



April 17, 2014

**TO:** Waste Management Authority Board  
**FROM:** Gary Wolff, Executive Director  
**SUBJECT:** Household Hazardous Waste (HHW) Services and Fee Ordinance

**Background**

Following a public hearing and the close of the protest period on the proposed HHW fee at the March 26 WMA meeting, the WMA Board decided to carry over the HHW draft fee ordinance second reading and decision until this meeting. Staff was directed to answer some questions (see discussion, below).

The HHW services and fee decision was documented thoroughly in the March staff report, which is available at: <http://www.stopwaste.org/docs/03-26-14-hhw.pdf> The staff presentation at the March 26 meeting is available at: [www.stopwaste.org/docs/march26-hhw-powerpoint.pdf](http://www.stopwaste.org/docs/march26-hhw-powerpoint.pdf)

Following the close of the public hearing, staff announced the number of protests tabulated by the Registrar of Voters. The tally has two components. The first component was protests received up until approximately noon on the 26th, which were taken to the Registrar of Voters office and tabulated in an electronic application. The second component was protests submitted during the public hearing, which were tabulated by hand by staff from the Registrar of Voters, but were not entered into the electronic application. Both components were made known to me only after the close of the public hearing, and I read them aloud. The numbers below summarize the results of the protest process. Certificates from the Registrar of Voters as to the accuracy of the tabulated numbers are attached.

|  |         |
|--|---------|
| Number of parcels potentially subject to the fee:                                | 388,943 |
| Number of residential units on those parcels (original):                         | 565,663 |
| Number of residential units on those parcels (revised):                          | 566,660 |
| Number of valid residential parcel owner protests:                               | 51,203  |
| Number of residential units on parcels with valid owner protests (original):     | 101,769 |
| Number of residential units on parcels with valid owner protests (revised):      | 102,756 |
| Number of invalid parcel protests:   | 1,829   |
| Valid parcel protests as a percentage of parcels potentially subject to the fee: | 13.2%   |
| Number of residential units (revised) on those parcels:                          | 18.1%   |

The "original" versus "revised" designation reflects the fact that parcel owners could inform us that the number of residential units on their parcel was more or less than was on the notification form mailed to them. We are treating all revisions as accurate for the purpose of the protest

process. Because both the calculated percentages (13.2% and 18.1%) are less than 50%, the WMA Board has the discretion to adopt or not adopt the fee ordinance.

## **Discussion**

WMA Board members asked that staff address the following questions this month:

1. What changes can be made in the service proposal without having to re-notice the changes and initiate a new protest process?
2. What changes can be made in the fee proposal without having to re-notice the changes and initiate a new protest process?
3. Can the cost of the proposed system expansion be reduced?
4. If a different fee were imposed on residential units in multi-family buildings, how many residential units are there in each category of building (single family, 2-4 plexes, and buildings with 5 or more units)?
5. What has been the experience with protest processes at other agencies, to the extent such information is readily available (including in-County agencies when feasible)?

The first three questions are inter-related. Legal counsel has indicated that a reduction in both services and fees that affected all residential units proportionally should not require re-noticing. However, the only proportional reduction in both services and expenses that is possible would be a reduction in the hours and days of operation, and the number of 'one-day' drop-off events. But these reductions would create inefficient use of staff and facilities. As stated by HFH Consultants: *"The Proposed System Expansion provides a better 'bang-for-the-buck", taking fuller advantage of the efficiencies that can result from a larger Program, and providing new services."* (See page 2 of their October 4, 2013 review of the proposal. Attachment F of the March 26 staff report.)

According to legal counsel, a reduction in the fee for all residential units without a reduction in proposed services would not require re-noticing. One commenter at the March 26 meeting suggested that a 14% reduction in budget should be achievable based on his estimate that each of the approximately 4 new county staff was going to cost about \$1 million per year. Actually, staff costs as documented in the HFH report are about \$100,000 per position, including benefits. And all of the costs in the proposal are already budgeted at an efficient operational level per the HFH report just cited (*"Underlying operational and fiscal assumptions appear reasonable and well-considered."* p. 2).<sup>1</sup>

According to legal counsel, a reduction in the fee for some residential units (e.g., those in multi-family buildings) but not others (e.g., single family residences), without a reduction in services to

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<sup>1</sup> Further, the HFH Productivity Review of the facilities in February 2012 (attachment D to the March 26 staff report stated (p. 2): "In general, after adjusting for key differences in program design and circumstances, the Alameda County Program appears to be operating in a cost-effective and efficient manner. The Program compares well with that of Santa Clara County, as well as to the Fremont and San Francisco programs on the basis of cost and productivity indices for total and operating costs per household, and for transportation and disposal costs."

anyone, should not require re-noticing as long as those paying the higher fee are not subsidizing the cost of service to those paying the lower fee.

