



OFFICE OF THE
CITY AUDITOR

**A REVIEW OF THE
CITY OF SAN JOSE'S
COMMERCIAL SOLID WASTE FRANCHISE
AND AB 939 FEES**

- NEEDED MODIFICATIONS TO COMMERCIAL SOLID WASTE FRANCHISE AND SOURCE REDUCTION AND RECYCLING FEES WOULD INCREASE GENERAL FUND REVENUES BY \$1.4 MILLION TO \$2.8 MILLION, AND INCREASE INTEGRATED WASTE MANAGEMENT FUND REVENUES BY \$0.5 MILLION

**A REPORT TO THE
SAN JOSE
CITY COUNCIL**

JUNE 1997

97-03



CITY OF SAN JOSÉ, CALIFORNIA

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City Auditor

June 20, 1997

Honorable Mayor and Members
of the City Council
801 North First Street, Room 600
San Jose, CA 95110

Transmitted herewith is a report on *A Review of the City of San Jose's Commercial Solid Waste Franchise and AB 939 Fees*. This report is in accordance with City Charter Section 805.

An Executive Summary is presented on the blue pages in the front of this report while an Administration response is shown on the yellow page(s) before the Appendices.

I will present this report to the Finance Committee at its June 25, 1997, meeting. If you need additional information in the interim, please let me know. The City Auditor's staff members who participated in the preparation of this report is are Sharon Erickson and Gregory Elliott.

Respectfully submitted,

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EXECUTIVE SUMMARY

In accordance with the City Auditor's 1996-97 Audit Workplan, we are auditing the Integrated Waste Management (IWM) services the Environmental Services Department (ESD) provides. Included in our audit of ESD is a review of the fees that commercial solid waste haulers and waste generators pay. Because of budget implications, we are presenting this portion of our review separately. We conducted this audit in accordance with generally accepted government auditing standards and limited our work to those areas specified in the Scope and Methodology section of this report.

NEEDED MODIFICATIONS TO COMMERCIAL SOLID WASTE FRANCHISE AND SOURCE REDUCTION AND RECYCLING FEES WOULD INCREASE GENERAL FUND REVENUES BY \$1.4 MILLION TO \$2.8 MILLION, AND INCREASE INTEGRATED WASTE MANAGEMENT FUND REVENUES BY \$0.5 MILLION

In July 1996, the City of San Jose (City) changed its method of charging commercial solid waste (CSW) franchise, and source reduction and recycling (AB 939) fees, from a gross receipts basis to a volume basis. However, our review revealed that the ESD miscalculated the rates necessary to achieve the adopted 1996-97 budget. Although these foregone revenues have been partially offset by \$1.5 million in one-time carryover revenues from 1995-96, we estimate that the General Fund and the IWM Fund will forego approximately \$1.4 million and \$0.6 million, respectively, in 1996-97. In our opinion, in order to avoid similar foregone revenues in 1997-98, the Administration should propose a rate structure that will maintain the revenue base with regards to franchise fees. In addition, the Administration should propose a rate structure that will produce the amount of AB 939 revenues shown in the 1997-98 Fees and Charges Report. We estimate this would increase 1997-98 General Fund and IWM Fund revenues by approximately \$1.4 million and \$0.5 million, respectively. In addition, we recommend the City Council consider assessing additional fees to recover the \$1.4 million in foregone 1996-97 General Fund revenue. As a result of these changes, we estimate that the

General Fund could realize an additional \$1.4 million to \$2.8 million, and the IWM Fund could realize an additional \$0.5 million in 1997-98.

RECOMMENDATION

We recommend that ESD and the Budget Office:

Recommendation #1:

Propose 1997-98 commercial solid waste franchise fees and commercial source reduction and recycling fees that will maintain the revenue base with regards to franchise fees and produce the amount of revenue shown in the 1997-98 Fees and Charges Report. Also propose partial- and/or full-recovery rates to recover foregone 1996-97 franchise fee revenue. (Priority 2)

INTRODUCTION

In accordance with the City Auditor's 1996-97 Audit Workplan, we are auditing the Integrated Waste Management services the Environmental Services Department (ESD) provides. Included in our audit of ESD is a review of the fees that commercial solid waste haulers and waste generators pay. Because of budget implications, we are presenting this portion of our review separately. We conducted this audit in accordance with generally accepted government auditing standards and limited our work to those areas specified in the Scope and Methodology section of this report.

The City Auditor's Office thanks the Integrated Waste Management division of the ESD for their time, information, insight and cooperation during the audit.

