



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kerrie Romanow

SUBJECT: SEE BELOW

DATE: May 20, 2024

Approved

Date

5/30/24

**SUBJECT: AGREEMENTS WITH THE COUNTY OF SANTA CLARA FOR
ASSEMBLY BILL 939 IMPLEMENTATION FEES AND
PARTICIPATION IN THE HOUSEHOLD HAZARDOUS WASTE
COLLECTION PROGRAM**

RECOMMENDATION

Approve the following Agreements with the County of Santa Clara:

- a) Agreement for Household Hazardous Waste Collection Program for Fiscal Year 2024-2025 through 2026-2027, for \$400,000 each year, subject to the appropriation of funds; and
- b) Agreement for Countywide Assembly Bill 939 Implementation Fee for Fiscal Year 2024-2025 through 2026-2027.

SUMMARY AND OUTCOME

Approval of these two agreements will authorize the County of Santa Clara (County) to continue performing Household Hazardous Waste (HHW) collection services and to continue collecting the Assembly Bill (AB) 939 Implementation Fee at \$4.10 per landfilled ton, on behalf of the City through June 30, 2027. Continuing these services ensures the City will be able to accommodate the growing number of residents utilizing the HHW drop-off service. Organized collection of HHW reduces the amount of toxins that enter the City's landfills, recycling facilities, storm sewers, and sanitary sewers and prevents these toxins from threatening both the San Francisco Bay and local groundwater.

BACKGROUND

The HHW Program supports the City's Zero Waste Strategic Plan 2022 by diverting waste from landfills and supporting extended producer responsibility and product stewardship. Additionally, AB 939, known as the California Integrated Waste Management Act of 1989, requires local jurisdictions to provide community services regarding the management and disposal of HHW wastes. In 2006, the California Department of Toxic Substances Control banned the disposal of universal wastes (materials such as batteries, electronics, mercury thermometers and thermostats, non-empty aerosol cans, fluorescent tubes, and compact fluorescent lamps) in landfills and required the disposal of such materials at a facility that accepts hazardous wastes. If not properly handled, universal wastes can be hazardous to human health and the environment. The countywide HHW program is one of the only legal means for residents to dispose of these materials and provides drop-off service for small businesses on a cost-recovery basis, which is less expensive than requiring businesses to contract out for service.

AB 939 authorizes local jurisdictions to impose fees to recover the costs of implementing and administering source reduction and recycling programs. To comply with state law and local needs, the County and 14 cities in the county created the HHW Program. Since 1992, all cities (except for the City of Palo Alto) have contracted with the County to collect the AB 939 Implementation Fee and provide services through the agency agreement for Countywide HHW Collection Program. The agreement for the AB 939 Implementation Fee authorizes the County to collect AB 939 Implementation Fees on behalf of the 15 cities and for the unincorporated area of the county and apportions the fees based off a combination of the total households and level of participation in the countywide HHW program within each municipality.

The agreement for HHW Collection Program authorizes the City to participate in the Countywide HHW Collection Program. The County administers all operational aspects of the program and is responsible for recycling and waste disposal of HHW dropped off at collection facilities. All participating cities must approve the agency agreement for the AB 939 Implementation Fee by June 30, 2024. Should one or more jurisdictions not approve this agreement, the AB 939 Implementation Fee will not be collected effective July 1, 2024.

ANALYSIS

The AB 939 Implementation Fee is charged by the landfills for each ton of material disposed. For 2024-2025 through 2026-2027, there will be no fee increase; the rate of \$4.10 per ton, established in 2009-2010, will remain unchanged. The AB 939 Implementation Fee is comprised of two components: \$2.60 per ton for HHW services and \$1.50 per ton to assist in funding the costs of preparing, adopting, and implementing the state-mandated County Integrated Waste Management Plan for the County's 15 cities and unincorporated areas of the county.