With respect to the fourth question, the data on residential units per parcel in the mailing list we used can be sorted to create Table 1 (modified to reflect revised residential units).

**Table 1: Estimated Residential Unit Distribution in Alameda County**

|   | <b>1 residential unit</b> | <b>2-4 residential units</b> | <b>5+ residential units</b> |
|---|---------------------------|------------------------------|-----------------------------|
| <b>Number of Parcels<br/>(percent of parcels)</b>                                       | 354,838<br>(91.23%)       | 26,935<br>(6.93%)            | 7,170<br>(1.84%)            |
| <b>Number of Residential<br/>Units (percent of units)</b>                               | 354,828<br>(62.62%)       | 69,330<br>(12.23%)           | 142,502<br>(25.15%)         |
| Note: revised units used from the registrar of voters electronic tabulation application |                           |                              |                             |

This information could be used to re-allocate the cost of the program among residential units, using these three classes. However, as presented last month and summarized in Table 2, multi-family units (regardless of whether 2-4 unit buildings are considered multi-family or not) do not dispose less HHW than single family units. Table 3 shows that other studies confirm this result.

**Table 2: Summary of HHW Studies from March 26 Staff Presentation**

| <b>Waste Characterization Study</b>  | <b>Single Family Units</b> | <b>Multi-Family Units</b> |
|--|----------------------------|---------------------------|
| <b>SBWMA 2012 and 2013</b>   | 0.8%                       | 2.5%                      |
| <b>State of CA 2009</b>  | 1.0%                       | 1.0%                      |
| <b>ACWMA 2008</b>  | 0.7%                       | 1.0%                      |
| <b>ACWMA 2000</b>  | 0.6%                       | 0.8%                      |
| <b>ACWMA 1995</b>  | 0.6%                       | 1.0%                      |
| The composition of waste: HHW (including E-waste) as a percent of disposed waste from that sector (all data from the tables in Attachment I) |                            |                           |

**Table 3: Supplemental Summary of Other HHW Studies**

| <b>Waste Characterization Study</b> | <b>Single Family Units</b> | <b>Multi-Family Units</b> |
|-------------------------------------|----------------------------|---------------------------|
| <b>San Diego 2012</b>               | 1.2%                       | 1.3%                      |
| <b>King County, WA 2011</b>         | 0.3% (excludes e-waste)    | 0.4% (excludes e-waste)   |
| <b>Palo Alto 2006</b>               | 0.1% (excludes e-waste)    | 0.4% (excludes e-waste)   |
| <b>State of CA 2004</b>             | 0.2% (excludes e-waste)    | 0.6% (excludes e-waste)   |

The findings from these studies are consistent across time and place, and are reasonable given that HHW is hazardous waste produced in the course of owning or maintaining a place of residence. Consider the many factors that could affect the quantity of HHW produced at any residence over time other than whether the building is multi-family or single family: size of the building, age of the building, type of construction, maintenance practices (while occupied or while vacant, etc.), habits of the residents, number of residents, size of the residence, level of recycling, owner-occupied versus rental, lack of storage space, and length of tenure as a resident in that location. For example, multi-family buildings sometimes lack storage space, and turnover

in rental units (whether multi- or single-family) is likely more frequent than in owner-occupied units. Both factors make it more difficult to store HHW products until they can be fully used.

The preponderance of evidence (the legal standard in this situation) supports an equal fee per household. This is also a reasonable and fair allocation of cost because the special benefit to owners of residences is an equal opportunity to dispose of HHW in a legal and safe manner.

With respect to the fifth question, Table 4 summarizes Proposition 218 protest results that we were able to assemble in the last month. Apparently there is no database for these protests, although there is reportedly some interest at the League of Cities in creating one.

Table 4 shows that most protest processes do not generate many protests. Nonetheless, some protests have been quite strong (with percentages significantly higher than in our case), and in one case the protest was strong enough to prevent adoption of the proposed water rates (Amador Water Agency). The last refuse collection protest in Berkeley generated about as much opposition on a percentage basis as did ours (16% in Berkeley versus 13-18% in our case).