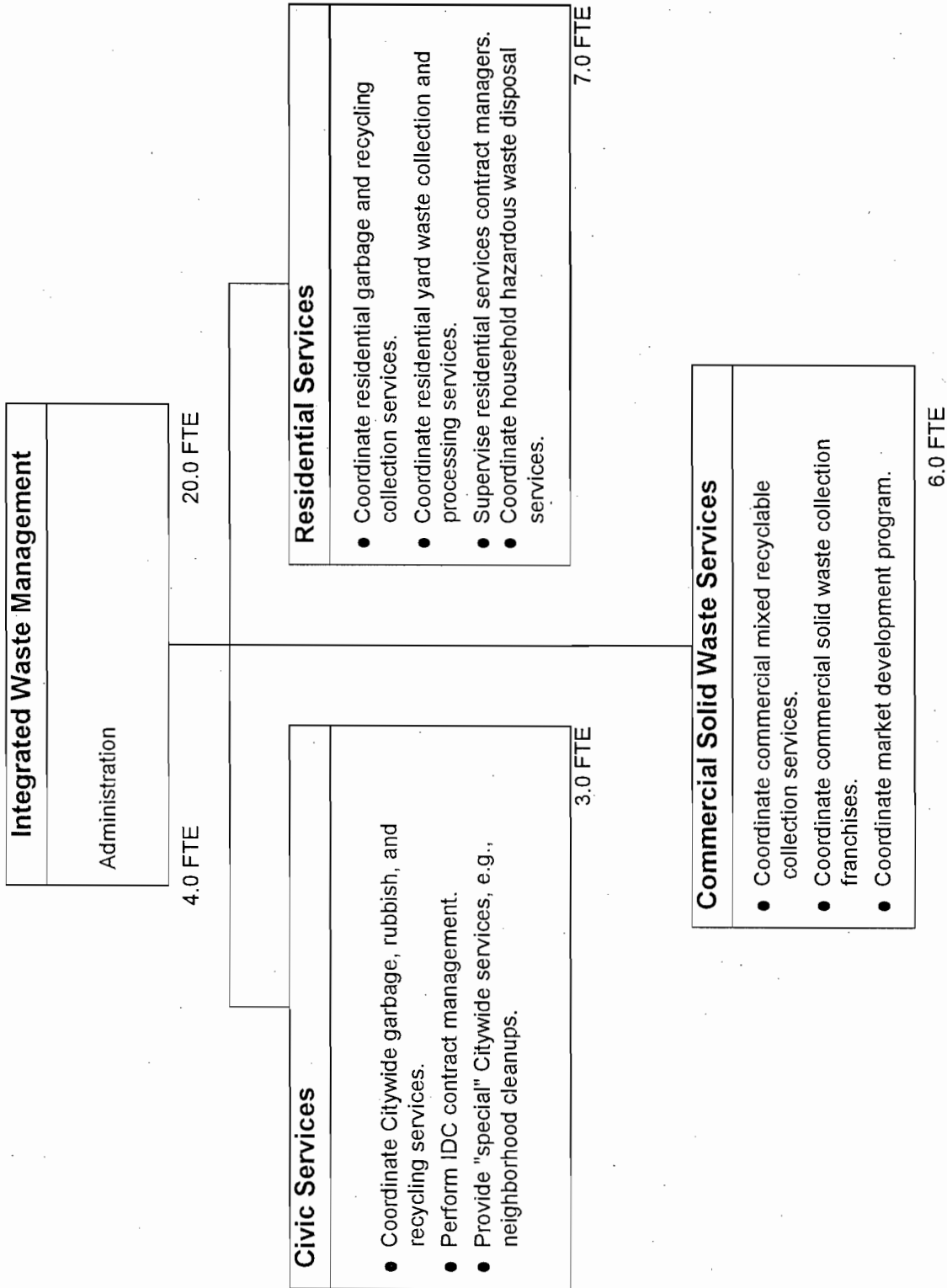
BACKGROUND

The Integrated Waste Management division (IWM) of the Environmental Services Department administers residential garbage and recycling collection services, residential yard waste collection and processing services, household hazardous waste disposal services, commercial solid waste and recyclable collection franchise activities, the City of San Jose's landfill contract, a market development program, and Citywide solid waste collection services. The IWM Fund (Fund 423), and to a lesser extent the General Fund, fund these activities. There are 20 FTE assigned to the program.

As shown in Chart 1, IWM is organized in four sections: Administration, Civic Services, Commercial Solid Waste Services, and Residential Services.

CHART 1

ENVIRONMENTAL SERVICES DEPARTMENT
INTEGRATED WASTE MANAGEMENT



SCOPE AND METHODOLOGY

The objective of our review of the City of San Jose's commercial solid waste (CSW) fee structure was to assess the impact of 1996-97 changes to those rates. We met with staff of the Integrated Waste Management (IWM) division of the Environmental Services Department, Treasury, and the Budget Office. We reviewed and compared the haulers' remittance and activity reports to the IWM internal database and the City's Financial Management System. We interviewed staff, reviewed council memoranda, and reviewed the method that IWM used to recalculate the 1996-97 rates.

We performed limited testing to determine the accuracy and reliability of information in the various computer reports we used during our audit. We did not review the general and specific application controls for the computer systems used in compiling the various computer reports we reviewed.

FINDING I

NEEDED MODIFICATIONS TO COMMERCIAL SOLID WASTE FRANCHISE AND SOURCE REDUCTION AND RECYCLING FEES WOULD INCREASE GENERAL FUND REVENUES BY \$1.4 MILLION TO \$2.8 MILLION, AND INCREASE INTEGRATED WASTE MANAGEMENT FUND REVENUES BY \$0.5 MILLION

In July 1996, the City of San Jose (City) changed its method of charging commercial solid waste (CSW) franchise, and source reduction and recycling (AB 939) fees, from a gross receipts basis to a volume basis. However, our review revealed that the ESD miscalculated the rates necessary to achieve the adopted 1996-97 budget. Although these foregone revenues have been partially offset by \$1.5 million in one-time carryover revenues from 1995-96, we estimate that the General Fund and the Integrated Waste Management (IWM) Fund will forego approximately \$1.4 million and \$0.6 million, respectively, in 1996-97. In our opinion, in order to avoid similar foregone revenues in 1997-98, the Administration should propose a rate structure that will maintain the revenue base with regards to franchise fees. In addition, the Administration should propose a rate structure that will produce the amount of AB 939 revenues shown in the 1997-98 Fees and Charges Report. We estimate this would increase 1997-98 General Fund and IWM Fund revenues by approximately \$1.4 million and \$0.5 million, respectively. In addition, we recommend the City Council consider assessing additional fees to recover the \$1.4 million in foregone 1996-97 General Fund revenues. As a result of these changes, we estimate that the General Fund could realize an additional \$1.4 million to \$2.8 million, and the IWM Fund could realize an additional \$0.5 million in 1997-98.

City Fees On Commercial Solid Waste Haulers And Generators

Prior to 1995, the City franchised one hauler on an exclusive basis for commercial garbage collection services. The City Council set the customer rates. The City also franchised rubbish collection services on a non-exclusive basis and reviewed the rates the haulers charged

their customers. Beginning in January 1995, the City merged the garbage and rubbish franchise into an integrated free market CSW franchise system. CSW franchises were granted on a non-exclusive basis, and franchisees were allowed to set their own customer fees without City review or approval.

CSW haulers remit monthly franchise fees to the City's General Fund for the privilege of doing business in the City. For 1995-96, the CSW franchise fee was 28.28 percent of a hauler's gross receipts in excess of \$250,000. According to the City's Financial Management System (FMS), General Fund revenues from CSW franchise fees totaled \$7.9 million in 1995-96. For 1996-97, IWM changed to a volume-based franchise fee of \$1.64 per cubic yard in excess of 43,000 cubic yards per year. It should be noted that the volume-based fee is calculated on bin capacity times the number of collections -- not the amount that is actually hauled away. As of May 1997, IWM and the Budget Office estimate that 1996-97 General Fund revenues from CSW franchise fees will be \$6.85 million.

CSW haulers also remit monthly CSW AB 939 fees to the IWM Fund. The California Integrated Waste Management Act of 1989 (commonly known as AB 939) required cities and counties to prepare, adopt, and implement source reduction and recycling plans, and authorized them to collect fees to cover their costs in doing so. For 1995-96, the City's CSW AB 939 fee was 30 percent of gross receipts which the waste generators paid. For 1996-97, the City also changed this fee to a volume basis of \$1.77 per cubic yard collected. Although the haulers remit the AB 939 fees to the IWM Fund, the garbage and rubbish generators are actually responsible for paying for waste reduction and recycling programs. The structure of both the CSW fee and the AB 939 fee is designed to act as a financial incentive to encourage San Jose businesses to recycle and reduce their solid waste. According to the FMS, \$8.0 million in CSW AB 939 revenues went to the IWM Fund in 1995-96. As of May 1997, IWM and the Budget Office estimate that \$8.0 million in AB 939 revenues will go to the IWM Fund in 1996-97.

Haulers remit both types of CSW fees to the Treasury Division of the Finance Department. A sample of the 1995-96 Fee Remittance Report is attached as Appendix B, and a sample of the 1996-97 Fee Remittance Report is attached as Appendix C.

Table 1 shows the changes in CSW franchise and AB 939 rates from 1993-94 through 1996-97.

