business Program, Serves as staff to the Commission, and performs varous other duties.	0.87 FTE	0.13 FTE
Clifton Chew, Management Analyst Serves as staff to the TAC, prepares state Reporting and DRS, and performs various other duties.	0.80 FTE	0.20 FTE
Zachary DeVine, Management Analyst Contracts monitoring, budget tracking, Outreach Specialist, and various other duties.	0.67 FTE	0.33 FTE
Sue Sherrin, Associate Management Analyst B, Green Business Specialist	0.98 FTE	0.02 FTE
Sarah Smith, Management Analyst Home Composting Education Program Coordinator	1.0 FTE	0.00 FTE
Joanna Chapa, Office Specialist III	0.94 FTE	0.06 FTE

ATTACHMENT 2

SELECTION PROCESS FOR THE ADMINISTRATOR

1. **Selection.** The IC shall select a PARTY or an Outside Contractor to serve as the Administrator for the TAC. As part of the selection process, the potential candidate(s) shall submit a proposal to the IC for providing Administrator services. The proposal shall include: a detailed scope of work for the upcoming fiscal year, detailed costs and work hours for the completion of each task, and a list of the employees proposed to perform each part of the Annual Workplan, as well as the administrative and management duties of the Administrator. The proposal shall also include a resume and description of the education, experience and expertise of each proposed staff member highlighting experience in solid waste management, recycling, diversion programs, producer responsibility, public education and outreach, legislative analysis, budgeting, public sector management, administration and policy development. It is of great importance that each member of the Administrator staff possess a high level of experience and expertise in the listed areas. The proposal shall designate the duties and activities to be carried out by each employee. The IC will review the proposal(s) and conduct interview(s) with the potential Administrator(s). The IC will select an Administrator and recommend approval to the Commission.

2. **Change in Administrator Staff**. In the event any member of the Administrator's staff is unable or unavailable to serve in the capacity indicated in the original proposal, the IC shall work with the Administrator to determine if an acceptable alternate staff member is available. This shall include, if desired by the IC, having representatives from the IC participate in the selection process for the alternate staff person; review the resumes, references and writing samples of proposed candidates; attend and participate in interviews; and provide input to the decision-making process for selection of the proposed alternate staff member. If the proposed alternate staff person is not acceptable to the IC, and the IC determines that the employee who is unavailable is a key employee, the IC may give written notice to the Administrator that the TAC will seek another Administrator, and the IC may recommend to the Commission that the selection process for a new Administrator be commenced. Upon receipt of Commission approval, the IC will begin that process. The Administrator shall serve until such time as either a replacement Administrator is selected and approved by the Commission, or (if the Administrator is not a PARTY) until the current contract for the services of the Administrator expires, whichever occurs first. In the IC's sole discretion, the services of the Administrator may be terminated prior to the selection of a new Administrator. In the event the Administrator is not a PARTY, an early termination clause shall be placed in the contract with the Administrator for use by the IC in the event a key staff person becomes unavailable.

3. **Key Employee.** A "key employee" includes, but is not limited to, any one of the following:

a. An employee who is performing twenty percent (20%) or more of the work hours in the Annual Workplan.
b. An employee whose work tasks require a high level of technical expertise and experience in recycling, solid and/or hazardous waste management programs and practices.
c. An employee whose work tasks require a high level of professional judgment that is the product of numerous years of experience in recycling, solid and hazardous waste management, and/or in work for public agencies,
d. An employee whose work tasks involve a high level of interaction with the public (e.g. in trainings, liaison with businesses or non-profit organizations, etc.).
e. An employee whose work tasks involve presentations or testimony to public agencies (e.g. City Councils, the Board of Supervisors) and/or community organizations (e.g. service organizations, community groups, homeowner's associations, etc.).

ATTACHMENT 3

ELEMENTS TO BE CONTAINED IN THE ANNUAL WORKPLAN AND BUDGET

1. **Scope of Work.** The proposed Annual Workplan and Budget will contain a detailed scope of work for each proposed task, the employee work hours estimated to complete each task, the name(s) of the specific employees that will perform the work for each task, the cost of the work hours for each task, all proposed overhead costs for the Administrator and all other projected costs. If the Administrator is a public agency, the costs may be shown as a percentage of each Full Time Equivalent (FTE) and the cost therefor, as long as the position (such as 'Analyst I') and the name of the employee filling that position are indicated, along with the fully burdened cost of the specified percentage of each FTE. The proposed Annual Workplan shall contain a list of key milestones for each task.

