SANTA CLARA COUNTY
Department of Environmental Health
Comprehensive Fee and Fund Balance Reserve Analysis

Phase II: Comprehensive Fee and Fund Balance Analysis

Final Report

February 28, 2012
## TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. INTRODUCTION</td>
<td>1-1</td>
</tr>
<tr>
<td>2. METHODOLOGY</td>
<td>2-1</td>
</tr>
<tr>
<td>3. CONSUMER PROTECTION</td>
<td>3-1</td>
</tr>
<tr>
<td>4. SOLID/MEDICAL WASTE</td>
<td>4-1</td>
</tr>
<tr>
<td>5. HAZARDOUS MATERIALS</td>
<td>5-1</td>
</tr>
<tr>
<td>6. CONCLUSION</td>
<td>6-1</td>
</tr>
</tbody>
</table>

### APPENDICIES

A. Consumer Protection – Fee Analysis
B. Hazardous Materials – Fee Analysis
C. Consumer Protection – Fund Balance Reserve Analysis
D. Hazardous Materials – Fund Balance Reserve Analysis
1. INTRODUCTION

The purpose of this report is to describe the findings and recommendations of the Comprehensive Fee and Fund Balance Analysis performed for the County of Santa Clara, Department of Environmental Health (Department) by NBS.

The primary goal of the entire project is to update and establish user and regulatory fees for the Department. Public entities in California are granted the ability to establish fees for service through the framework defined in Article XIIIB, Section 8, of the California State Constitution. Under this framework, a fee may not exceed the estimated reasonable cost of providing the service or performing the activity.

The outcomes of this Analysis are summarized and presented to the County’s policy makers in two phases:

- **Phase I: Fully Burdened Hourly Rates Analysis** – Final Report was issued by NBS to the Department on August 10, 2011. The full cost recovery hourly rates presented in the report were adopted by the County Board of Supervisors on September 13, 2011.

- **Phase II: Comprehensive Fee and Fund Balance Analysis** – The content of this document presents the application of the adopted fully burdened hourly rates from Phase I toward establishment of a revised Master Fee Schedule for the Department.

Subsequent sections of this report document the analytical methods and data sources used throughout Phase II of the Analysis.

Section 1 of the report outlines the purpose and scope of the study.

Section 2 of the report presents the approach, methodology, and key data assumptions utilized to achieve the results of the study.

Sections 3 through 5 summarize the results of the Comprehensive Fee and Fund Balance Analysis, segmented by each major Department of Environmental Health (Department) division or program performing fee-related services:

- Consumer Protection Division
- Solid / Medical Waste Program
- Hazardous Materials Program

Section 6 provides a grand scope conclusion statement for the study.

Appendices to this report provide presentation of the detailed Fee Analysis and Fund Balance Analysis for each division or program.
2. METHODOLOGY

2.1 Methods of Analysis for Fee Establishment

A cost of service analysis is a quantitative effort which compiles the full cost of providing governmental services and activities. Nearly all fees for service reviewed in Phase II of this study require specific actions on the part of Department staff to provide the service or conduct the activity. Because labor is an underlying factor in these activities, the full cost of service was expressed as a fully burdened cost per available labor hour, the calculation of which is described in detail in NBS’ Phase I report. The Phase I fully burdened rates were reviewed and adopted by the Board of Supervisors (Board) on September 13, 2011.

The adopted fully burdened labor rates are expressed as an individual composite rate for each division or program in under review in this Analysis:

- Consumer Protection Division - $219
- Solid/Medical Waste Program - $266
- Hazardous Materials Program - $346

These rates serve as the basis for further quantifying the average full cost of providing individual services and activities. In Phase II of the Analysis, rates are applied to the estimated time required to perform any particular service or activity, and the result establishes the total estimated and reasonable cost per service (potential fee at full cost recovery).

Because most of the Department’s fees are flat fees, they correspond directly to the average full cost of service result. For the few activities where estimating an average was impossible – due to the highly variable nature of the service – use of fully burdened hourly rates coupled with time-tracking was suggested as the fee structure. (In other words, the County would impose a fee per hour of staff time, requiring some degree of time estimation or outright time-tracking at the case level.)