TABLE 1
COMMERCIAL SOLID WASTE RATES
1993-94 THROUGH 1996-97

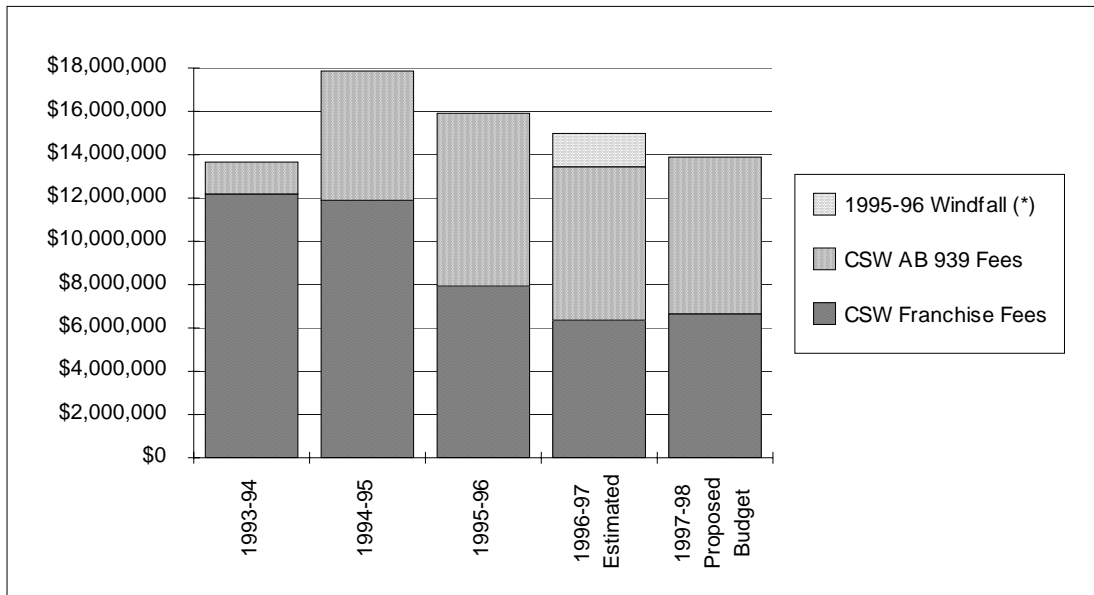
	1993-94	1994-95	1995-96	1996-97
CSW Franchise Fees	Garbage: \$4.58 per CY (\$22.11 per CY for compacted garbage) Rubbish: 10% of GR <\$100,000, 20% of GR >\$100,000, 30% of GR >\$250,000	Garbage: \$4.58 per CY (\$25.92 per CY for compacted garbage) Rubbish: 28.28% of GR >\$250,000 (effective 10/94)	Solid Waste: 28.28% of GR >\$250,000	Solid Waste: \$1.64 per CY >43,000 CY (Compacted yardage multiplied by 3)
CSW AB 939 Fees	Garbage: \$1.20 per CY Rubbish: 0%	Garbage: \$1.20 per CY Rubbish: 30% of GR (effective 10/94)	Solid Waste: 30% of GR	Solid Waste: \$1.77 per CY (Compacted yardage multiplied by 3)

NOTE: GR = gross revenue; CY = cubic yards

As a result of the above changes in the CSW fee structure, CSW franchise and AB 939 fee remittances have varied over the last five years. Graph 1 shows the total of both fees from 1993-94 through 1997-98 (budgeted).

GRAPH 1

COMMERCIAL SOLID WASTE FRANCHISE FEES AND AB 939 FEES 1993-94 THROUGH 1997-98



(*) The 1995-96 windfall is described on page 12 of this report.

The 1996-97 Change From Revenue-Based Fees To Volume-Based Fees Was Supposed To Maintain The Revenue Base

As of July 1, 1996, the City went from a revenue-based to a volume-based CSW franchise fee structure. According to the ESD, changes to the CSW program were necessary in order to close a loophole associated with the pricing structures commercial haulers implemented at the City's expense. Specifically, since City fees were based on gross receipts and recyclable collections were exempt from City fees, haulers had an incentive to minimize solid waste collection charges and maximize recycling collection charges. Table 2 illustrates a simple structuring of hauler charges to its customers that would effectively result in the avoidance of City fees.

TABLE 2

**HYPOTHETICAL EXAMPLE OF A HAULER STRUCTURING
ITS CUSTOMER'S COMMERCIAL SOLID WASTE CHARGES
TO AVOID PAYMENT OF CITY FEES**

	Normal Fee	Structured Fee To Avoid Payment Of City Fees
Customer Hauling Charges:		
CSW hauling charge	\$100.00	\$ 0.00
Recyclable hauling charge	<u>25.00</u>	<u>125.00</u>
Subtotal	\$125.00	\$125.00
City Fees:		
AB 939 fee (30% of CSW charge)	\$ 30.00	\$ 0.00
Franchise fee (28.28% of CSW charge)	<u>28.28</u>	<u>0.00</u>
Subtotal	\$ 58.28	\$ 0.00
Total Fees and Charges	\$183.28	\$125.00

As shown above, the structured fee would not only reduce City revenues, but would give an unfair competitive advantage to a hauler who used this scheme to underbid its competitors.

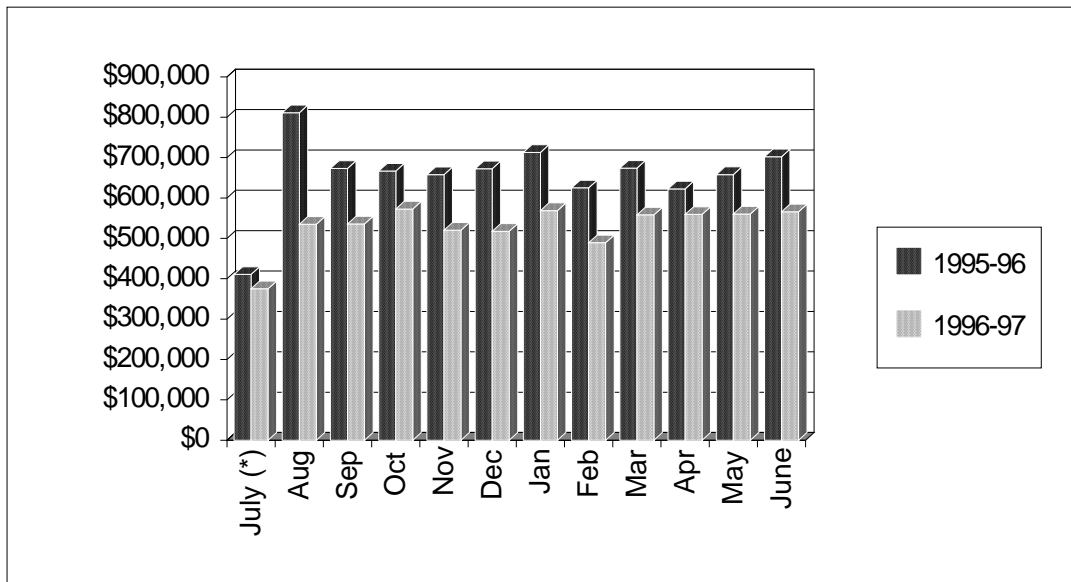
The July 1, 1996, Franchise Fee revision was "*projected to maintain a FY 1996-97 franchise fee revenue base of \$7,875,000, assuming current service levels.*" According to the ESD and the Budget Office, the only change in franchise fee budget projections from 1995-96 to 1996-97 was due to expectations of reduced volume of solid waste collected. The July 1, 1996, AB 939 Fee revision that was proposed in the Fees and Charges Report was projected to generate \$7.5 million. The change from a revenue-based to a volume-based remittance system for both Franchise Fees and AB 939 Fees was designed to prevent a pricing scheme such as shown in Table 2 and was supposed to maintain the revenue base for franchise fees and produce the AB 939 revenues shown in the Fees and Charges Report.

**ESD Miscalculated The Rates Necessary
To Maintain The Revenue Base**

The IWM division of the ESD was responsible for estimating and proposing the revised 1996-97 rates. However, by October 1996, it became clear that 1996-97 revenues would be significantly below budget projections. Graph 2 shows the drop in monthly franchise fee remittances before and after the volume-based system was implemented.

GRAPH 2

**COMPARISON OF MONTHLY CSW FRANCHISE FEE REMITTANCES
BEFORE AND AFTER THE RATE CHANGE
(NOT INCLUDING ONE-TIME CARRYOVER REVENUE)**



(*) Annual exclusion taken in July.