2. **Administrative Tasks.** The Workplan shall include a task for providing administrative support for the TAC including work hours to prepare meeting agendas, to schedule meetings, attend meetings, prepare minutes and correspondence, and carry out the direction of the TAC and all Committees and Subcommittees. The Workplan shall also include a separate task for providing administrative support to the Commission including work hours to prepare agendas, attend Commission meetings, prepare minutes, and carry out the direction of the Commission, its Committees and Subcommittees.

3. **Other Staff Commitments.** The proposed Workplan will contain a listing of the other duties and responsibilities of each assigned employee (other than the work to be performed as Administrator for the TAC and the Commission) including the work hours and a general description of the key tasks and projects to be performed. This will serve as a cross-check (regardless of whether the Administrator is a public agency or a private firm) to ensure that the time of each employee is not overcommitted, and that sufficient time exists for each employee to complete all their assigned tasks.

4. **Fiscal Agent and Contracting Agent Costs.** The Administrator shall consult with the Fiscal Agent and with the Contracting Agent (in the event they are separate PARTIES) and shall incorporate the proposed costs for the services of each into the proposed Workplan and Budget. Such costs shall be clearly and separately identified for each function (and identified separately from those of the Administrator) and shall include the costs for employee time, expenses (such as bank fees), overhead charges and all other proposed costs.

5. **Cost Detail For Comparison.** The budget shall be formatted in a clear and concise manner such that all projected expenditures and revenues are detailed by project and line item. The proposed Workplan and Budget shall contain sufficient detail

about proposed work hours and costs such that a comparison can be made between the proposed costs for the current Administrator, the current Fiscal Agent and the current Contracting Agent, and other potential providers of these services.

6. **Projected Amount of Fund Transfer From Fiscal Agent to Contracting Agent.** In the event the Fiscal Agent and the Contracting Agent are different PARTIES, the budget shall include the projected amount of funds to be transferred from the Fiscal Agent to the Contracting Agent in order to pay for contracts with Outside Contractors that will be awarded by the Contracting Agent in the upcoming year. Such projections shall take into account all funds currently held by the Contracting Agent (if any) and the amount of such funds already encumbered for contracts in progress. The projection shall be accompanied by a recommendation as to the frequency of fund transfers from the Fiscal Agent to the Contracting Agent that will be required to fund contracts awarded by the Contracting Agent for the upcoming year (e.g. annual one-time transfer of funds, quarterly transfer of funds, or other recommended timing.)

7. **Discussion Concerning Potential Conflicts.** Once the initial draft of the proposed Annual Workplan is prepared, the IC Chair, the Administrator, the Fiscal Agent and the Contracting Agent shall meet to review and discuss the Workplan and shall work cooperatively to identify and address any potential conflicts that could arise with regard to policies of the Administrator, the Fiscal Agent or the Contracting Agent. Examples include proposed sale of recycling containers or other goods at less than the purchase price (i.e. subsidized cost of compost bins for the home composting program); provision of recycling grants, prizes, incentives; and other such items. At the direction of the IC Chair, the Administrator shall further investigate any potential conflicts that have been identified, and shall, in consultation with the Fiscal Agent and the Contracting Agent, research and propose solutions for each. If solutions cannot be found, the issue may be presented to the IC for further consideration and/or the IC Chair may direct the Administrator to revise the Workplan and Budget to remove the items creating the potential conflict. In this event the IC Chair will inform the IC of such action when the Annual Workplan and Budget are considered for approval.