Calculating fees during this study also included a range of other activities, described below:

- **Addition to and deletion of fees imposed** – The study process provided each division or program the opportunity to propose additions and deletions to their fee schedules, as well as rename, reorganize, and clarify fees imposed. Many such revisions were performed to better conform fees to current practices, as well as improve the calculation of fees owed by an individual, the application of said fees, and the collection of revenues. In other words, as staff is more knowledgeable and comfortable working with the fee schedule, the accuracy achieved in both imposing fees on users and collecting revenues for the Department is greater. Beyond this, some additions to the fee schedule were simply identification of existing services or activities performed by Department staff for which no fee was imposed.

- **Revision to the structure of fees** – For all divisions or programs studied, the manner in which a fee is imposed on a user was changed. In the majority of cases in which this was done, the primary objective was to simplify the fee structure, increase fairness and equitability across types of fee payers, or increase the likelihood that the full cost of service would be recovered.

- **Documentation of tools to calculate special cost recovery** – An element included in the Department’s fee schedule was the fully burdened hourly rates for each division or program.
Documenting these rates in the fee schedule provides an opportunity for the Board to approve rates that should be used whenever the Department computes a special form of cost recovery under a “time and materials” approach. It also provides clear publication of those rates, so ultimate fee payers of any uniquely determined fee can reference the amounts. Publication of these rates in the Master Fee Schedule is accompanied by language providing that special forms of cost recovery for activities and services not contemplated by the adopted Master Fee Schedule can be computed at the discretion of the division director or program managers, following the rates adopted by the Board in the master fee schedule.

Proposed fees and the calculated increase or decrease from existing fees are discussed in subsequent chapters of this report for each division or program studied, with corresponding technical exhibits in Appendices A through C.

2.2 Cost Recovery Evaluation

Current levels of cost recovery from existing fee revenues were stated simply by comparing the existing fee for each service or activity – if a fee was imposed – to the average full cost of service quantified through this study. Cost recovery was expressed as a percentage of the full cost. A cost recovery rate of 0% means no costs are recovered from fee revenues. A rate of 100% means that the full cost of service is recovered from the fee. A rate between 0% and 100% indicated partial recovery of the full cost of service through fees. A rate greater than 100% means that the fee exceeded the full cost of service.

With some exceptions, user fees and regulatory fees examined in this study should not exceed the full cost of service. In other words, the cost recovery rate achieved by a fee should not be greater than 100%. In most cases, imposing a fee above this threshold could require the consensus of the voters. Exceptions to this rule typically focus on areas where the fee actually behaves akin to a fine or penalty imposed on an individual or entity that has violated County requirements or code. In those circumstances, the County of Santa Clara (County) is not limited to the cost of service when setting the amount. Another exception to this rule is in areas where policy or values may encourage a differential fee for different types of fee payers, such as non-profit businesses, or residents versus non-residents.

Determining the targeted level of cost recovery (or “pricing”) for a new or currently established fee is not an analytical exercise. Instead, targets reflect agency-specific judgments linked to a variety of factors, such as existing County policies, agency-wide or departmental revenue objectives, economic goals, community values, market conditions, level of demand, and others. Indeed, as mentioned earlier in this report, this study was initiated under a broad policy directive that user/regulatory fee-related activities recover the full cost of service, except in cases where a strong public policy case prevails for lesser cost recovery. Because of this policy judgment, targeted levels of cost recovery issued through this effort vary by fee type and/or division studied.

A general means of selecting an appropriate cost recovery target is to consider the public and private benefits of the service or activity in question. To what degree does the public at large benefit from the service? To what degree does the individual or entity requesting, requiring, or causing the service benefit? When a service or activity completely benefits the public at large, it can be argued reasonably that there should be no cost recovery from fees (i.e., 0% cost recovery): that a truly public-benefit service is best funded by the general resources of the County, such as General Fund revenues (e.g., taxes). Conversely, when a service or activity completely benefits an individual or entity, it can be argued reasonably that 100% of the cost should be recovered from fees collected from the individual or entity. An example of a completely private benefit service may be a request for exemption from a County regulation or process.