By February 1997, the 1996-97 Mid-Year Operating Budget Review projected a significant CSW Franchise Fee revenue shortfall by year-end. Specifically,

Collections to date from Commercial Solid Waste Franchise Fees are tracking significantly below projected levels and may be as much as \$825,000 (10.5%) below budgeted estimates by year-end. Effective July 1, a new rate structure for these fees (based on volume rather than gross receipts) was introduced with the goal of closing loopholes in the old rate system. In

setting the new rates, it appears that data used by the Environmental Services Department for estimating what volume of waste would be produced based on historical tonnages was inaccurate and the impact of the 43,000 cubic yard exemption per hauler was calculated incorrectly. As a result, volume has fallen short of projections. Other factors which are contributing to the shortfall include an increased waste diversion rate in the commercial sector and an increase in the number of small haulers involved in construction and demolition recycling. Both of these factors have reduced the total commercial tonnage subject to the franchise fee. Staff from the Environmental Services Department are examining the situation and are considering proposing a rate increase in the future to bring receipts closer to historical levels.

Although our review confirms that there may be a drop in volume hauled from 1995-96 to 1996-97 (from 4,217,000 to 4,142,000 cubic yards), this is not a significant factor in the projected franchise revenue shortfall. Specifically, assuming a \$1.64 franchise fee per cubic yard, a 75,000 cubic yard decrease would decrease revenues by only \$123,000.

The drop in CSW franchise fees was the result of a miscalculation of the new rate structure needed to maintain the revenue base and achieve the revenues shown in the Fees and Charges Report. There are several possible reasons for the miscalculation of the revised rates. First, according to IWM, staff only used one month of data in its analysis. The problem with using only one month's worth of data is that monthly remittances fluctuate as shown in Graph 2. Second, according to IWM, staff only used bin capacity data it specifically requested from the four largest haulers in its analysis. In retrospect, specific bin size data was not necessary because IWM already had a year's worth of volume information. Third, ESD's new volume-based system was supposed to use a conversion factor of three times the volume for compacted material. IWM was not consistent in using the conversion factor when calculating the new rate. Fourth, there was an error in a formula that IWM used to calculate equivalent volume. It should be noted that even after factoring in the above four reasons, we are unable to reconstruct how ESD calculated the rates for 1996-97.

\$1.5 Million Windfall Has Offset The 1996-97 Shortfall

Our review indicates that \$1.5 million in one-time carryover revenue from 1995-96 has offset the 1996-97 shortfall. Specifically, we found that haulers have remitted \$402,000 in CSW franchise fees and \$1,142,000 in CSW AB 939 fees for 1995-96 hauling activities that their customers did not pay for until 1996-97. These one-time revenues are the result of changing from a revenue-based to a volume-based fee structure, and a change in when CSW activities are subject to fees. Under the revenue-based fee structure, haulers paid CSW franchise fees and CSW AB 939 fees based upon customer payments received during the month-- regardless of when the hauler provided the service. Under the new volume-based fee structure, haulers remit CSW franchise fees and CSW AB 939 fees based upon the period the hauler provided service -- regardless of when the customer actually pays the hauler. As a result, the City received a windfall to the extent a hauler paid its CSW franchise fees and CSW AB 939 fees based upon both customer payments for pre-1996-97 services and 1996-97 hauling activities. This one-time windfall has obscured the amount of the 1996-97 shortfall.

\$2.1 Million In Foregone Revenue For 1996-97

The 1996-97 Adopted Budget was \$7.9 million in CSW Franchise Fees and \$7.5 million in CSW AB 939 Fees. Projected net revenues for 1996-97 are \$6.4 million in Franchise Fees and \$6.9 million in CSW AB 939 Fees. When compared to expected net revenue for 1996-97 (net of the one-time windfall), we estimate that the rate miscalculation will cost the City nearly \$2.1 million in 1996-97 -- \$1.4 million in the General Fund and \$0.6 million in the IWM Fund. Table 3 shows this calculation.

TABLE 3

ESTIMATED 1996-97 FOREGONE REVENUE

	CSW Franchise Fees	CSW AB 939 Fees	Total
1996-97 Adopted Budget	\$7,875,000	\$7,500,000	\$15,375,000
Expected Net Revenue for 1996-97			
Projected 1996-97 revenue	\$6,850,000	\$8,000,000	\$14,850,000
Less One-time Windfall (Page 12)	(402,309)	(1,142,397)	(1,544,706)
Projected net revenue for 1996-97	\$6,447,691	\$6,857,603	\$13,305,294
Estimated 1996-97 Foregone Revenues	\$1,427,309	\$642,397	\$2,069,706

Corrected Rates Would Generate An Additional \$1.9 Million In 1997-98

The Administration will be bringing forward recommendations for revising CSW fee rates in Fall 1997. According to the 1997-98 Proposed Operating Budget,

Because of [the] dramatic and unexpected fall-off in revenues from the imposition of the new rate structure, staff in the Environmental Services Department are currently exploring the possibility of revising the rate structure for 1997-98. Recommendations are anticipated to be brought forward in September 1997.

In our opinion, the Budget Office and ESD should propose revised CSW Franchise Fee rates for 1997-98 that maintain the revenue base for franchise fees as compared to the 1996-97 Adopted Budget. In addition, the Budget Office and ESD should prepare CSW AB 939 rates for 1997-98 that will produce the revenues shown in the 1997-98 Fee and Charges Report. We estimate this would require a CSW Franchise Fee rate increase of 22 percent and a CSW AB 939 fee increase of 7 percent. Absent a rate change, we estimate the General Fund will forego \$1.4 million in CSW Franchise Fees and the IWM Fund will forego approximately \$0.5 million in CSW AB 939 revenue in 1997-98 as shown in Table 4.

TABLE 4

**ESTIMATED 1997-98 FOREGONE REVENUE ABSENT A CHANGE
IN CSW FRANCHISE AND AB 939 FEES**

	CSW Franchise Fees	CSW AB 939 Fees	Total
Calculated 1997-98 CSW Franchise Fee and AB 939 Fee Revenue Objectives			
1996-97 Revenue Base Per 1996-97 Adopted Budget	\$7,875,000		\$7,875,000
Less 1.78% allowance for increased recycling in 1997-98	(140,175)		(140,175)
1997-98 Revenues Per Proposed 1997-98 Fees and Charges Report		7,240,000	7,240,000
Calculated 1997-98 revenue objectives	\$7,734,825	\$7,240,000	\$14,974,825
Projected 1997-98 Revenues*	\$6,332,922	\$6,735,538	\$13,068,460
Estimated Foregone 1997-98 Revenues	\$1,401,903	\$504,462	\$1,906,365
Rate Increase Required To Offset Estimated Foregone 1997-98 Revenues	+22%	+7%	+15%

* Projected net revenue for 1996-97 (from Table 3) less a 1.78 percent allowance for reduced volumes based on 1996-97 experience.

It should be noted that our calculated 1997-98 revenue objective of \$7,734,825 for CSW Franchise Fees is \$1,084,825 more than the \$6,650,000 shown in the 1997-98 Proposed Budget. Further, we estimate that current CSW Franchise Fee rates will only generate \$6,332,922 in 1997-98 or \$317,078 less than the budgeted amount of \$6,650,000. Thus, the \$1,401,903 in foregone 1997-98 CSW Franchise Fees shown above is the cumulative difference between (1) the amount necessary to maintain the 1996-97 CSW Franchise Fee revenue base and the CSW Franchise Fees proposed in the 1997-98 budget and (2) the CSW Franchise Fees proposed in the 1997-98 budget and projected 1997-98 CSW Franchise Fees as shown below.