In 2024-2025, staff projects 827,000 tons of waste generated in San José will be disposed in county landfills, representing nearly half of the total countywide tonnage. Accordingly, the total

revenue generated from the AB 939 Implementation Fee to fund San José's share of the County-provided HHW services is estimated at \$2,150,200 ($\$2.60 \times 827,000$). In addition, approximately \$1,240,500 ($\$1.50 \times 827,000$) in revenue generated from the AB 939 Implementation Fee will support the City's share of the County Integrated Waste Management Plan. If approved by City Council and the County Board of Supervisors, the fee will be effective July 1, 2024.

On December 8, 2011, the County Recycling and Waste Reduction Commission Technical Advisory Committee approved a funding strategy to support the lease charged by the City to the County for use of the HHW facility at the San José Environmental Innovation Center. The permanent HHW collection facility located at the San José Environmental Innovation Center, located at 1608 Las Plumas Avenue, opened in September 2014. The funding strategy consisted of a cost share between the fixed cost allocation of the AB 939 Implementation Fee, which supports approximately half the lease charge, and by a facility use surcharge to each participating city in the program to equitably distribute the remainder of the lease charge. The facility use surcharge is adjusted annually based on actual participation at the facility.

To accommodate approximately 8,200 additional HHW drop-off appointments from San José residents, additional funding will be required beyond the AB 939 Implementation Fee allocation. Ongoing funding was approved as part of the 2010-2011 Adopted Operating Budget in both the Sewer Service and Use charge Fund (\$100,000) and the Storm Sewer Operating Fund (\$100,000). Additional ongoing funding of \$200,000 in the Integrated Waste Management Fund is recommended in the Fiscal Year 2024-2025 Proposed Operating Budget, for a grand total of \$400,000 to support these additional services, and will be available in future years, subject to appropriation of funds.

EVALUATION AND FOLLOW-UP

No evaluation or follow-up is required by City Council. The agreements require the County's Board of Supervisors approval on June 4, 2024. If the agreements are approved by City Council, the County will collect the AB 939 Implementation Fee on behalf of the City and will provide HHW collection services for the City beginning July 1, 2024.

COST SUMMARY/IMPLICATIONS

The total allocation to support costs for additional appointments in 2024-2025, 2025-2026, and 2026-2027 will be \$400,000 and will be funded from the Sewer Service and Use Charge Fund (\$100,000), the Storm Sewer Operating Fund (\$100,000), and the Integrated Waste Management Fund (\$200,000) in the Environmental Services Non-Personal/Equipment appropriations, subject to the appropriation of funds in the respective fiscal years' Operating Budgets. A portion of these funds were previously approved by City Council on an ongoing basis in the 2010-2011 Adopted Operating Budget. Additional funds are requested as part of the 2024-2025 Proposed Operating Budget.

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BUDGET REFERENCE

The table below identifies the 2024-2025 funds and appropriations proposed to fund the contract recommended as part of this memorandum.

Fund #	Appn. #	Appn. Name	Total Appn.	Amt. for Agreement	2024-2025 Proposed Operating Budget Page	Last Budget Action (Date, Ord. No.)
541	0762	ESD Non-Personal/Equipment	\$600,408	\$100,000	907	TBD
446	0762	ESD Non-Personal/Equipment	\$2,898,895	\$100,000	911	TBD
423	0762	ESD Non-Personal/Equipment	\$4,426,845	\$200,000	869	TBD

COORDINATION

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

PUBLIC OUTREACH

This program has been discussed at publicly noticed meetings of the Recycling and Waste Reduction Commission of Santa Clara County and its Technical Advisory Committee. Agendas for these meetings are distributed to representatives of all cities in the county and to other interested parties. Agendas and minutes are also posted on County's Board and Commission's website. This memorandum will be posted on the City's Council Agenda website for the June 11, 2024 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

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PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

KERRIE ROMANOW

Director, Environmental Services

For questions, please contact Valerie Osmond, Environmental Services Deputy Director, at (408) 535-8557.