Under this approach, it is often found that many governmental services and activities fall somewhere between these two extremes, which is to say that most activities have a mixed benefit. In the majority of those cases, the initial cost recovery level targeted may attempt to reflect that mixed public and private
benefit. For example, an activity that seems to have a 40% private benefit and a 60% public benefit would yield a cost recovery target from fees of 40%.

In some cases, a strict public-versus-private benefit judgment may not be sufficient to finalize a cost recovery target. Any of the following other factors and considerations may influence exclusively or supplement the public/private benefit of a service or activity:

- If optimizing revenue potential is an overriding goal, is it feasible to recover the full cost of service?
- Will increasing fees result in non-compliance or public safety problems?
- Are there desired behaviors or modifications to behaviors of the service population that could be helped or hindered through the degree of pricing for the activities?
- Could fee increases adversely affect County goals, priorities, or values?

For specific subsets of fees, even more specific questions may influence ultimate cost recovery targets:

- Does current demand for services support a fee increase without adverse impact to the citizenry served or current revenue levels? (In other words, would fee increases have the unintended consequence of driving away the population served?)
- Is there a good policy basis for differentiating between type of users (e.g., residents and non-residents, residential and commercial, non-profit entities and business entities)?
- Are there broader County objectives that inform a less than full cost recovery target from fees, such as economic development goals and local social values?

Because this element of the study is subjective — despite the above attempts to provide structure for consistent decision-making — the proposed fees presented in this report represent the cost recovery recommendations of the Department, which most closely involved with each set of fees. In this case, the consultant in charge of the analytical outcomes of this study has provided the full cost of service information and the framework for considering fees, while those closest to the fee-paying population – the Department – has considered appropriate cost recovery levels at or below that full cost.

Targeted cost recovery levels from proposed fees are shown in Appendices A through C to this report.

2.3 Fund Balance Analysis

The Department, like most special revenue funds in California cities and counties, faces increasing expenditures to fulfill mandated obligations and community expectations associated with its programs.

As a special revenue fund, the Department was directed by the County’s administration to be a self-sustained operation, actively maintaining a structure of reserves. The purpose of a dedicated and restricted (per GASB 54) fund for the Department is to collect and segregate resources following the purpose for which they were appropriated, and use for forecasted obligations as well as short-term fluctuations in revenues and/or expenditures.

Findings presented in this report represent a high-level overview of the financial condition of the Department as a special revenue fund. NBS prepared a “revenue requirements” analytical methodology common to the financial analysis underlying special and enterprise revenue funds, such as the Department. The analytical model contains:

- A forecast of operating requirements
• Analysis of cash performance and reserve objectives
• Determination of annual revenue requirements for the Department

The analytical model was developed only for the Department’s divisions or programs (Cost Centers) that collect user and regulatory fee revenue as their primary source of funding:

• Consumer Protection Division (Cost Center 1190 and 1191)
• Solid / Medical Waste Program (Cost Center 1196)
• Hazardous Materials Program (Cost Center 1198)

Please note all figures are stated in forecasted, future values: Various economic factors have been applied to cost estimates presented in earlier chapters, or derived from County data and policies to account for natural or expected levels of inflation. This enables projection of corresponding revenue streams in the amount necessary in those future years. Also, the financial analysis examined revenue requirements over a 10-year period, labeled by fiscal years from 2011-2012 through 2020-2021.

The analysis establishing the appropriate contribution of each division or program’s fully burdened hourly rate to the Department’s fund balance reserves has made the following assumptions:

• **Revenue Sufficiency:** The Department targets a financial strategy that provides its own revenues sufficient to meet the current and forecasted requirements and obligations. The requirements and obligations of the Department include: annual expenses to operate, maintain, and manage the Department; outlays to meet regulatory and other programmatic obligations; capital expenditures related equipment, and other fixed assets; repayment of outstanding debt; satisfaction of legal covenants; and attainment of targeted financial performance metrics set by law and/or policy.