ATTACHMENT 4

CODE OF ETHICAL CONDUCT

1. Members shall strive to conduct all meetings, discussions and deliberations in a spirit of collaboration and partnership. Members shall treat all persons with respect and courtesy. In the course of discussions, members shall make their arguments on the merits of the issue rather than engaging in personal remarks or attacks on persons holding positions other than their own.
2. All members shall remain aware that the activities of the TAC are funded by fees raised from the public; and that the TAC is recommending expenditures of public funds. Members shall act prudently and in the best interest of the public when making fiscal and policy decisions.
3. Members shall voluntarily recuse themselves from all discussions and votes, and shall refrain from expressing any opinion to other members on issues where any one of the following apply:
    a. The member holds a financial interest such that the member could financially benefit from the action or issue being considered.
    b. The member is an owner or investor of a business the TAC is considering doing business with.
    c. The member owns land that is being considered for purchase or lease by the TAC or by any program funded by the TAC.
    d. A charity, community group or non-governmental organization to which the member belongs or contributes funds would receive funds from the TAC for projects or services.
    e. A person in the member's family could benefit financially from the action or issue being considered. Family includes the members' spouse, children, step-children, grandchildren and step-grandchildren, as well as siblings and parents of the member and the member's spouse.
4. A member recusing themselves shall mean (a) announcing the member has a conflict of interest when the item is opened for discussion, (b) leaving the meeting room before discussion on the matter commences, and (c) not returning to the room until after discussion and any vote on the matter is concluded.
5. Members shall periodically conduct a self-assessment and inventory of any potential conflicts of interest they may have and, if the member is unsure whether or not a conflict exists, the member shall discuss the issue with the TAC Chair, the Administrator, TAC Legal Counsel or legal counsel for the member's own agency.
6. In the event a member fails to recuse him or her self during discussion of an issue where the member appears to have a conflict of interest, the Chair of the meeting shall ask the member to recuse him or her self and shall halt discussion about the issue until the member has left the room.

7. Members shall not engage in financial transactions using non-public information nor allow the improper use of such information to further any personal or private interest.
8. Members shall not solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the TAC, or whose interests may be substantially affected by actions of the TAC. Gifts do not include coffee, tea, donuts, discounts available to the general public, greeting cards or plaques of minor intrinsic value. It is appropriate and prudent for members to decline even items of minor intrinsic value from sources described in this section.
9. Members shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the TAC to take any type of action or to approve any contract, program or other commitment.
10. Members shall not use their membership on the TAC for private gain.
11. Members shall always act impartially and objectively and not give preferential treatment to any organization or individual.
12. Members shall not seek or accept any contract to provide services to the TAC for a period of at least six (6) months after termination of their membership on the TAC.
13. Members shall adhere to, and be vigilant that the TAC adheres to, all applicable state, federal and local laws and regulations.
14. All members shall participate in a TAC-sponsored Ethics Training biennially.
15. Members shall endeavor to avoid any actions or statements that violate, or that create the appearance that they are violating, the law or any ethical standards set forth in this Attachment.

ATTACHMENT 5
PROCEDURES FOR TRANSFER OF COUNTY-WIDE FUNDS FROM FISCAL AGENT TO CONTRACTING AGENT

The following procedures shall be used in the event the Fiscal Agent and the Contracting Agent are different PARTIES.

1. As part of its review and approval of the Annual Workplan and Budget, the IC shall establish the amount of funds and the schedule for transfer of funds from the Fiscal Agent to the Contracting Agent for the upcoming fiscal year.
2. Upon approval of the Annual Workplan and Budget by the Commission, the IC may take appropriate actions consistent with the Annual Workplan and Budget, including but not limited to, the following:
   A. Direct the Fiscal Agent to transfer specific amount(s) of County-wide Funds to the Contracting Agent on a specified schedule. The schedule may call for annual, quarterly, or more frequent transfers, as needed for the fiscal year.
   B. Adjust the timing and/or the amount(s) of funds to be transferred by the Fiscal Agent to the Contracting agent if circumstances change during the year, or if there are other reasons to do so.
   C. In the event the IC directs a change in the scope of work for an existing Outside Contractor that will increase the cost of the work, the IC may direct the Fiscal Agent to transfer additional funds to the Contracting Agent to pay for the amended scope of work.
3. In the event the Fiscal Agent is also serving as the Administrator, the IC shall direct the Fiscal Agent to transfer funds to the Contracting Agent for payment of the Administrator. The Contracting Agent shall pay the Administrator pursuant to the contract executed between the Contracting Agent and the Administrator.
4. If a single PARTY is serving as the Fiscal Agent and the Contracting Agent, the IC may direct that PARTY to retain a specified amount of County-wide Funds to pay the PARTY for performing the services of Fiscal Agent and Contracting Agent.
5. In the event a single PARTY is serving as the Fiscal Agent, the Administrator and the Contracting Agent, the IC will direct the PARTY to implement the Annual Workplan and Budget as approved by the IC and the Commission. This includes paying the costs specified in the approved Budget for the PARTY performing the duties of the Administrator, the Fiscal Agent and the Contracting Agent, as well as carrying out the duties of each.
6. If the Contracting Agent is, at any time, running out of funds or projects a shortfall in funds due to changed conditions or circumstances, the Contracting Agent shall immediately inform the IC and the Fiscal Agent and proceed according to the directions of the IC.
7. When making transfers of funds to the Contracting Agent, the Fiscal Agent shall make the required arrangements for an electronic transfer of funds or for preparation of a check made payable to the Contracting Agent.
8. If the Contracting Agent does not receive funds from the Fiscal Agent pursuant to the schedule directed by the IC, the Contracting Agent shall promptly inform the

