



City Council Agenda Report

Meeting Date: June 11, 2024

Initiated By: Staff

Prepared By: Harun Musaefendic, Assistant Civil Engineer

Approved By: Aida Fairman, Public Works Director

Subject: Consider authorizing the City Manager to execute the Memorandum of Understanding between the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee (TAC) member jurisdictions establishing ongoing management and operation of the edible food recovery program to comply with the requirements of SB 1383 (California's Short-Lived Climate Pollutant Reduction Strategy) and finding it exempt from California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15273(a)

COUNCIL PRIORITY AREA

- ☒ Business Communities
- ☐ Circulation Safety and Efficiency
- ☒ Environmental Sustainability
- ☐ Housing
- ☐ Neighborhood Safety Infrastructure
- ☒ General Government

RECOMMENDATION

Adopt Resolution No. 2024-____, authorizing the City Manager to execute the Memorandum of Understanding between the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee (TAC) member jurisdictions establishing ongoing management and operation of the edible food recovery program to comply with the requirements of SB 1383 (California's Short-Lived Climate Pollutant Reduction Strategy)

POLICY QUESTION(S) FOR COUNCIL CONSIDERATION

None

FISCAL IMPACT

The City of Los Altos will receive allotted non-competitive grant funding from CalRecycle for SB 1383 compliance activities and will use part of that funding for the next two fiscal years to fund the Santa Clara County Food Recovery Program.

Per the MOU, the TAC Administrator will prepare a two-year budget. For FY 2024/25, the City of Los Altos' contribution will be \$10,446, and for FY 2025/26, it will be \$12,525. The City of Los Altos' share of \$10,446 is included in the proposed Solid Waste Operating Budget for FY 2024/25. The City will receive a grant from CalRecycle and staff will transfer the funds from the

grant back to the Solid Waste Operating Budget when funds are received. For fiscal years 2026/27 and beyond, unless additional grant funding is made available by CalRecycle, funding will come from the Solid Waste Operating Budget.

ENVIRONMENTAL REVIEW

Approval of the Memorandum of Understanding Among Local Public Agencies in Santa Clara County for Countywide Food Recovery Program is exempt from environmental review under the California Environmental Quality Act (“CEQA”) pursuant to 15273(a) in that CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies which the public agency finds are for the purpose of meeting operating expenses.

PREVIOUS COUNCIL CONSIDERATION

June, 2013

DISCUSSION/ANALYSIS

In 2016, California Senta Bill 1383 (SB 1383) was chaptered, setting goals to reduce disposal of organic waste in landfills to reduce greenhouse gas emissions and address food insecurity. To avoid the disposal of edible food, in November 2020, the Department of Resources Recycling and Recovery (CalRecycle) developed regulations requiring jurisdictions to establish edible food recovery programs to recover (from certain large generators) the maximum amount of edible food that would otherwise be sent to landfills to feed people in need. The state goal is to reduce the amount of edible food going to landfills by 20%.

As of January 1, 2022, Tier 1 commercial edible food generators were required to arrange food recovery through a written contract or agreement with food recovery organizations or services that collect or accept self-hauled edible food for food recovery.

As of January 1, 2024, Tier 2 commercial edible food generators were required to arrange food recovery through a written contract or agreement with food recovery organizations or services that collect or accept self-hauled edible food for food recovery.

The Santa Clara County Recycling and Waste Reduction Commission Technical Advisory Committee (TAC) entered into an agreement with Joint Venture Silicon Valley (JVSV) to develop and manage the Santa Clara County Food Recovery Program. That countywide program conducts the necessary outreach to the Tier 1 and Tier 2 generators, provides assistance, connects businesses with food recovery organizations, and gathers the required data for reporting back to CalRecycle. In November 2021, the City adopted Ordinance 2021-483, establishing municipal code chapter 6.13 entitled Edible Food Recovery. The model edible food recovery ordinance was developed with flexible language that enables subsequent decisions on items that were not fully developed (i.e., enforcement, funding, and Memorandum of Understanding) when jurisdictions adopted their respective Ordinances in 2021 as required by SB 1383.

Initially, the TAC funded the Countywide Food Recovery Program using its funding from the Solid Waste Planning Fee (SWPF) of \$0.78 per ton disposed of in a landfill. The statewide

efforts to reduce organics in landfills is slowly reducing disposal tonnage, which will result in the decline of the amount collected from the SWPF. The combination of recovering more edible food from the generators, reduced disposal tonnage, and the subsequent decrease in SWPF revenues necessitated a new funding source.

In 2023, a Memorandum of Understanding (MOU) Among Local Public Agencies in Santa Clara County for Food Recovery Program Costs was developed to fund the cost of a countywide edible food recovery program to satisfy SB 1383 requirements for a period of one year. The City of Los Altos, along with many other jurisdictions, used CalRecycle grant funding specifically for SB 1383 compliance to fund this single-year MOU, which was effective from July 1, 2023, to June 30, 2024, and covered the base program jurisdiction contributions, calculated at \$133 per generator applied to the number of generators within the jurisdiction. The City of Los Altos had 41 generators (7 Tier 1 and 34 Tier 2), so the City's base program contract cost was \$5,453. The City also contributed \$2,344 toward Program enhancements.

In 2022, the TAC determined that the current funding mechanism and organizational structure implemented under the one-year MOU are the most cost-effective and efficient infrastructure for participating jurisdictions to jointly administer and fund the Program. The TAC also determined that an MOU continues to be the most appropriate governance document to memorialize the terms of jurisdiction commitments.

In 2023, the TAC drafted a long-term MOU, effective July 1, 2024. The document and its terms shall remain in effect until the TAC terminates the agreement using the TAC Memorandum of Agreement's organizational voting structure. The long-term MOU extends the commitment of participating jurisdictions to submit annual voluntary contributions to fund the mandated base program based on the number of generators in each jurisdiction, including, sharing the cost of staff time at the County of Santa Clara as the TAC Fiscal Agent. Jurisdictions may also use the long-term MOU to contribute additional optional funds for Program enhancements that TAC. The TAC will consider and approve annually as part of its annual work plan and budget process. Santa Clara County, as the current Fiscal Agent, will issue invoices to the jurisdictions for their committed amounts, and collected funds will be redirected to the City of Morgan Hill in its capacity as the RWRC TAC Administrator and Contracting Agent annually. The overall Program budget will not increase by more than ten percent (10%) of the prior year's Program budget without prior approval by the County of Santa Clara Recycling and Waste Reduction Commission during its annual budget approval process.

ATTACHMENTS

1. Memorandum of Understanding Among Local Public Agencies in Santa Clara County for Countywide Food Recovery Program
2. Exhibit A to Food Recovery Program RWRC MOU

3. Exhibit B Agreement Creating the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee
4. Exhibit C Memorandum of Understanding Among Local Public Agencies in Santa Clara County for Food Recovery Program Costs for Fiscal Year 2023/2024
5. First Amendment to Agreement Creating the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee
6. Resolution 2024-_____