As I noted last month, the protest process provides valuable information to the WMA Board in deciding whether or not to adopt the HHW fee. But it is not the only information available to the WMA Board. Around 45,000 households used the HHW facilities last year: a sign that the service is viewed as valuable by many people. And Board members have other sources of information or stakeholder opinions that may be relevant to your decision.

**Table 4: Summary of readily available Proposition 218 protest results**

| <b>Agency/City</b>                | <b>Rate Increase</b> | <b>Protest Votes</b>                     | <b>Date – most recent on top</b> |
|-----------------------------------|----------------------|--|----------------------------------|
| City of Sierra Madre              | Water/sewer          | 1,035 – 28% for water<br>32.5% for sewer | 4/2/2014                         |
| Castro Valley Sanitary District   | Refuse collection    | 43 - .3%                                 | 4/1/2014                         |
| Alameda County Water District     | Water                | 59 - .08%                                | 1/9/2014                         |
| City of Santa Rosa                | Water/wastewater     | 74 - .15%                                | 1/7/2014                         |
| City of San Carlos                | Refuse collection    | 4 – unknown %                            | 12/19/2013                       |
| City of San Diego                 | Water                | 8,557 – 3%                               | 11/21/2013                       |
| Crescent City                     | Water                | 1,302 – 35%                              | 11/8/2013                        |
| San Lorenzo Valley Water District | Water                | Unknown -- 38%                           | 10/24/2013                       |
| City/County of San Francisco      | Refuse collection    | 5 – unknown %                            | 7/30/2013                        |
| City of Hayward                   | Water/sewer          | 20 - .06%                                | 7/9/2013                         |

|                               |                   |   |           |
|-------------------------------|-------------------|---|-----------|
| Central Contra Costa SD       | Sewer             | 67 - .1%  | 6/20/2013 |
| EBMUD                         | Water/wastewater  | 206 - .05%  | 6/11/2013 |
| City of Sutter Creek          | Refuse collection | 503 – 43%   | 3/18/2013 |
| City of Davis                 | Water             | 1,822 – unknown %                                   | 3/19/2013 |
| City of San Mateo             | Refuse collection | Unknown -- 0.3%                                     | 1/7/2013  |
| City of Rialto                | Water/wastewater  | 4,345 – 38% for water<br>6,883 – 33% for wastewater | 6/26/2012 |
| City of Livermore             | Water             | 5 – unknown %                                       | 5/14/2012 |
| Ross Valley Sanitary District | Wastewater        | 4,852 – 32%   | 6/28/2011 |
| Oro Loma Sanitary District    | Sewer             | 60 - .3%  | 6/7/2011  |
| Amador Water Agency           | Water             | 1,691 – 64%   | 7/2010    |
| City of San Leandro           | Water             | 338 – 2.3%  | 6/21/2010 |
| City of Berkeley              | Refuse collection | 4,665 – 16%   | 7/7/2009  |
| City of Hayward               | Refuse collection | 580 – 1.7%  | 1/9/2007  |

**Supplemental Legal Memo**

Attachment B contains some supplemental information in response to questions raised in the public hearing last month or in subsequent correspondence (also attached).

Recommendation

Waive reading of the full draft fee ordinance (attachment C), read it by title only, and adopt it.

Attachment A: Certificates from the Registrar of Voters

Attachment B: Supplemental Legal Memo

Attachment C: Draft fee ordinance



ATTACHMENT A



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## ROV Waste Management Authority Protest - Tracking

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USER ID: clin (Logout)

### Report

Counts as of 03/26/2014

Total Parcel: 388943

Total Residential Units: 565663

Total Protests Received: 52987

# of Valid Protests: 51170

# of Units (only on valid protests received):

Original: 101726

Revised: 102711

# of Invalid Protests: 1817

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RICHARD S. TAYLOR  
Attorney  
rtaylor@smwlaw.com

TO: Alameda County Waste Management Authority Board of Directors  
FROM: Richard S. Taylor  
DATE: April 16, 2014  
RE: Household Hazardous Waste Collection and Disposal Fee

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Members of the public have raised questions regarding the manner in which the Household Hazardous Waste Collection and Disposal Fee (“HHW Fee”) may be adopted, the legal basis for a joint exercise of powers agency such as the Alameda County Waste Management Authority (“WMA”) to adopt a fee, and whether the HHW Fee is a fee for refuse collection services. This memorandum responds to those inquiries.