The Department is managed as a special revenue fund, which means that the proceeds from its revenue sources are specifically restricted, set aside and spent on its operations. The Department’s programs are ideally not to be funded by resources external to its operations (e.g., general County revenues, et al.). In this manner, only those “beneficiaries” or “users” of the Department’s services fund its ongoing operations, and no subsidy is relied upon.

• **Operating Reserve:** The Department will maintain an Operating Reserve consistent with existing County fiscal policy targeting 25% (3 months) of annual operating requirements. An Operating Reserve is intended to promote financial viability in the event of any short-term fluctuation in revenues and/or expenditures. Such fluctuations might be caused by the natural inflow and outflow of cash during receivables and payables cycles; potential, natural variability in revenue streams; and – particularly in periods of economic distress – changes or trends in age of receivables.

The minimum threshold for the Operating Reserve should be targeted as of the start of each fiscal year. The balance of the Operating Reserve should be expected to fluctuate throughout the year due to the natural variability of revenues and expenditures, but outside of extreme circumstances, it should be evaluated and reestablished annually.

• **Other Reserves:** This analysis also assumes additional reserves based on existing Departmental policies. Examples include reserves for retirement payoff, increases in health benefits, and legal fees, as directed and accepted by existing Department and County administrative policies. It should be noted that restricted funds for the Hazardous Materials Program enforcement activities, however, are funded via fines and penalties generated specifically from enforcement.

In a self-sufficient program, annual operating requirements should be fully satisfied by the annual, recurring revenue sources of the program to avoid a “structural deficit.” Running a structural deficit means that any given division or program’s cash reserves must be drawn upon to meet annual expenses.

Phase II of the Fee and Fund Balance Analysis – Department of Environmental Health
Prepared by NBS
A short-term draw upon reserves to meet operating requirements may be acceptable, if not planned – typically through periods of unstable or unforeseen conditions – but it is not a sustainable condition.

The results of this analysis conclude that the Department is not entirely a “fee for service” organization. User and regulatory fee revenue are not eligible to recover for the total costs of all services provided by the Department. Some services provided by the Department require funding sources other than user or regulatory fees for service. Through Fiscal Year 2005-2006, the Department was supported by an appropriation of approximately $285,000 annually from County subvention funds to help offset the costs associated with providing “public obligation” services (discussed throughout this report as “non-fee related” services).

Appendices D through F illustrate the projected impact of proposed fee increases on the fund balance of each division or program studied in the Fee Analysis.

### 2.4 Data Sources

The following County-published data sources were used to support the Phases I and II of this study:

- The Department’s Adopted Budget for Fiscal Year 2011-12.
- A complete listing of all Department personnel, salary/wage rates, regular hours, paid benefits, and paid leave amounts – provided by the Department.
- Employee time tracking information identifying each Department employee and the number of hours logged to various Project and Activity Codes during the fiscal year periods 2009-10, 2010-11, and 2011-12 year to date.
- Various correspondences with the Department staff supporting the adopted Fiscal Year 2011-12 budgets and current fees, including budget notes and expenditure and revenue detail not shown in the published document.

The Department’s adopted budget is the most significant source of information affecting cost of service results. It should be noted that the consultant did not conduct separate efforts to audit or validate the Department’s financial management and budget practices, nor was cost information adjusted to reflect different levels of service or any specific, targeted performance benchmarks. This study has accepted the budget as a legislatively adopted directive describing the most appropriate and reasonable level of spending. Consultants accept the Board’s deliberative process and ultimate acceptance of the budget plan and further assert that through that legislative process, the County has yielded a reasonable expenditure plan, valid for use in setting cost-based fees.
3. **CONSUMER PROTECTION DIVISION**

The Consumer Protection Division (CPD) monitors and protects a variety of basic human needs - including safe food, water, and sewage disposal - needs that affect the health and safety of consumers and members of the public each day. Programs and services include, but are not limited to: Disaster Preparedness & Response, Food Safety Programs (e.g., Permanent food sales, Temporary Events, School Food oversight, Vending Machine oversight), Recreational Health Program (oversight of public pools and spas) Drinking Water Program (Small Water Systems), Land Use (including direct support to the County Department of Planning and Development) Childhood Lead Poisoning Prevention Plan Check and Equipment Installation oversight for food facilities, public pools and spas, and onsite wastewater treatment systems, Non-Point Source Pollution Control Program, Noise Pollution ordinance enforcement, Indoor Air Quality/Radon referral services, Detention Facilities oversight, Homeless Shelters and Feeding programs, Psittacosis complaints, and the Tobacco Retail Permit Program.