Fiscal Agent and the Fiscal Agent shall promptly arrange for the funds to be transferred.

9. At the end of the fiscal year the IC will review the Year End Contract Status Report from the Contracting Agent, the Year-End Budget Report from the Fiscal Agent, and the Year-End Report from the Administrator. The IC may direct the Contracting Agent to transfer unspent, unencumbered funds to the Fiscal Agent or to retain such funds for use in the following fiscal year. The Contracting Agent will promptly comply with the directions of the IC.

10. If the IC directs the Contracting Agent to transfer unspent funds to the Fiscal Agent, the Fiscal Agent shall acknowledge receipt of such funds to the Contracting Agent and shall note the transfer in the accounting records of the Fiscal Agent pursuant to generally accepted government accounting procedures.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE CREATING THE SANTA CLARA COUNTY RECYCLING AND WASTE REDUCTION TECHNICAL ADVISORY COMMITTE

WHEREAS, the California Integrated Waste Management Act, known as "AB 939" (Public Resources Code Section 40000 et seq.) enacted in 1989 required jurisdictions to divert 50% of waste from disposal by 2000, and as amended by Assembly Bill 341 in 2011 now establishes a statewide goal of diverting 75% of solid waste by 2020; and

WHEREAS, in 1992 the Santa Clara County Board of Supervisors established the Solid Waste Commission of Santa Clara County to advise city councils and the Board of Supervisors on countywide solid waste and recycling issues, and in 2001 revised the name of the Commission to the "Recycling and Waste Reduction Commission of Santa Clara County" ("the Commission"); and

WHEREAS, the bylaws of the Commission included establishment of the Recycling and Waste Reduction Technical Advisory Committee ("the TAC") to provide technical advice to the Commission on solid waste management and policy, to bring together a wide spectrum of viewpoints and expertise on countywide solid waste and recycling issues affecting individual jurisdictions and to assist in development of policies, and programs as well as revisions to the County Solid Waste Management Plan/County Integrated Waste Management Plan; and

WHEREAS, in accordance with the AB 939 provisions for financing solid waste diversion and planning activities, the County of Santa Clara levies and collects the Countywide Solid Waste Planning Fee ("SWPF") on each ton of solid waste disposed at landfills located within the County, on tons taken to non-disposal facilities located within the County and subsequently transported for disposal to landfills outside Santa Clara County, and on tons transported directly to disposal facilities located outside Santa Clara County, and the revenues from the SWPF, along with grants and voluntary contributions from agencies are used to fund the work of the Commission and the TAC; and

WHEREAS, the field of solid waste management and recycling has become much more complex since the TAC was originally established, and the City has found it useful and cost-effective to work jointly with other local jurisdictions through the Commission and the TAC in order to comply with the increasing number of new laws and regulations; and

WHEREAS, the responsibilities of the TAC have evolved over time to include recommending, implementing, monitoring, and auditing the funding for existing and new countywide programs included in the Commission-approved Annual Workplan and Budget and these enhanced duties need to be formalized by the cities and the County; and