**I. Manner of Fee Adoption.**

The WMA is considering the HHW Fee in accordance with the majority protest procedures set forth in Proposition 218 (Cal. Const. Article XIIIID § 6(a).) Those procedures require notice and an opportunity to protest. If more than fifty percent of the record owners protest, a fee may not be adopted. Proposition 218 requires this protest process for all property related fees.

For sewer, water, and refuse collection service fees such as the HHW fee, if fewer than fifty percent of the record owners protest, an agency has the discretion to adopt the fee. (Cal. Const. Article XIIIID § 6(c).) For all other fees an agency is required to submit the fee to a vote of property owners subject to the fee or to the electorate residing in the affected area. To be adopted the fee must be approved by a majority vote of property owners or by a two-thirds vote if the agency elects to submit the fee to the electorate.

Although this second step is not required for the HHW Fee, members of the public have asked if the WMA has the option of nonetheless proceeding with the second step and submitting the fee to a vote. As noted during the Board’s discussion of the HHW Fee on March 26, 2014, the WMA Board has this option. There is nothing in the text of

Memo to Alameda County Waste Management Authority Board of Directors  
April 16, 2014  
Page 2

Proposition 218 or cases interpreting the law that would preclude the WMA from proceeding in that fashion.

## **II. Adoption of HHW Fee by a Joint Powers Agency**

Members of the public have claimed that the WMA, as a joint powers authority, does not have the legal authority to impose the HHW fee because the powers of the individual members do not extend to the imposition of regional fees and that they may not extend their powers by acting as a joint powers agency.

The WMA is a joint powers agency created under the Joint Exercise of Powers Act set forth in Government Code section 6500 and following. Section 6502 states that “two or more public agencies by agreement may jointly exercise any power common to the contracting parties” and that “[i]t shall not be necessary that any power common to the contracting parties be exercisable by each such contracting party with respect to the geographical area in which such power is to be jointly exercised.” Thus the express purpose of the Joint Exercise of Powers Act is to allow individual agencies to act collectively and on a regional basis.

In the case of the WMA, Alameda County, all of the cities in Alameda County, and the Castro Valley and Oro Loma Sanitary Districts each have the power to adopt fees within their jurisdictions. These agencies have entered a joint exercise of powers agreement to adopt and implement the Alameda County Integrated Waste Management Plan (“CoIWMP”) and related waste management programs. That agreement authorizes the WMA to “perform all acts necessary for the exercise of said powers” including, but not limited to, the power to levy fees. (Joint Powers Agreement for Waste Management § 5(1).)

The CoIWMP was adopted in 2003 and last amended in 2011. It sets as a primary objective “That hazardous waste be removed from the solid waste stream for proper separate management.” (CoIWMP Objective 1.3.) It then describes the collection program that would be funded by the HHW Fee as a key tool in implementing that objective:

[T]he County Environmental Health Department, with policy direction and funding provided by the Waste Management Authority operates three permanent Household Hazardous Waste (HHW) collection facilities located in the northern, southern, and eastern sections of the County. BLT Recycling, under contract with the [ ] City of Fremont, operates a fourth HHW collection facility at the Fremont Transfer Station, partially funded by the Authority. In FY 2008-09, over 1,000

Memo to Alameda County Waste Management Authority Board of Directors

April 16, 2014

Page 3

tons of material were processed at the four facilities, serving 39,000 households. Approximately 85% of these materials were reused or recycled. These facilities serve all Alameda County jurisdictions. (CoIWMP, p. V-4.)

In light of the specific wording of the Joint Exercise of Powers statute authorizing exercise of any shared powers, the WMA member agencies' powers to impose fees, the explicit grant of authority to the WMA to adopt fees for implementation of the CoIWMP and the CoIWMP's specific objective of removing household hazardous waste from the waste stream, the WMA has authority to adopt the HHW Fee.

### **III. The HHW Fee is a Fee for Refuse Collection Services.**

As noted above and described in more detail in the HF&H Consultants reports included in the March 26, 2014 staff report, the HHW Fee funds the operation of four HHW collection facilities in the County. These facilities are part of the overall system for refuse disposal and recycling in Alameda County, which also includes waste transfer stations and landfills. The household hazardous waste collected at these facilities is refuse.