– Difference between 1997-98 CSW Franchise Fees necessary to maintain the 1996-97 revenue base (\$7,734,825) and proposed CSW Franchise Fees in the 1997-98 budget (\$6,650,000)	\$1,084,825
– Difference between proposed CSW Franchise Fees in the 1997-98 budget (\$6,650,000) and projected 1997-98 CSW Franchise Fees (\$6,332,922)	<u>317,078</u>
Total Estimated Foregone CSW Franchise Fees In 1997-98	<u>\$1,401,903</u>

**Suggested Method Of Recalculating
The Proposed Rates Based On 1995-96 Rates**

Revenue and volume information is currently available for 1995-96 and at least nine months of 1996-97. Our review revealed that the monthly activity reports that haulers submitted during 1995-96 included the data necessary to compile equivalent volumes of CSW. We have provided the ESD with our compilations of equivalent yardage for 1995-96 and 1996-97. The computation of equivalent volumes involves multiplying compacted trash by an equivalency factor of three, and converting reported tonnages to cubic yards for haulers that reported in tons. We suggest the ESD use the equivalent volume information to recalculate the franchise fee exclusion rate.

We also suggest the ESD recalculate the franchise fee rate by dividing the 1996-97 revenue objective by 1996-97 equivalent volumes. Similarly, we suggest the ESD recalculate the AB 939 rate by dividing the 1996-97 revenue objective by 1996-97 equivalent volumes.

**Potential Recovery Of \$1.4 Million
In 1996-97 Foregone General Fund Revenue**

As shown above, we estimate that corrected rates would generate approximately \$15 million, or \$1.9 million more than could be expected absent a rate adjustment in 1997-98. However, these corrected rates would not make up for the estimated \$2.1 million in foregone

revenue during 1996-97. The City Attorney's Office has advised that CSW AB 939 fees cannot be retroactively applied. There is no such restriction on CSW Franchise Fees.

Therefore, we recommend that the City Council also consider imposing:

- Full-recovery rates that recover the estimated \$1.4 million in foregone 1996-97 CSW franchise fee revenue to the General Fund or
- Partial-recovery rates that recover approximately \$1 million in foregone 1996-97 CSW franchise fee revenue (\$1,427,000 in foregone General Fund revenue net of the \$400,000 General Fund windfall).

Table 5 shows the cumulative total of these modifications.

TABLE 5
POTENTIAL REVENUE IMPACT OF MODIFICATIONS
TO 1997-98 CSW FEES

	CSW Franchise Fees	CSW AB 939 Fees	Total
Projected Impact of Modifications			
Potential recovery of foregone 1996-97 revenues	\$1,427,000		\$1,427,000
Potential additional 1997-98 revenues resulting from rate correction	1,402,000	\$504,000	1,906,000
Potential Additional 1997-98 Revenues	\$2,829,000	\$504,000	\$3,333,000

It should be noted that if the City Council does not adopt either of the above rate alternatives by July 1, 1997, the General Fund and the IWM Fund will forego at least \$117,000 and \$42,000 per month in revenues in 1997-98, respectively.

Potential Customer Impact Of Rate Correction

On May 22, 1997, the City Manager proposed to the City Council in Manager's Budget Addendum #4 that the ESD hire a consultant economist to analyze the impact of increasing CSW Franchise Fees and AB 939 Fees (see Appendix D). The ESD is concerned that a rate

increase could stimulate customer recycling (which is non-taxable) and thus actually reduce General Fund revenue by impacting landfill taxes and fees as well as CSW Franchise and AB 939 Fee revenues.

In addition to the CSW Franchise Fees that haulers pay, the General Fund receives Disposal Facility Taxes and Solid Waste Enforcement Fees from landfill operators. Based on our review of 1996-97 Disposal Facility Monthly Reports, we estimate that approximately \$2.9 million, or 15 percent of the \$19.3 million in taxes and fees that landfills pay to the General Fund is related to CSW franchise activity. Together with \$6.65 million in budgeted CSW Franchise Fees, we estimate that a total of \$9.5 million in General Fund revenue is directly related to CSW franchise activity. The estimated CSW Franchise Fee rate correction for 1997-98 is \$1.4 million or 15 percent of the \$9.5 million in total General Fund revenue that we estimate is directly related to CSW activity. Accordingly, the General Fund will see beneficial impact from a 1997-98 rate correction unless: (1) CSW activity declines by more than 15 percent because customers increase recycling as a result of the CSW rate correction, and (2) landfills are unable to make up the difference with solid waste from other jurisdictions.

Similarly, we estimate it would take a 7 percent decline in CSW activity (with no offsetting imports of solid waste to landfills from other jurisdictions) to have a negative impact on the \$7.4 million in IWM Fund revenues that are directly related to CSW franchise activity.

Furthermore, as Table 6 shows, we estimate that CSW diversion would have to increase by more than 11 percent as a result of a rate correction in order for that rate correction to have a negative impact on overall City revenues.

TABLE 6

**PROJECTED 1997-98 GENERAL FUND FRANCHISE
AND LANDFILL REVENUES ATTRIBUTABLE
TO THE COLLECTION AND DISPOSAL
OF COMMERCIAL SOLID WASTE**

	1997-98 Projected Revenues	Portion Attributable To CSW Franchises*
GENERAL FUND		
Haulers - CSW Franchise Fees**	\$ 6,650,000	\$ 6,650,000
Landfills - Disposal Facility Tax**	17,900,000	2,685,000
Landfills - Solid Waste Enforcement Fee**	1,405,000	210,750
Estimated General Fund revenue	25,955,000	9,545,750
Franchise Fee rate correction (from Table 4)	1,402,000	1,402,000
Correction as a percent of General Fund revenue	+ 5.4%	+14.7%
IWM FUND		
CSW AB 939 fees**	\$ 7,240,000	\$ 7,240,000
Landfill AB 939 fees**	810,000	121,500
Estimated IWM Fund revenue	8,050,000	7,361,500
AB 939 Fee rate correction (from Table 4)	504,000	504,000
Correction as a percent of IWM Fund revenue	+ 6.3%	+ 6.8%
TOTAL REVENUE IMPACT		
Total revenue	\$34,005,000	\$16,907,250
Total rate corrections	1,906,000	1,906,000
Correction as a percent of total revenue	+ 5.6%	+ 11.3%

* We estimate that only 15 percent of landfill taxes and fees are attributable to CSW activity.

** 1997-98 projected revenue from 1997-98 Proposed Operating Budget.

It should be noted that our estimate of the increased diversion needed to offset the increase in General Fund revenues a 22 percent CSW rate increase would generate, differs from the ESD's. Specifically, ESD staff estimate that 23 percent of the taxes and fees that landfills pay to the General Fund are related to CSW franchise activity as opposed to our estimate of 15 percent. The difference in our estimates lies in ESD's assumption that **none** of the CSW that San Jose businesses generate and is subsequently hauled to a San Jose landfill is

diverted to a non-taxable use. ESD makes this assumption in spite of the fact that San Jose landfills divert about 38 percent of incoming tons of material from all jurisdictions, including San Jose, to non-taxable uses.¹ Conversely, we assume that landfill operators have and will continue to divert incoming San Jose CSW to non-taxable uses at the same rate as all other jurisdictions.² It should also be noted that using IWM's zero percent diversion assumption only changes our estimate of the percentage increase in CSW diversion needed to offset the additional General Fund revenues a 22 percent CSW rate increase would generate from 15 percent to 13 percent.

In addition, to the extent that franchise and AB 939 fees are only a portion of a CSW franchise customer's bill, a percentage increase in these fees will have a smaller proportional impact on the customer's total bill and be less likely to affect customer recycling behavior. For example, we estimate that in 1995-96, haulers charged their customers an average base price of \$5.04 per cubic yard.³ Using this average base price, we estimate that even if CSW haulers pass all of the 22 percent increase in CSW Franchise Fees and 7 percent increase in CSW AB 939 Fees (as described on page 14) directly on to their customers, the average customer's bill would increase by less than 6 percent as shown below:

¹ For the first nine months of 1996-97, landfills categorized 639,000 tons as non-taxable out of a total of 1,662,000 incoming tons reported on their Disposal Facility Monthly Reports.