3.1 **Summary of Fully Burdened Rate Calculation**

The results of the Phase I Fully Burdened Hourly Rate Analysis concluded that the CPD is eligible to recover approximately 87% of its annual costs of providing services from user/regulatory fees for service. 13% of its annual costs are not associated with fee-related activities and therefore require identification of alternate revenue sources. The Board-adopted fully-burdened hourly rate applicable to fee related services for the Consumer Protection Division is $219 per hour.

3.2 **User and Regulatory Fee Recoverable Services**

Generally, the CPD’s user/regulatory fee related efforts include:

- Tobacco retailer registration and annual permitting
- Food facility annual operating permits, and special and temporary event permitting
- Public pool operating permits Plan check for the construction, alteration, or remodel of existing food service facilities
- Land Use Planning Commission project review and approval
- On-site sewage disposal and septic system regulation and permitting

The outcome of the Phase II analysis incorporates several major changes to the CPD’s existing fee structure, the most notable of which is the change to a “risk based” fee structure for food facility annual operating permits. In 2007, California Retail Food Code (CalCode) replaced the California Uniform Retail Food Facility Law (CURFFL). Subsequently, CPD revamped their food facility inspection program to closer reflect Federal Food and Drug Administration (FDA) and National Center for Disease Control and Prevention (CDC) recommendations and risk factors for inspecting facilities. The CPD’s existing fee schedule for permitting food facilities was historically categorized by type of occupancy, rather than the level of assignable risk associated with the preparation and service of food at the facility. The CPD wanted to update their fee schedule to accurately reflect the workload associated with inspecting and permitting food facilities, based on their assigned risk category. Changes to the CPD’s fee schedule in this area enhance fairness and equitability amongst fee payers for services rendered by the County.

Attachment A to this report provides a list of all proposed fee categories for the CPD.
3.3 Cost Recovery Evaluation for Fee Recoverable Services

The amounts listed in the “Cost of Service per Activity” column of Appendix A represent the total cost of providing each service identified by the study. The full cost of service represents the maximum fee amount allowed, at or beneath which, the County must determine its policy position.

NBS worked extensively with Department staff to gather estimates of time required to perform each service identified in the Appendix. Time estimates were independently evaluated on separate occasions by multiple Department staff members and also analyzed by NBS to determine whether the time estimates provided seemed reasonable when compared against the numerous fee studies NBS staff have performed.

When the Cost of Service per Activity is compared to the Department’s “Current Fee”, some fees will appear to under recover their costs, some will come close to 100% recovery, and some will appear to collect more than the their cost of providing services. This is a typical outcome of any Cost of Service Analysis.

As displayed in Appendix A, at current fee levels, the CPD collects approximately $9.7 million per year in fee for service revenue, or 87% of the total estimated costs of providing services. If all fees were implemented at 100% of their maximum amount allowed, approximately $1.7 million in additional revenue could be realized from fee payers.

Agencies often recommend less than full cost recovery for certain fee categories, based on the myriad of reasons discussed in Section 2 of this report, and further discussed in the Department’s staff report. The “Recommended Fee Level” column shown in Appendix A reflects the recommended “price” for services established by the Department’s recommendations. In most cases, the Department recommends recovery of 100% of the established Cost of Service per Activity for the CPD. Exceptions to recommendation of 100% cost recovery include:

- Tobacco Retailer Permits, at 45% cost recovery
- Food Safety Certification Training, at between 67% and 83% cost recovery

At Department recommended fee levels, the CPD would recover 99% of costs, or approximately $1.6 million in additional fee related revenues per year. However, it should be noted that the Recommended Fee levels assumed in this Analysis would provide the following estimated annual subsidies to fee payers:

<table>
<thead>
<tr>
<th>Fee Item</th>
<th>Annual Subsidy per Recommended Fee Level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tobacco Retailer Permits</td>
<td>$13,020</td>
</tr>
<tr>
<td>Food Safety Certification Training</td>
<td>$71,186</td>
</tr>
<tr>
<td>Total Policy Directed Subsidies</td>
<td>$84,206</td>
</tr>
</tbody>
</table>

Should the County decide to continue these pricing objectives at lower than full cost recovery; an alternate revenue source would be required for recovery of the subsidized costs shown in the table above. These unfunded costs borne by policy directed subsidies are in addition to non-fee funded services identified in NBS’ Phase I report. Costs associated with provision of subsidies to a specific category of fee payers cannot be recovered directly or indirectly from the CPD’s existing mix of other user and regulatory fee payers.
3.4 Fund Balance Reserve

Appendix C-1 to this report demonstrates the CPD’s contributions to the performance of the Department’s existing targeted Fund Balance, prior to changes in revenue assumptions regarding improved cost recovery of both fee and non-fee related services.

The following are important impacts to note regarding CPD’s fund balance without improved cost recovery of both fee and non-fee related activities:

- CPD does not meet the Department’s existing fund balance targets for an operating reserve (25%) in any year.
- CPD runs a structural deficit (negative ending balance with fully depleted reserves) as soon as this Fiscal Year 2012-2013.

As shown in Appendix C-2 to this report, adoption of a fully burdened hourly rates, as well as updated fees for service at Department recommended levels improve CPD’s fund balance outlook. Under this scenario:

- CPD does not meet fund balance reserve targets in the current Fiscal Year (2012), but does not run a structural deficit. No increased fee or non-fee related revenues are assumed.
- CPD will meet reserve targets for the next three years, through Fiscal Year 2014-2015.
- In Fiscal Year 2015-2016, the contribution toward and maintenance of an appropriate fund balance again becomes an issue.

In Fiscal Year 2016, in accordance with Best Management Practices, another comprehensive Fee and Fund Balance Analysis should be performed, to account for any significant changes in organization or cost structure of the Department.
4. **SOLID / MEDICAL WASTE PROGRAM**

The Solid Waste Local Enforcement Agency (LEA), established as a result of the Integrated Waste Management Act of 1989, serves the unincorporated areas of the County and all cities except the City of San Jose which serves as its own LEA. The Solid / Medical Waste Program (Program), in the Hazardous Materials Compliance Division (HMCD), activities include: permitting solid waste disposal, composting and transfer facilities; inspecting landfills, transfer stations, composting facilities, and refuse collection vehicles and yards; monitoring disposal facilities to exclude hazardous wastes, medical wastes or liquid wastes; pumper vehicle inspections and yards; providing information to the public and industry regarding the proper disposal of solid wastes (including asbestos); and investigating complaints and mitigating problems associated with illegal dumping, disposal, or storage of solid wastes. They are also responsible for enforcing state and local ordinances and regulations pertaining to illegal disposal, handling and transporting of solid waste at unpermitted residences or businesses as an LEA. Program inspectors must maintain adequate levels of training and stakeholder updates to stay current in knowledge of technologies and requirements. They also must demonstrate annually to the State that records are maintained and updated and that the program is sufficiently staffed and funded to perform all program functions in addition to inspection of permitted activities. Moreover, program activities also include applying for and implementing clean up grants, sitting on solid waste advisory committees, and reviewing and commenting on State regulatory amendments and proposals.

Additional programs and services provided by the Program include waste tire enforcement, and permitting and regulation of body art practitioners and lower lobe ear piercers.

**4.1 Summary of Fully Burdened Rate Calculation**

The results of the Phase I Fully Burdened Hourly Rate Analysis concluded that the Program is eligible to recover approximately 87% of its annual costs of providing services from user/regulatory fees for service. 13% of its annual costs are not associated with fee-related activities and therefore require identification of alternate revenue sources. The Board-adopted fully-burdened hourly rate applicable to fee related services for the Solid / Medical Waste Program is $266 per hour.