Refuse is commonly understood to be “[s]omething rejected or discarded as worthless or useless.” (Websters II New Riverside University Dictionary, 1984.) The legislature has adopted a similar definition in Health & Safety Code § 4740 (“‘refuse’ shall include ... anything thrown away as worthless”). The residents disposing of household hazardous waste through the HHW collection facilities have made the determination that the material in question is no longer of value to them, hence it fits well within the common understanding of the term “refuse.”

578697.2

## ATTACHMENT B

From: Darline Mix [de.louise@att.net]  
Sent: Saturday, April 12, 2014 1:03 PM  
To: Arliss Dunn  
Cc: Gary Wolff  
Subject: The "PHONY" ACWMA Vote!

Dear Mr. Dunn, as Clerk of the Board please forward this to all Board Members and all other interested parties.

All Board Members

The Phony Vote

The rhetoric Mr. Wolff espoused with his oratory at the last meeting regarding the Voting "scheme", (so-called, "majority protest") was the same blatant nonsense in his letter to the editor published in the Trib and his March 20th report to the Board. At page eleven of his report, Mr. Wolf attempts to rationalize and justify the use of the "majority protest" by citing Proposition 218 and the California Constitution.

Unfortunately, he resorts to telling a half-truth in hopes that the reader is gullible enough to believe the whole thing and then compounds his deceit and hyperbole by attempting to blame the voter for their approval of Prop 218. While the majority protest procedure is indeed a part of Prop 218 it is unarguably a "sham", but more importantly, it is Not mandatory as Mr. Wolff implies.

(Prop. 218) Article XIIIID, at Section 6(c) provides:

"Voter Approval for New or Increased Fees and Charges. Except for fees or charges for sewer, water, and refuse collection services, no property related fee or charge shall be imposed or increased unless and until that fee or charge is submitted and approved by a majority vote of the property owners of the property subject to the fee or charge or, at the option of the agency, by a two-thirds vote of the electorate residing in the affected area. The election shall be conducted not less than 45 days after the public hearing. An agency may adopt procedures similar to those for increases in assessments in the conduct of elections under this subdivision."

Mr. Wolff's contention that they are merely "following the law" goes far beyond being disingenuous - his contention is deceitful and outright false. The law is clear, it expressly provides that the agency (ACWMA) may, at its option, adopt a procedure similar to those for increases in assessments and further provides that an approval may be by a majority vote of "property owners" or by a 2/3's of "registered voters".

By law, the "option" clearly lies with the Waste Management Authority and is Not mandated by the California Constitution - to maintain otherwise is erroneous and purposeful deception. However, it is necessary and important to point out that the procedure (majority protest) was

## ATTACHMENT B

not selected by Mr. Wolff alone but was duly approved by the ACWMA Board. And, it is unquestionably a direct reflection of the governance and attitude of each individual member of the Board.

Let's not kid ourselves, the "majority protest" procedure was chosen for a very specific reason. It is a "fail-safe" method of assessing property owners in preventing a "real vote" on the Tax. There is no recorded instance where a protest against an agency's proposal has ever succeeded. In other words, without question or doubt - it is a "sure thing". Board member Lauren Turner of Livermore, asked for an accounting and history of the "majority protest" procedure but unfortunately that information has not been forthcoming. However, there is more than ample information on the WEB or through the Howard Jarvis Taxpayers Assn. concerning the fallacies of this procedure.

With all due consideration given the above, the two primary issues have not been adequately addressed. (1.) The Joint Powers Authority does not have legal authority to levy taxes, assessments, nor fees. Despite General Council's report and analysis (March 20, 2014 Memorandum) the JPA lacks the express legal authority constitutionally required. Counsel's basic premise is false in that the powers of the individual members do not extent to regional taxation or the imposition of regional fees or assessments and therefore may not be accomplished as a JPA that which is not permitted individually.

(2.) As noted above, (Article XIII, Section 6(c)) the proposed fee does not fall under the "refuse collection services" exemption. And, General Counsel fails to cite any post Prop 218 cases supporting his position as Kern County Farm Bureau (1993) (see his f.n. 1) is not on point and is clearly distinguishable.

Your attention to this matter is greatly appreciated.