WHEREAS, in 2009 the Commission and the TAC appointed an Organizational Study Committee and an Organizational Study Subcommittee, respectively, and retained the services of Arroyo Associates to evaluate the organizational structure of the countywide integrated waste management system, programs, staffing and services; and

WHEREAS, the Commission held a public meeting in May 2012 to discuss the recommendations of the Organizational Study with the TAC and members of the public and directed the TAC to prepare an agreement between all the agencies in Santa Clara County that are responsible for AB 939 compliance (all cities and the County) to clarify, enumerate and memorialize the expanded duties of the TAC and to streamline the decision-making and reporting functions of the TAC; and

WHEREAS, the Commission reviewed and approved the attached "Agreement Creating the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee" and has recommended the Agreement to the County and to all of the cities in Santa Clara County for consideration and approval; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA), the approval of the attached agreement is categorically exempt pursuant to Section 15308; and

WHEREAS, the City Council has considered the agreement at a regularly noticed meeting held on _____, 2013;

NOW, THEREFORE, the City Council does hereby find, resolve and determine as follows:

1. The attached "Agreement Creating the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee" is hereby approved.

2. The City finds that, with regard to CEQA, the approval of the attached agreement is categorically exempt pursuant to Section 15308.

3. Staff is directed to appoint a representative to serve on the TAC and to notify the Commission that the Agreement has been approved.

Adopted by the City Council at a regular meeting held on _____, 2013, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

_____
City Clerk
(SEAL)

_____
Mayor

APPROVED AS TO FORM:

_____
Joan A. Borger, City Attorney

Proposed 2009 Council Study Issue

DPW 14 Joint Powers Authority (JPA) Approach to Countywide Recycling & Waste Reduction Programs and Services

COPY

Lead Department Public Works

Element or Sub-element Solid Waste Sub-element

New or Previous Previous

Status Pending **History** **1 year ago** Below the line **2 years ago** None

1. What are the key elements of the issue? What precipitated it?

Countywide coordination of mandated and discretionary recycling and solid waste planning and service provision is provided by the Recycling & Waste Reduction Commission.

The Commission, chartered by the Board of Supervisors, is made up of elected officials representing cities or groups of cities, the County and the Santa Clara Valley Water District.

A Technical Advisory Committee (TAC) advises the Commission. The TAC is made up of staff from the 15 cities and the County, plus representatives of the solid waste industry, recyclers and the environmental community. Staff support for the Commission and TAC is provided by the County Integrated Waste Management (IWM) Division, part of the County's Department of Agriculture and Environmental Management. Funding for this work comes from a 56 cents per ton landfill disposal fee charged by Santa Clara County on all waste disposed in the county.

The same County IWM staff also provide recycling and waste management services (collection of refuse and recyclables, household hazardous waste disposal). Funding for this work comes from franchise fees charged on refuse collection franchises serving customers in the County unincorporated area.

Because County IWM staff is serving two functions and has two funding sources, it can sometimes be difficult for the staff to provide the services desired by the 15 cities in the manner and time frame desired by the cities. The relatively small amount of the 56 cents per ton fee (Alameda County charges an $8 per ton voter-approved fee and targets 75% diversion of refuse) also constrains the abilities of the jurisdictions to jointly address issues and problems. By way of example, one problem that keeps the cities from diverting more wastes from landfill is a regional shortage of compost processing capacity. Compost facilities are difficult to site and the siting/permitting process is long and costly.

This and other problems could be more effectively dealt with if the joint activities of the cities and the County unincorporated area were handled through a joint powers authority (JPA). Joint powers authorities are commonly used for solid waste. In this region, examples include JPA's serving Alameda County, West Contra Costa County, Central Costa County, Monterey Bay region, Salinas Valley and Southern San Mateo County. These JPA's take a variety of approaches, from coordinating refuse collection contracts to owning and operating landfills and transfer stations. In the 1970's, Sunnyvale was the host agency for a northern Santa Clara County JPA that worked on regional approaches to planning and implementing long-term refuse disposal. It was this JPA's work that originally proposed a transfer station on the site that ultimately became the SMaRT Station®.

