



Board Agenda Item 51

DATE: November 6, 2018

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Memorandum of Understanding between the County and 15 cities related to
Assembly Bill 939

RECOMMENDED ACTION(S):

Approve and authorize the Chairman to execute a Memorandum of Understanding between the County and the cities of Clovis, Coalinga, Firebaugh, Fowler, Fresno, Huron, Kerman, Kingsburg, Mendota, Orange Cove, Parlier, Reedley, San Joaquin, Sanger, and Selma to allow for the continued implementation and funding of regional Assembly Bill 939 - The Integrated Waste Management Act, including education, public information, household hazardous waste management programs, and the development of associated facilities, effective upon execution for ten years with an automatic five-year extension.

Approval of the recommended action will allow the County, as the Lead Agency, to continue to implement Assembly Bill 939 - The Integrated Waste Management Act (AB 939), including education, public information, household hazardous waste (HHW) management programs, and development of associated HHW facilities through utilization of the current AB 939 Surcharge Fee throughout the MOU cities and County region. The AB 939 Surcharge Fee of \$3.41 per disposed ton of the County's generated solid waste is required to fully-fund regulatory oversight as well as the activities covered by the proposed Memorandum of Understanding (MOU), including operation of the Regional Permanent HHW Facility (HHW Facility) and a local network of HHW drop-off sites (Local HHW Network), and development of additional Facility(ies) as needed. This item is countywide.

ALTERNATIVE ACTION(S):

If the recommended action is denied or postponed, it may affect the County's ability to meet compliance with certain statutory requirements.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended action. Currently, the County's Solid Waste Surcharge is \$3.41 per ton of solid waste, and is comprised of the following: HHW Facility Operations and Development Fee (\$1.75 per-ton), State-Mandated AB 939 Integrated Waste Management Plan Fee (\$0.65 per-ton), County Department of Health Services (DHS) Fee (\$0.51 per-ton) and Solid Waste Management Fee (\$0.50 per-ton). Implementation of the activities covered by the proposed MOU will be funded by the existing \$3.41 per-ton regional AB 939 Surcharge Fee. Sufficient appropriations and estimated revenues are included in the Department of Public Works and Planning Resources Division Org 9015 FY 2018-19 Adopted Budget.

DISCUSSION:

California Law requires each county and city in the State to prepare, implement and update solid waste management plans in order to meet CalRecycle diversion mandates. In addition, the State requires all jurisdictions to properly handle generated HHW, through recycling and/or disposal at an appropriate facility. The County, as Lead Agency, continues to provide this service to all jurisdictions within the County through the proposed MOU. The County and the 15 cities located within the County entered into an MOU in 1993, 2004, and again in 2009 to coordinate regional implementation of related education and public information and HHW management programs. The current MOU expires on January 5, 2019.

The proposed MOU will continue to facilitate and provide services related to: 1) management of the increase in types and volumes of waste, as required and promulgated by legislation, to be managed as HHW; and 2) respond to requests from residents of the County to have greater and better access to HHW management services. This will be implemented through development, construction, and operation of a newly relocated HHW Facility (pending in the siting stage of development), other facilities as needed, and expansion of the Local HHW Network.

The new version of the MOU contains new terms and conditions. One new addition provides that in the event that portions of the AB 939 Trust Fund Reserves allocated to the HHW Facility and associated activities reach \$11.5 million in total, that the MOU Committee will initiate a Board item to lower the respective portions of the AB 939 Surcharge Fee. The action will request that the Board reduce the AB 939 Surcharge Fee, which totals \$3.41, by \$2.40 per disposed ton of the County generated solid waste. This reduction will continue until the new relocated HHW Facility is constructed and operational or the specified Trust Fund Reserves drop to \$6.0 million or lower, at which time the MOU Committee will return to the Board for an increase in the AB 939 Surcharge.

In addition, a new provision to include a Local Task Force (LTF) as required by the State, and previously approved by the County and all 15 cities within the County, was added to the proposed MOU. The LTF is established to 1) identify solid waste management issues, 2) determine the need for solid waste collection and transfer systems, processing facilities and marketing strategies, 3) facilitate the development of multijurisdictional arrangements for marketing of recyclables, and 4) to the extent possible, facilitate resolution of conflicts and inconsistencies between or among city and county source reduction and recycling elements.

Another addition to the MOU is a specific and delineated process for distribution of the AB 939 Trust Fund Reserves, if ever there is need for a distribution. The distribution will divide 50% of the applicable Trust Fund Reserves based upon the population of each jurisdiction, and the remaining 50% of funds will be distributed based upon the amount of surcharges collected from each jurisdiction.

The Department of Public Works and Planning staff and representatives of the 15 cities within the County have worked closely to prepare the proposed MOU. Department staff held several meetings over the past few months and the recommended MOU reflects a collaborative effort to enhance accountability and program effectiveness.

The proposed MOU has an initial term of ten years with an option for one five-year extension. The option will be automatically exercised unless a majority of the cities and County vote not to exercise the option for renewal. The proposed MOU contains a mutual indemnification clause, as did the previous MOU.

In summary, it is recommended that your Board approve and authorize the Chairman to execute the proposed MOU between the County and the 15 cities within the County to allow for the continued implementation and funding of regional AB 939 education and public information and HHW management programs, including development of HHW facilities.

OTHER REVIEWING AGENCIES:

Cities of Clovis, Coalinga, Firebaugh, Fowler, Fresno, Huron, Kerman, Kingsburg, Mendota, Orange Cove, Parlier, Reedley, San Joaquin, Sanger, and Selma.

REFERENCE MATERIAL:

BAI #7, January 6, 2009

BAI #55, June 8, 2004

BAI #10, April 27, 1993

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Successor MOU

CAO ANALYST:

Sonia M. De La Rosa