David E. Mix

**DRAFT**

**ORDINANCE 2014-\_\_**

**AN ORDINANCE ESTABLISHING A HOUSEHOLD HAZARDOUS WASTE  
COLLECTION AND DISPOSAL FEE**

The Board of the Alameda County Waste Management Authority hereby ordains as follows:

Section 1. Findings

The Authority finds that:

(a) It has been standard practices since the early 1990s for Cities and Counties in California to periodically characterize the components of garbage and refuse sent to landfill in order to facilitate planning for diverting recoverable and harmful materials from landfill disposal. Waste characterization studies for Alameda County, and the State of California overall find that household hazardous waste (HHW; see Health & Safety Code Section 25218.1 (e)) is about the same weight or percentage of residential garbage and refuse regardless of whether the dwelling unit is in a single family or multi-family residential building. Furthermore, vacant Households also require household hazardous waste collection and disposal in connection with property improvements, maintenance, or landscaping.

(b) State law precludes disposal of household hazardous waste in municipal landfills such as those serving Alameda County residents and the Alameda County Integrated Waste Management Plan calls for removing hazardous wastes from the solid waste stream for proper separate management through separate collection and other programs.

(c) In Health and Safety Code section 25218 the State legislature has found that “residential households which generate household hazardous waste and conditionally exempt small quantity generators which generate small amounts of hazardous waste in the state need an appropriate and economic means of disposing of the hazardous waste they generate” and disposal of household hazardous waste “into the solid waste stream is a threat to public health and safety and to the environment.” The Health and Safety Code further provides for the establishment of "household hazardous waste collection facilities", which are defined in Section 25218.1 (f) as facilities operated by public agencies or their contractors for the purpose of collecting, handling, treating, storing, recycling, or disposing of household hazardous waste and hazardous waste from conditionally exempt small quantity generators.

(d) The Alameda County Environmental Health Department, with policy direction and funding provided by the Waste Management Authority, operates three permanent Household Hazardous Waste (HHW) collection facilities located in the northern, southern, and eastern sections of the County and BLT Recycling, under contract with the City of Fremont, operates a fourth HHW collection facility at the Fremont Transfer Station, partially funded by the Authority. These facilities are operated in accordance with Health & Safety Code 25218 et seq, and under two memoranda of understanding (MOUs) between the Authority and the County

ATTACHMENT C

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2/20/14

of Alameda and the Authority and the City of Fremont. These MOUs will be revised to implement this ordinance.

(e) These Household Hazardous Waste collection facilities benefit and serve Alameda County residential property owners by collecting and providing a legal, safe, place for disposal of HHW materials generated in Alameda County in compliance with the law. The services and facilities of this program may be used only by Alameda County Households. The Household Hazardous Waste Collection and Disposal Fee funds this program and may not be used for any other purpose. The program was evaluated in an October 4, 2013 memorandum from HF&H Consultants, LLC to the Alameda County Waste Management Authority which determined that the funds generated by the fee do not exceed the costs of the program services and facilities.

(f) The costs of the program's HHW collection and disposal services and facilities for Alameda County Households are offset in part by funds received or cost reductions associated with product stewardship programs implemented in accordance with State law (such as the PaintCare Product Stewardship Program established at Public Resources Code sections 48700 et seq. which reduces costs associated with collection and disposal of architectural paints and provides funds for processing those materials). These programs are expected to expand in the future and the amount of the fee will be reduced commensurate with the cost offsets or funding associated with these programs. In anticipation of full cost offset and funding from these programs in the future the fee sunsets in 2024.

(g) Article 4 of Health & Safety Code Division 5, Part 3, Chapter 6 authorizes public agencies including cities, counties, and special districts, upon a two-thirds vote of the legislative body, to prescribe and collect fees for garbage and refuse collection services and facilities on the tax roll. This ordinance prescribes a fee for collection and disposal at the four HHW facilities in Alameda County of the HHW component of garbage and refuse generated by Alameda County Households.

(h) The Authority has the power to enact this Ordinance pursuant to the Joint Exercise of Powers Agreement for Waste Management. That agreement grants the Authority all of the powers necessary to implement the Alameda County Integrated Waste Management Plan including the power to levy and collect fees and charges for programs such as HHW collection and disposal services and facilities.