² Except for incoming Recycle Plus yardwaste which we assume is entirely diverted

³ Based on 1995-96 CSW Monthly Remittance Reports which show \$21,250,497 in reported gross receipts (net of franchise fees) for 4,216,814 cubic yards. It should be noted that because of quantity discounts, the actual customer price per yard is usually higher for smaller quantities than for larger quantities.

	1995-96 Average CSW Charge	Estimated Fee Increases	Revised Average CSW Charge	Rate Increases
Customer base price per cubic yard	\$5.04		\$5.04	
CSW Franchise Fee	1.64	\$0.36	2.00	22.0%
CSW AB 939 Fee	1.77	0.12	1.89	7.0%
Price per cubic yard	\$8.45	\$0.48	\$8.93	5.7%

Finally, the ESD has consistently warned the City Council that as county-wide diversion increases over the long term, Solid Waste and Landfill fees will decline. For example, the equivalent volumes that CSW franchisees hauled between 1995-96 and 1996-97 declined by 2 percent. Since the City is under a State of California mandate to increase diversion to 50 percent by the year 2000, increased diversion is a positive outcome. In our opinion, a rate correction is appropriate and will benefit the City from an economic and environmental standpoint.

CONCLUSION

The July 1996 revised CSW franchise and AB 939 volume-based fee rates were miscalculated. As a result, we estimate that the City has foregone \$2.1 million in revenue during 1996-97. This shortfall has been partially offset by a one-time windfall of \$1.5 million due to a change in the timing of when CSW activities are subject to fees. In keeping with the original intention that the revised rates maintain the revenue base, we recommend that ESD and the Budget Office propose revised 1997-98 rates. We estimate that needed modifications to these fees would increase General Fund revenue by \$1.4 million and IWM Fund revenue by \$0.5 million. Furthermore, the City Council should consider whether to implement full- or partial-recovery fees to recover the \$1.4 million in foregone 1996-97 General Fund revenue.

As a result of these changes, we estimate that the General Fund could realize from \$1.4 million to \$2.8 million, and the IWM Fund could realize \$0.5 million.

RECOMMENDATION

We recommend that ESD and the Budget Office:

Recommendation #1:

Propose 1997-98 commercial solid waste franchise fees and commercial source reduction and recycling fees that will maintain the revenue base with regards to franchise fees and produce the amount of revenue shown in the 1997-98 Fees and Charges Report. Also propose partial- and/or full-recovery rates to recover foregone 1996-97 franchise fee revenue. (Priority 2)

CITY OF SAN JOSE - MEMORANDUM

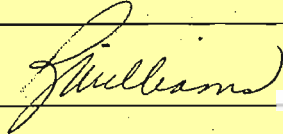
TO: Gerald A. Silva
City Auditor

FROM: Louis N. Garcia
Environmental Services Department

SUBJECT: SEE BELOW

DATE: June 17, 1997

APPROVED:



DATE:

SUBJECT: RESPONSE TO REVIEW OF THE CITY OF SAN JOSE'S COMMERCIAL SOLID WASTE FRANCHISE AND AB 939 FEES

The Environmental Services Department (ESD) has reviewed the City Auditor's report entitled *A Review of the City of San Jose's Commercial Solid Waste Franchise and AB 939 Fees*. ESD concurs with the need to propose rates for commercial franchise fees and commercial AB 939 fees that will minimize negative impacts to the City. However, the Department does not agree with raising rates to recover all or part of the FY1996-97 foregone commercial solid waste revenue.

Environmental Services received direction from City Council to continue with a rate analysis as outlined in the May 21, 1997 memorandum from ESD to the Budget Office regarding commercial solid waste revenues.

BACKGROUND

In August, 1994 Council approved a redesign of the commercial solid waste (CSW) system as part of meeting the state's mandated AB 939 goals. It established a free market, non-exclusive franchise system with the intent of increasing commercial recycling and reducing the amount of commercial solid waste going to landfills. This was to be accomplished through economic incentives, education and technical assistance.

Specifically, the redesign eliminated the price differential between commercial rubbish and commercial garbage, and combined both types of waste into the one category of commercial solid waste. It increased competition amongst haulers and enabled San Jose businesses to choose from a wider variety of service providers. Additionally, it changed the franchise fee structure, increasing the percentages on hauler gross receipts. It also increased commercial AB 939 fees as a way to move the City's integrated waste management programs closer to cost recovery. The primary goal of the redesign was to use the fee structure on commercial solid waste as the economic incentive to increase commercial source reduction, reuse and recycling. Franchise fees and AB 939 fees were loaded on CSW to increase its collection costs relative to the cost of recycling as a way to induce businesses to either begin recycling programs or enhance their existing ones.

RECEIVED

JUN 20 1997

CITY AUDITOR

Gerald A. Silva

June 19, 1997

SUBJECT -RESPONSE TO REVIEW OF
COMMERCIAL FRANCHISE AND AB 939 FEES

Page 2

If successful, reductions in annual CSW fee revenues were expected to occur as more commercial waste was recycled and less landfilled. The major commercial revenue streams to the City that were expected to decline annually were commercial franchise fees and commercial AB 939 fees. In addition, disposal related fees, the Disposal Facility Tax (DFT), County AB 939 fees, and Solid Waste Enforcement fees were also expected to be impacted by the reduction in commercial tonnage going to local landfills.

In May, 1996 Council approved a fee resolution recommending the adoption of a volume based fee structure. This fee structure change was in response to "bundled service" pricing which enabled a hauler to provide both CSW and mixed recyclables service to a customer at the expense of the existing commercial fee structure and corresponding City revenues.

Volume based fees were set on cubic yards of disposal capacity at each business which equates to bin size times frequency of pick up. They were designed to accomplish two things. First eliminate the potential loss of significant revenue to the City. Second, modeling Recycle Plus' variable can rate, volume based rates were to deliver to our larger generators, who have a much more significant portion of disposal volume than our smaller generators, an increased economic incentive to recycle.

Our response to the recommendation follows:

Recommendation #1

Propose 1997-98 solid waste franchise fees and commercial source reduction and recycling fees that will maintain the revenue base with regards to franchise fees and produce the amount of revenue shown in the 1997-98 Fees and Charges Report. Also propose partial- and/or full-recovery rates to recover foregone 1996-97 revenue. (Priority 2)

ESD acknowledges the potential for revenue shortfalls based upon the current rate structure and agrees with the need for rate adjustments. However, ESD continues to maintain that a rate increase without an adequate analysis of its potential impact to revenues on the entire integrated waste management system is an inappropriate way to respond.

For this reason, the Department has contracted with Dr. Barbara Stevens, an economist, and the nation's leading expert on solid waste pricing impacts. Dr. Stevens' preliminary analysis shows that increasing commercial solid waste fees that involve a partial- or full-recovery of foregone 1996-97 revenue, will not generate the projected revenues. The reason for this is the price elasticity of demand for commercial solid waste services.

For our specific purposes, price elasticity of demand in the commercial solid waste system is a measure of the relationship between price changes in cost of service and the volume of disposal

Gerald A. Silva

June 19, 1997

SUBJECT -RESPONSE TO REVIEW OF
COMMERCIAL FRANCHISE AND AB 939 FEES

Page 3

capacity demanded by San Jose businesses. In her analysis Dr. Stevens states, "...a one percentage increase in the price of the collection service can be expected to result in a one percentage decrease in the number of cubic yards of container capacity which will be purchased by customers." Her conclusion is based upon a historical analysis of price changes in the cost of commercial collection over the past four years.