**4.2 User and Regulatory Fee Recoverable Services**

Generally, the Program’s user/regulatory fee related efforts are comprised of:

- Small and larger quantity medical waste generator permits and regulation
- Solid waste facility permits, monitoring, and regulation
- Solid waste and pumper vehicle inspection and regulation activities
- Body art and lower lobe ear piercing facility construction plan review, inspection, and health regulation
- Land use / planning application review

During the course of this analysis, both the Department and NBS agreed that given the current fee setting environment in California, further review by the County’s legal counsel regarding the most fair and equitable fee structure for the solid waste vehicle, pumper vehicle, and solid waste facility sections of the Program’s fee structure is warranted. In 1992, cities within the County designated the Department as the Local Enforcement Agency (LEA) for health related regulations, in addition to its existing responsibilities for unincorporated County areas. Tipping fees assessed per ton and per vehicle were the primary funding source of the program. In 1992, the State re-established a Countywide LEA structure, officially designating the Department as the LEA. All cities within the County except the City of San Jose at that
time designated DEH as their LEA. In 1993, the Local Enforcement Agency Funding Committee (LEAFCOM), which included cities, the County, and local industry, reached a number of agreements regarding funding for the County's LEA program, including the replacement of tipping fees as a revenue source with flat rate fees per vehicle and per landfill. The funding goal was to provide funding for 100% of LEA budget costs through this fee structure. Over the years, fee amounts have changed, program parameters and service offerings have evolved, yet the fee structure for vehicles and facilities has remained in line with the original LEAFCOM agreements.

Given the complex issues pending legal review for the County's Program, the Department recommends no changes to their fee structure or fee amounts at this time. The Program plans to examine the possibility of reestablishing the LEAFCOM group to discuss current and future funding mechanisms as well as to properly notify all stakeholders of any proposed changes and solicit feedback.
5. HAZARDOUS MATERIALS PROGRAM

The Hazardous Materials Program (HM Program) in the HMCD was established in 1983 with the adoption of the local Hazardous Materials Storage Ordinance, which regulates the storage of hazardous materials both aboveground and underground. This ordinance, the first of its kind in the state, had several key provisions that when implemented by regulated facilities provided protection of the environment and public health. In addition to enforcing Santa Clara County Ordinance Code requirements governing the storage and handling of hazardous materials, HMCD is a Certified Unified Program Agency (CUPA) responsible for enforcing specified State laws and regulations governing the management of hazardous materials and wastes and overseeing the activities of Participating Agencies (PA) within the County's Unified Program.

5.1 Summary of Fully Burdened Rate Calculation

The results of the Phase I Fully Burdened Hourly Rate Analysis concluded that the HM Program is eligible to recover approximately 87% of its annual costs of providing services from user/regulatory fees for service. 13% of its annual costs are not associated with fee-related activities and therefore require identification of alternate revenue sources. The Board-adopted fully-burdened hourly rate applicable to fee related services for the HM Program is $346 per hour.

5.2 User and Regulatory Fee Recoverable Services

Generally, the HM Program’s user/regulatory fee related efforts focus on:

- Above and underground storage closure review and permitting
- Storage facility construction review and approval
- Annual hazardous materials storage facility permitting and regulation
- Hazardous waste generator permit approval and regulation
- Underground storage tank annual operating permits
- Hazardous waste on-site treatment permitting and regulation
- CAL ARP, and APSA facility permitting
- Toxic Gas facility permits and inspections
- CUPA program facilitation, monitoring, and reporting

The results of this analysis present a major change in the HM Program’s existing fee structure related to hazardous materials storage permits. The basis for charging these fees was restructured to use the number of chemicals stored per facility, rather than the existing quantity ranges approach. The change to a new structure for these permitted storage facilities enables the HM Program to develop a closer nexus between the of effort required to regulate facilities, and the fee charged.

Appendix B to this report provides a list of all proposed fee categories for the HM Program.
5.3 Cost Recovery Evaluation for Fee Recoverable Services

The amounts listed in the “Cost of Service per Activity” column of Appendix B represent the total cost of providing each service identified by the study. The full cost of service represents the maximum fee amount allowed, at or beneath which, the County must determine its policy position.