This study issue would explore, in cooperation with the other Santa Clara County jurisdictions, the advantages and disadvantages of creating a JPA to better serve their long-term waste reduction, recycling, composting, and waste disposal needs. Possible benefits would include creation of JPA staff resources that could more effectively carry out tasks currently done by County staff and could engage in long term facility planning to address regional needs for composting, recycling and disposal of solid waste, household hazardous waste, pharmaceutical waste, and electronic wastes.

2. **How does this relate to the General Plan or existing City Policy?**

The Solid Waste Sub-element sets a goal (Goal 3.2B) of diverting 50% or more of the waste generated in Sunnyvale. Diversion was calculated as 63% in 2006, the most recent year for which official numbers are available.

As of October, 2008, staff is preparing a 2008 study issue report on Zero Waste. If, in response to the Zero Waste study issue, the diversion target were to be set significantly higher than the current 63%, achieving it could be constrained by local recycling and composting infrastructure shortfalls that can only reasonably be addressed on a regional, cooperative basis.

3. **Origin of issue**

Council Member(s)
General Plan
City Staff X
Public
Board or Commission none

4. **Multiple Year Project?** Yes **Planned Completion Year** 2010

5. **Expected participation involved in the study issue process?**

Does Council need to approve a work plan? No
Does this issue require review by a Board/Commission? No
If so, which?
Is a Council Study Session anticipated? Yes
What is the public participation process?
A public meeting (one, at minimum) would be held to gather input on the advisability of taking a Joint Powers Authority approach in this area.

6. **Cost of Study**

Operating Budget Program covering costs
323, Solid Waste Management
Project Budget covering costs
Budget modification $ amount needed for study
$50,000
Explain below what the additional funding will be used for
The $50,000 represents the full initial cost of temporary staff or consultant cost to scope out the process, arrange meetings with jurisdictions and assess regional interest in a solid waste JPA. If interest exists, other jurisdictions would be asked to reimburse the City for their proportional shares of the $50,000 and would formally share in future development and startup expenses.

7. **Potential fiscal impact to implement recommendations in the Study approved by Council**

Capital expenditure range None
Operating expenditure range Under $500
New revenues/savings range None
Explain impact briefly
Little fiscal impact would be seen unless there appeared to be regional interest in creating a JPA.

8. **Staff Recommendation**

Staff Recommendation For Study

If 'For Study' or 'Against Study', explain
Recycling and composting are among the most effective ways to reduce community emissions of greenhouse gases. Regional efforts to do more recycling and composting are reaching physical and financial constraints due to regional shortages of infrastructure, especially compost facilities. Money currently being used to fund joint activities by County IWM staff could be more effectively controlled and spent by a staff dedicated to regional recycling and waste reduction priorities and directed by all participating jurisdictions.

9. Estimated consultant hours for completion of the study issue

300

Managers

Role	Manager				Hours
Lead	Bowers, Mark	Mgr CY1:	200	Mgr CY2:	0
		Staff CY1:	200	Staff CY2:	0
Interdep	Boco, Robert	Mgr CY1:	20	Mgr CY2:	0
		Staff CY1:	0	Staff CY2:	0

Total Hours CY1: 420
Total Hours CY2: 0

Note: If staff's recommendation is 'For Study' or 'Against Study', the Director should note the relative importance of this Study to other major projects that the Department is currently working on or that are soon to begin, and the impact on existing services/priorities.

Reviewed by

Marvin A Rose 10/16/08

Department Director **Date**

Approved by

City Manager 10/20/08

City Manager **Date**

Addendum

A. Board / Commission Recommendation

☐ **Issue Created Too Late for B/C Ranking**

Board or Commission	Rank	Rank 1 year ago	Rank 2 years ago
Arts Commission			
Bicycle and Pedestrian Advisory Committee			
Board of Building Code Appeals			
Board of Library Trustees			
Child Care Advisory Board			
Heritage Preservation Commission			
Housing and Human Services Commission			
Parks and Recreation Commission			
Personnel Board			
Planning Commission			

Board or Commission ranking comments

B. Council

Council Rank (no rank yet)
Work Plan Review Date (blank)
Study Session Date (blank)
RTC Date (blank)
Actual Complete Date (blank)
Staff Contact