In other words, Dr. Stevens' analysis tells us that, depending upon the size of the increase in collection costs, raising rates in the commercial fee structure to achieve a specific level of revenue may not generate the desired integrated waste management system revenue. The reason behind this is businesses ability to adapt to price increases by reducing the size of the bin (capacity) they need to dispose of their waste through source reduction, reuse and recycling. Reduced volume reduces franchise and AB 939 fees and tonnage going into local landfills. Less tonnage reduces disposal revenues--the DFT, County AB 939 Fee and the Solid Waste Enforcement Fee. Thus from a systemic perspective, a fee increase on the collection side of the system has the potential to impact revenue throughout the entire system.

ESD has two additional concerns about recovering foregone commercial AB 939 fees. First, doing so runs counter to Council's policy on program cost recovery. Currently, the majority of commercial AB 939 fees collected subsidize Recycle Plus. Collecting additional commercial AB 939 revenue will only widen the existing disparity in program revenues. Second, according to the City Attorney's Office, raising rates to recover AB 939 fees from previous fiscal years cannot be done because AB 939 fees are set annually on a cost recovery basis.

It is clear from Dr. Stevens' preliminary analysis that there is a definite demand response to price increases. Increasing rates to recover foregone FY1996-97 revenue may add to decreasing system revenues. Environmental Services is seeking to avoid the impact of price elasticity that exists within the commercial system which has the potential to create a downward spiral on total system revenues.

It is from this comprehensive perspective that the Environmental Services Department believes staff should to continue to work with Dr. Stevens in the further analysis of the fee structures of the integrated waste management system. The goal is to find alternatives that do not compound the problem of price elasticity. Once complete, these recommendations will be brought before Council for action in August, 1997.



LOUIS N. GARCIA

Director

Environmental Services Department

APPENDIX A

DEFINITIONS OF PRIORITY 1, 2, AND 3 AUDIT RECOMMENDATIONS

The City of San Jose's City Administration Manual (CAM) defines the classification scheme applicable to audit recommendations and the appropriate corrective actions as follows:

Priority Class ¹	Description	Implementation Category	Implementation Action ³
1	Fraud or serious violations are being committed, significant fiscal or equivalent non-fiscal losses are occurring. ²	Priority	Immediate
2	A potential for incurring significant fiscal or equivalent fiscal or equivalent non-fiscal losses exists. ²	Priority	Within 60 days
3	Operation or administrative process will be improved.	General	60 days to one year

¹ The City Auditor is responsible for assigning audit recommendation priority class numbers. A recommendation which clearly fits the description for more than one priority class shall be assigned the higher number. (CAM 196.4)

² For an audit recommendation to be considered related to a significant fiscal loss, it will usually be necessary for an actual loss of \$25,000 or more to be involved or for a potential loss (including unrealized revenue increases) of \$50,000 to be involved. Equivalent non-fiscal losses would include, but not be limited to, omission or commission of acts by or on behalf of the City which would be likely to expose the City to adverse criticism in the eyes of its citizens. (CAM 196.4)

³ The implementation time frame indicated for each priority class is intended as a guideline for establishing implementation target dates. While prioritizing recommendations is the responsibility of the City Auditor, determining implementation dates is the responsibility of the City Administration. (CAM 196.4)

APPENDIX B



City of San Jose
 Commercial Solid Waste Collector's Franchise Fee & AB 939 Fee
 Monthly Remittance Report

1995/1996
 Month

Step 1.

Name, Business Name _____

Address, Present business address - number and street, P.O. Box _____

Phone Number City, State and Zip Code _____ Phone Number _____

Remittance Summary

I.	Franchise Fee Remittance (From Line 19) [001-42000000-3036]	_____
II.	AB 939 Remittance (From Line 20) [423-76000000-7010]	_____
III.	Late Fee Remittance (From Line 23) [423-76000000-7011]	_____
IV.	Total Remittance this Month (Add I, II, and III, or from Line 24)	_____

Step 2. COMBINED GROSS RECEIPTS

Gross Receipts	1. Year-to-date receipts including AB 939 fee (based on fiscal year starting July 1).	1. _____
Including	2. Year-to-date gross receipts including AB 939 fee from last month's report.	2. _____
AB 939 Fee	3. Current month's gross receipts. (Subtract Line 2 from Line 1)	3. _____

Step 3 GROSS RECEIPTS SUBJECT TO AB 939 FEE

Gross	4. This month's gross receipts subject to AB 939 fee. (Divide amount on Line 3 by 1.30)	4. _____
Receipts	5. Last month's year-to-date gross receipts subject to AB 939 fee.	5. _____
Subject	6. Current year-to-date gross receipts subject to AB 939 fee. (Add Line 4 and Line 5)	6. _____
to	7. AB 939 fee rate. (Source Reduction and Recycling Fee)	7. <u>.30</u>
AB 939 Fee	8. Total AB 939 fee collectable. (Multiply Line 6 by Line 7)	8. _____
	9. Adjustments for uncollectable AB 939 fees. Attach schedule A.	9. _____
	10. AB 939 fees paid through last report.	10. _____
	11. Total AB 939 Credits and Payments. (Add Line 9 and Line 10)	11. _____
	12. AB 939 fee due. (Subtract Line 11 from Line 8)	12. _____

Step 4. FRANCHISE FEE CALCULATION

Gross	13. Current year to date gross receipts excluding AB 939 fee. (Enter the amount from Line 6)	13. _____
Receipts	14. Amount subject to 28.28% Franchise Fee Rate. (Subtract \$250,000 from Line 13. Enter 0 if negative.)	14. _____
Subject to	15. Franchise Fee rate. (28.28%)	15. <u>.2828</u>
28.28%	16. Total franchise fee. (Multiply Line 14 by Line 15)	16. _____
Franchise Fee	17. Franchise Fees Paid Year to Date. (Add <u>previous month</u> Line 17 and <u>previous month</u> Summary 1.)	17. _____
Rate	18. Franchise Fees Due. (Subtract Line 17 from Line 16)	18. _____

Name _____
 Business Name _____ Reporting Period _____

Step 5. SUMMARY OF FEES DUE

Total Fees,	19.	Total Franchise Fees Due. (Enter amount from Line 18)	19.	_____
Interest, and	20.	AB 939 Fees Due. (Enter amount from Line 12)	20.	_____
Penalty	21.	Subtotal Fees Due. (Add Line 19 and Line 20)	21.	_____
Due	22.	Late Fees Due:		
	a.	Initial late payment charge. (Line 21 x 10%)	a.	_____
	b.	Continued delinquency penalty. (Line 21 x 10%)	b.	_____
	c.	Late interest charges. (Line 21 x number of days late x.00027397)	c.	_____
	23.	Total interest and penalty due. (Add Line 22a through Line 22c)	23.	_____
	24.	Total Fees Due with this report. (Add Line 21 and Line 23)	24.	_____
	25.	Fill in the Remittance Summary block on Page 1 of this report.		

Step 6. STATEMENT (please type or print)

(Print) _____ (Name), of _____ (Franchisee),
 a Principal or Officer holding the position of _____, declares and certifies the fee due under the City of San Jose Municipal Code (SJMC) according to the schedule above and that _____ (she/he) is familiar of her/his own knowledge that the total gross receipts, including AB 939 fees, from the operation of the Franchise for this reporting period was \$ _____, on which the sum based on the monthly gross receipts is due and payable to the City of San Jose, as provided by SJMC 9.10. Remittance in the sum of \$ _____ is tendered herewith accordingly, or has been transmitted by Federal Reserve wire transfer on _____ (date), Fed Wire # _____. I hereby declare under penalty of perjury that the foregoing is true and correct and that the undersigned is duly authorized to make this certification on behalf of the Franchisee.