(i) This Ordinance was introduced on December 18, 2013 at which time the Board set a public hearing for consideration of the Ordinance on February 26, 2014 and directed the Executive Director to prepare a report containing a description of each parcel of real property with one or more Households, the number of Households on each parcel, and the amount of the charge for each parcel computed in conformity with this Ordinance. The Board directed the Executive Director to publish and cause a notice in writing of the filing of said report and the proposal to collect the annual charge on the tax roll together with the time and place of hearing thereon, to be mailed to each person to whom any parcel or parcels of real property described in said report is listed as owner in the last equalized assessment roll available on the date said report is prepared (a "Record Owner"), at the address shown on said assessment roll or as known to the

Executive Director. On January 22 the Board continued the protest hearing date to March 26, 2014. Notice of the new hearing date and extended protest period was published and mailed in accordance with law. This Ordinance was re-introduced with clarifying amendments on February 26, 2014.

(j) Following the protest hearing the Board considered all objections or protests to the report and this Ordinance. Protests were received from the Record Owners of (1) less than a majority of the separate parcels of property described in the report and (2) less than a majority of the Households on property described in the report. The Board approved the ordinance by a two-thirds majority or greater of the Board membership.

(k) Enactment of this Ordinance is not a “project” subject to the requirements of the California Environmental Quality Act, California Code of Regulations, title 21, section 15378(b)(4); further, even if it were a “project,” it would be categorically exempt from the California Environmental Quality Act pursuant to California Code of Regulations, title 21, section 15308.

Section 2. Definitions

(a) “Alameda County” or “County” means all of the territory located within the incorporated and unincorporated areas of Alameda County.

(b) “Authority” means the Alameda County Waste Management Authority created by the Joint Exercise of Powers Agreement for Waste Management.

(c) “Board” means the governing body of the Authority made up of elected representatives of the member agencies pursuant to the Joint Exercise of Powers Agreement for Waste Management.

(d) “Executive Director” means the individual appointed by the Board to act as head of staff and perform those duties specified by the Board.

(e) “Fee” means the fee described in section 3 of this ordinance.

(f) “Fee Collection Report” means the annual report containing a description of each parcel of real property with one or more Households served by the Household Hazardous Waste Collection and Disposal Program, the number of Households on each parcel described, the amount of the charge for each parcel for the year, computed in conformity with this Ordinance, and whether the Fee is to be collected on the tax roll or by other means.

(g) “Household” means a residential dwelling unit (e.g., a single family home, apartment unit or condominium unit in a multi-unit building, etc.). Nothing in this Ordinance is intended to prevent an arrangement or the continuance of an existing arrangement under which payment for garbage and refuse collection and disposal service is made by residents of a household who are not the owner or owners thereof. However, any such arrangement will not affect the property owner’s obligation should such payments not be made.



(h) “Household Hazardous Waste Collection and Disposal Program” means the Proposed System Expansion Option described in the October 4, 2013 memorandum from HF&H Consultants, LLC to the Alameda County Waste Management Authority.

(i) “Other Revenue” means the sum of (1) revenue received from the household hazardous waste fee of \$2.15 per ton pursuant to Authority Resolution No. 140 and Resolution No. 2000-03 and (2) Product Stewardship Offsets.

(j) “Product Stewardship Offset” means funds received by the Household Hazardous Waste Collection and Disposal Program or operational cost reductions at the program attributable to household hazardous waste product stewardship programs implemented in accordance with federal, state, or local laws.

(k) “Small Quantity Generator” has the same meaning as Conditionally Exempt Small Quantity Generator as defined in California Health and Safety Code Section 25218.1 as it now exists or may be amended from time to time hereafter.

Section 3. Household Hazardous Waste Collection and Disposal Fee

(a) An annual household hazardous waste collection and disposal fee of \$9.55 or such lesser amount established by the standards below shall be paid by each Household in Alameda County beginning July 1 2014 and ending June 30, 2024 in the manner set forth in this ordinance.

(b) No later than December 31 of 2015 and each year thereafter the Executive Director shall prepare a report identifying the amount of Other Revenue received by the Household Hazardous Waste Collection and Disposal Program in the prior fiscal year. If the report of Other Revenue exceeds the projected amount specified in subsection (c), the fee shall be reduced for the following fiscal year by an amount equal to the excess revenue divided by the number of Households subject to the fee in the prior fiscal year. If revenues equal or fall below that specified in subsection (c) there shall be no increase in the fee. The Fee per Household shall never be greater than \$9.55 per year.

