

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

This is the Third Amendment to the “Agency Agreement for Countywide Household Hazardous Waste Collection Program,” (AGREEMENT) by and between the City of Milpitas (CITY) and the County of Santa Clara, (COUNTY), which AGREEMENT was effective on July 1, 2006 and previously amended effective June 22, 2007 and July 1, 2007.

The COUNTY and the CITY agree that:

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

HHW Program services are directly mandated under AB939, which establishes statutory authority to provide for funding to support planning and implementation of integrated waste management programs. The AB939 HHW Fee, \$2.22 per ton in FY 2007, \$2.05 per ton in FY 2008 and \$2.05 per ton in FY 2009, collected as part of the AGENCY AGREEMENT FOR COUNTYWIDE AB939 IMPLEMENTATION FEE, will be the primary source of funding for CoHHW Program services.

Funds derived from the AB939 HHW Fee will be allocated among five types of CoHHW Program service costs as follows:

- A. Fixed Program Costs will be apportioned based on the number of households in each participating jurisdiction. The number of households will be determined at the beginning of each Fiscal Year by statistics compiled by the Department of Finance, Demographic Research Unit in its most recent Report, “Population Estimates for California Cities and Counties.”
- B. Abandoned Waste Disposal Costs will fund disposal of HHW illegally abandoned at nonprofit charitable reuse organizations. The existing fund balance of \$210,000 from previous years will fund Abandoned Waste Disposal Costs for Fiscal Years 2007 to 2009. The \$.12 per household Abandoned Waste Disposal apportionment for Fiscal Year 2007 will be redirected to the Facility Closure Cost Account. The apportionment for Fiscal Years 2008 to 2009 will be redirected to the City Discretionary Fund.
- C. Facility Closure Cost Account will cover the estimated cost of closing the County Household Hazardous Waste Collection Facilities (CoHHWCF) when the time comes. The \$.12 per household Abandoned Waste Disposal apportionment for Fiscal Year 2007 will be redirected to this account to satisfy Permit By Rule requirements [California Code of Regulations, Title 22, sections 67450.25 (a) (2) (E) and 66265.110-66265.115]. There will be no further apportionment for Fiscal Years 2008 and 2009.
- D. Variable Cost Per Car to provide a base level service to 3% of households in all participating jurisdictions.
- E. Available Discretionary Funding funded on tonnage generated per participating jurisdiction.

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

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

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

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

The Variable Cost Per Car is the cost associated with actual labor, waste disposal, transportation and other services provided to the residents at the County Household Hazardous Waste Collection Facilities (CoHHWCF) and at Temporary Events. The Variable Cost Per Car is estimated to be approximately \$67 per car FY 2008 and FY 2009. The estimated cost per car will be adjusted annually to reflect actual service costs. After Fixed Program Costs and Facility Closure Costs are allocated on a per household basis, the Variable Cost Per Car will be used to calculate the costs to service 3% of households across all participating jurisdictions. If the level of 3% of households is not reached in a particular jurisdiction, the CoHHW Program will use the remaining balance of funds, in cooperation with the CITY that has less than 3% participation levels, to increase public outreach and/or provide additional services in that jurisdiction the following year.

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

COUNTY shall conduct collection operations at three County HHW Facilities (CoHHWCF) in FY 2007 and two CoHHWCF in FY 2008 and FY 2009. The third CoHHWCF will operate at San Jose when the facility is ready. The CoHHWCF will operate a reuse program, offering usable materials to the public at no charge. The COUNTY shall obtain all necessary permits and licenses required for the CoHHWCF and shall provide or contract for services, equipment, and supplies to properly receive, package, label, haul, recycle and dispose of wastes collected. The old San Jose facility closed in November 2006 and a new facility is expected to be ready at a new location in FY 2009.

The CoHHWCFs are located at:

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

5. Section 18. **ADDITIONAL SERVICES UNDER THIS AGREEMENT** is amended in full as set forth in **Exhibit A**, attached hereto and incorporated by reference herein.

6. The following attachments of said AGREEMENT are amended in full as shown in the attachment hereto and incorporated by reference herein.

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

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

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

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

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

**COUNTY OF SANTA CLARA**

**CITY**

Signature:

Signature:

\_\_\_\_\_  
Pete McHugh, Chair                      Date  
BOARD OF SUPERVISORS

\_\_\_\_\_  
Thomas C. Williams                      Date  
City Manager

ATTEST:

ATTEST:

\_\_\_\_\_  
Phyllis A. Perez, Clerk                      Date  
BOARD OF SUPERVISORS

\_\_\_\_\_  
Mary Lavelle                      Date  
City Clerk

APPROVED AS TO FORM AND LEGALITY:

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Kathy Kretchmer                      Date  
Deputy County Counsel

\_\_\_\_\_  
Michael J. Ogaz                      Date  
City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Greg Armendariz  
Public Works Director/City Engineer

## **EXHIBIT A**

### **18. ADDITIONAL SERVICES UNDER THIS AGREEMENT**

CITY may elect to augment funding provided for in this Agreement with CITY funds. Additional services shall be made available upon written agreement between the CITY's authorized representative and the Director of the Department of Agriculture and Environmental Management. Additional services may include, but are not limited to, additional appointments (charged at the variable cost per car rate), Door-to-Door HHW Collection, Used Oil Filter Collection, Neighborhood Clean-Up and Locker Clean Out, and electronic waste (e-waste) collection.

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

CITY agrees to augment up to an additional \$7,000 to the Countywide HHW Program during Fiscal Year 2009 for the purpose of increased resident participation above the 3% service level at the scheduled collection dates listed in Attachment 3 of this Amendment. Augmentation will be calculated at the variable cost per car rate which is estimated at \$67.00 per car. Additional funding augmentations shall be agreed upon in writing by the Director of the Department of Agriculture and Environmental Management and the designated CITY representative. Additional services will be charged on a cost recovery basis.

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

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

**Fiscal Year 2007**

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

**Fiscal Year 2008**

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

**Fiscal Year 2009**

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

ATTACHMENT 2 Estimated HHW Fixed Costs For Fiscal Year 2009

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

**ATTACHMENT 3: HHW SCHEDULE FOR FISCAL YEAR 2008/2009**

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

**HHW SCHEDULE FOR FISCAL YEAR 2008/2009-continued**

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

\*SUBJECT TO CHANGE

2/27/2008