Date _____ Signature _____

Mail this form and your remittance to:

City of San Jose
 Treasury Division
 801 North 1st Street, Room 217
 San Jose, CA 95110



COMPANY NAME: _____

OPERATIONAL STATUS (Please check the appropriate box for this month).

Collected material during this reporting period. Did not collect any material during this reporting period.

REPORT DELINQUENCY

Due Date of Report _____ Date Report Filed _____

LINE A: Total Days Delinquent _____ (Subtract Date Due from Date Filed)

SECTION I: COLLECTION INFORMATION. TOTAL TONS HAULED, BY DESTINATION.

LANDFILL	COMPACTED	LOOSE	TOTAL
	Packer Trucks, Rolloff Compactors Tons	Debris box Tons	Tons
Guadalupe			
Kirby			
Newby			
Pacheco			
lo Alto			
Recyclery			
Zanker			
Other (Specify) _____			
Other (Specify) _____			
TOTALS			

SECTION II: STATEMENT

I declare under penalty of perjury under the laws of the State of California that I am authorized to make such a return, and that to the best of my knowledge and belief, it is a true, correct and complete return made in good faith for the month so stated, pursuant to the provisions of Chapter 9. 10, Part 11 of the San Jose Municipal Code.

Name

Title

SIGNATURE

Date



Report Contact Person

Title

Telephone

COMPANY NAME: _____

SECTION III: COLLECTION SERVICES PERFORMED

	Container	X	Collections	=	Raw yards	X	Compactio	=	Equivalent yards
Loose Front load bins, Carts etc.	48 gal (.25)	X		=		X	1	=	
	96 gal (.5)	X		=		X	1	=	
	1	X		=		X	1	=	
	1.5	X		=		X	1	=	
	2	X		=		X	1	=	
	3	X		=		X	1	=	
	4	X		=		X	1	=	
	5	X		=		X	1	=	
	6	X		=		X	1	=	
	7	X		=		X	1	=	
	8	X		=		X	1	=	
	9	X		=		X	1	=	
	10	X		=		X	1	=	
		X		=		X	1	=	
Loose Debris Box	10	X		=		X	1	=	
	15	X		=		X	1	=	
	20	X		=		X	1	=	
	25	X		=		X	1	=	
	30	X		=		X	1	=	
	40	X		=		X	1	=	
		X		=		X	1	=	
		X		=		X	1	=	
Compacted Rolloff, compacted bin, etc.	6	X		=		X	3	=	
	8	X		=		X	3	=	
	10	X		=		X	3	=	
	15	X		=		X	3	=	
	20	X		=		X	3	=	
	25	X		=		X	3	=	
	30	X		=		X	3	=	
	35	X		=		X	3	=	
	40	X		=		X	3	=	
		X		=		X	3	=	
Other Flat bed, open bed, pickup		X		=		X	1	=	
		X		=		X	1	=	
		X		=		X	1	=	
MONTHLY TOTALS 						Enter on Line 2 			

COMPANY NAME: _____

SECTION IV: FEE CALCULATIONS.

- Line 1. Volume to date from previous month. (Line 3 from previous month's report) _____ (1)
- Line 2. Current effective volume. (total from "equivalent yards" column) _____ (2)
- Line 3. Current volume to date. _____ (3)
- Line 4. Current volume over 43,000 cubic yards. _____ (4)
- Line 5. Franchise fee rate. _____ (5)
- Line 6. Franchise fee due. (Line 5 x Line 4) _____ (6)
- Line 7. AB 939 fee rate. _____ (7)
 - 8a. Gross AB 939 fee. (Line 7 x Line 2) (8a) _____
 - 8b. AB 939 fee not collected. (submit itemized account listing) (8b) _____
- Line 8. AB 939 fee due. (subtract 8b from 8a) _____ (8)
- Line 9. Current fees due. (add Line 6 and Line 8) _____ (9)
 - 10a. Initial late payment charge. (Line 9 x 10%) (10a) _____
 - 10b. Continued delinquency penalty. (Line 9 x 10%) (10b) _____
 - 10c. Late interest charge. (Line 9 x days delinquent x 0.00027397) (10c) _____
- Line 10. Late fees due. (Add 10a, 10b and 10c) _____ (10)
- Line 11. Franchise fee remittance. _____ (11)
 - 12. AB 939 fee remittance. _____ (12)
- Line 13. Late fee remittance. _____ (13)
- Line 14. Total remittance with report. (Add Line 11, Line 12, and Line 13) _____ (14)

Mail completed form and fees due to: **City of San Jose**
Treasury Division, Room 217
801 North First Street
San Jose, CA 95112-6311

Report Processing

Treasury:

- Line 11 (001-42000000-3036) Line 12 (423-76000000-7010) Line 13 (423-76000000-3196)
- Copy to ESD Contracts

ESD Contracts:

- Copy to ESD / IWM Data Manager Copy to ESD / IWM Contract Manager

APPENDIX D

MANAGER'S BUDGET ADDENDUM #4

CITY OF SAN JOSE - MEMORANDUM

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Regina V.K. Williams
City Manager

SUBJECT: COMMERCIAL SOLID WASTE
REVENUES

DATE: May 22, 1997

APPROVED:

DATE:


BACKGROUND

Since early in the fiscal year the Administration has informed Council that revenues received in the General Fund from the Commercial Solid Waste Franchise Fee have been running well below the budgeted estimate. A revised rate structure was put in place for this fiscal year changing the basis for the fee from gross receipts of waste haulers to volume of waste collected. The new rate established has not produced the amount of revenue expected. Receipts are now expected to fall approximately \$1.225 million below the adopted budget level.

ANALYSIS

In the attached memorandum the director of the Environmental Services Department has recommended an approach to adjusting the rate structure to return revenue to as close to the previously expected levels as possible, given the impact on this revenue of increasing waste diversion.

I have directed him to proceed to engage the consulting economist discussed in the memo and to prepare a report with recommendations to be provided to Council in the early fall.


REGINA V.K. WILLIAMS
City Manager

CITY OF SAN JOSE - MEMORANDUM

TO: Larry Lisenbee

FROM: Louis N. Garcia

SUBJECT: SEE BELOW

DATE: May 21, 1997

APPROVED: 

DATE:

SUBJECT: COMMERCIAL SOLID WASTE REVENUES

This is a response to your request for my opinion of how to increase general fund revenues from commercial solid waste activities to meet previously projected levels.

Unfortunately, it is not as simple as raising franchise fees to achieve a desired level of revenue. In fact, this could be exactly the wrong thing to do. Our commercial solid waste system is now as close to a pure market driven system as could be imagined. The 20,000 businesses in San Jose can choose their service provider as well as the level and type of service from over 25 licensed haulers. This is a very competitive market easily influenced by pricing decisions. Any price increase will drive more businesses to find alternatives to disposal (e.g., recycling). This will actually decrease franchise revenue and the disposal facility tax as well.

Even though a general rate increase would help us achieve our commercial recycling goals, ESD would recommend that changes not be made without an analysis by our consulting economist, Dr. Barbara Stevens, who is the nation's leading expert on solid waste price impacts. I have contacted Barbara and have confirmed her availability to do this analysis expeditiously. I have asked her to prepare a minimum of three scenarios for increasing franchise revenue while minimizing impacts to the disposal facility tax and our recycling goals. I also believe that it will be prudent to consult with the business community and franchised haulers before selecting an option for implementation.

If directed by the City Manager, we can present a recommendation for City Council action in August.


LOUIS N. GARCIA

Director

Environmental Services Department