(c) The fee is based on the following projected Other Revenue:

| <b>Fiscal Year</b> | <b>Projected Product Stewardship Offset</b> | <b>Projected Tip Fee</b> | <b>Total</b> |
|--------------------|---|--------------------------|--------------|
| 2014-2015          | \$263,225                                   | \$1,849,000              | \$2,112,225  |
| 2015-2016          | \$263,225                                   | \$1,713,550              | \$1,976,775  |
| 2016-2017          | \$263,225                                   | \$1,578,100              | \$1,841,325  |

ATTACHMENT C

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2/20/14

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|-----------|-----------|-------------|-------------|
| 2017-2018 | \$263,225 | \$1,442,650 | \$1,705,875 |
| 2018-2019 | \$263,225 | \$1,307,200 | \$1,570,425 |
| 2019-2020 | \$263,225 | \$1,171,750 | \$1,434,975 |
| 2020-2021 | \$263,225 | \$1,171,750 | \$1,434,975 |
| 2021-2022 | \$263,225 | \$1,171,750 | \$1,434,975 |
| 2022-2023 | \$263,225 | \$1,171,750 | \$1,434,975 |
| 2023-2024 | \$263,225 | \$1,171,750 | \$1,434,975 |

(d) The fee shall be used exclusively for the Household Hazardous Waste Collection and Disposal Program.

(e) As a condition of receiving payments funded by the Fee, a collection and disposal service provider (e.g., at present, the County of Alameda and the City of Fremont) must agree that no charge will be imposed on (1) residents of Alameda County Households for services included in the Household Hazardous Waste Collection and Disposal Program or (2) Small Quantity Generators who are owners of residential rental property in Alameda County for disposal of household hazardous wastes from Households in Alameda County. Any such agreement shall be in the form of a contract or memorandum of understanding (MOU) approved by the Board. The Executive Director shall not cause the fee to be collected as described in Section 4 of this ordinance until revised MOUs with the County of Alameda and the City of Fremont have taken effect.

Section 4. Administration

(a) Each year the Executive Director shall cause a Fee Collection Report to be prepared in accordance with this Ordinance and applicable law.

(b) The Fee Collection Report shall be reviewed by the Board to ascertain the accuracy of the information contained therein. A notice of the report's availability and a time and place of a public hearing on the report and the collection of such charges on the tax roll shall be published as set out in Government Code Section 6066 in a newspaper of general circulation printed and published within the County. At the conclusion of the hearing, the Board shall make its determination upon each charge and its collection on the tax roll or by other means. The determination of the Board shall be final. Upon such final determination, on or before August 10 of each year, the Executive Director shall endorse the final report with a statement that it has been finally adopted by the Board, and shall file the signed report with the County Auditor. Authority staff is hereby authorized to undertake all administrative tasks to implement collection

ATTACHMENT C

**DRAFT**

2/20/14

of the Fee, including, but not limited to an agreement with Alameda County for collection, which may provide payment to Alameda County of its reasonable costs of collection.

(c) The Fee for the period of July 1st, to and including June 30th of each fiscal year shall be entered as a charge on the tax roll against the parcels identified in the Fee Collection Report as paying through the tax roll. The Fee shall be collected at the same time and in the same manner as ad valorem taxes and other charges as are otherwise collectible by the county. All laws applicable to the levying, collection and enforcement of ad valorem taxes shall be applicable to such charges as provided herein except as otherwise provided by law. Fees paid with the tax bill shall be deemed to have been paid by those Households located on that property/parcel.

(d) The annual Fee for any Household located on property which is not designated for collection on the tax roll in the Fee Collection Report shall be collected by the Executive Director and shall be due and payable at least once per year on a schedule to be determined by the Executive Director.

Section 5. Enforcement. The Executive Director and the County of Alameda are authorized to undertake all appropriate actions necessary to collect the Fee in the manners authorized by law.. The Executive Director may direct collection and disposal service providers to deny access to services included in the Household Hazardous Waste Collection and Disposal Program for Households with unpaid charges.

Section 6. Severability. If any provision of this Ordinance or its application to any situation is held to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 7. Notice. This Ordinance shall be posted at the Authority Office after its second reading by the Board for at least thirty (30) days and shall become effective thirty (30) days after the second reading.

Passed and adopted this \_\_\_ day of \_\_\_\_\_, 2014, by the following vote:

AYES:

NOES:

ABSTAINING:

ABSENT:

I certify that under the penalty of perjury that the foregoing is a full, true and correct copy of the ORDINANCE NO. 2014-\_\_.

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GARY WOLFF

EXECUTIVE DIRECTOR