NBS worked extensively with Department staff to gather estimates of time required to perform each service identified in the Appendix. Time estimates were independently evaluated on separate occasions by multiple Department staff members and also analyzed by NBS to determine whether the time estimates provided seemed reasonable when compared against the numerous fee studies NBS staff have performed.

When the Cost of Service per Activity is compared to the Department’s “Current Fee”, some fees will appear to under recover their costs, some will come close to 100% recovery, and some will appear to collect more than the their cost of providing services. This is a typical outcome of any Cost of Service Analysis.

As displayed in Appendix B, at current fee levels, the HM Program collects approximately $4 million per year in fee for service revenue, or 98% of the total estimated costs of providing services. If all fees were implemented at 100% of their maximum amount allowed, approximately $64,000 in additional revenue could be realized from fee payers.

Agencies often recommend less than full cost recovery for certain fee categories, based on the myriad of reasons discussed in Section 2 of this report, and further discussed in the Department’s staff report. The “Recommended Fee Level” column shown in Appendix B reflects the recommended “price” for services established by the Department’s recommendations. In most cases, the Department recommends recovery of 100% of the established Cost of Service per Activity for the HM Program. Exceptions to recommendation of 100% cost recovery include:

- Hazardous Materials Disclosure Facilities, 1-3 Chemicals at 90% cost recovery
- Hazardous Waste Generator, 100KG to <5 Tons per Year, at 92% cost recovery
- Hazardous Waste On-Site Treatment, Conditionally Exempt, at 42% cost recovery

At Department recommended fee levels, the HM Program would continue to recover 98% of costs, or approximately $96,000 less in additional fee related revenues per year. However, it should be noted that the Recommended Fee levels assumed in this Analysis would provide the following estimated annual subsidies to fee payers:

<table>
<thead>
<tr>
<th>Fee Item</th>
<th>Annual Subsidy per Recommended Fee Level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hazardous Materials Disclosure Facilities, 1-3 Chemicals</td>
<td>$71,721</td>
</tr>
<tr>
<td>Hazardous Waste Generator, 100KG to &lt;5 Tons/Year</td>
<td>80,359</td>
</tr>
<tr>
<td>Hazardous Waste On-Site Treatment, Conditionally Exempt</td>
<td>8,945</td>
</tr>
<tr>
<td><strong>Total Policy Directed Subsidies</strong></td>
<td><strong>$161,025</strong></td>
</tr>
</tbody>
</table>

Should the County decide to adopt these pricing objectives at lower than full cost recovery; an alternate revenue source would be required for recovery of the subsidized costs shown in the table above. These unfunded costs borne by policy directed subsidies are in addition to non-fee funded services identified in NBS’ Phase I report. Costs associated with provision of subsidies to a specific category of fee payers...
cannot be recovered directly or indirectly from the HM Program’s existing mix of other user and regulatory fee payers.

5.4 Fund Balance Reserve

Appendix D-1 attached to this report demonstrates the HM Program’s contributions to the performance of the Department’s existing targeted fund balance, prior to changes in revenue assumptions regarding improved cost recovery of both fee and non-fee related services.

Without an immediate strategy for improved cost recovery of both fee and non-fee related activities, the Program meets the Department’s existing fund balance targets through Fiscal Years 2017-2018. The fund does not run a structural deficit (negative ending balance with fully depleted reserves) until Fiscal Year 2020-21.

Because the HM Program maintains a positive fund balance through Fiscal Year 2012-2013, NBS did not recommend building an operating reserve factor into the Program’s fully burdened hourly rate.

Appendix D-2 to this report assumes a slightly negative impact to fee related revenues from the Department’s recommended fee policies, as discussed in Section 5.3 above. Because fund balances for the HMP are projected as more than adequate for the next five years under scenario D-1, improved cost recovery via identification of alternate revenue sources for non-fee related activities are not assumed. Under scenario D-2, the HM Program will continue to successfully contribute to the fund balance reserve targets established for the Department, through Fiscal Year 2016-2017. The HMP is not projected to incur a structural deficit until Fiscal Year 2019-2020.

If the HM Program implements a significant restructure of fees during Phase II of this analysis, corresponding revenue impacts and reconsideration of a factor for operating reserve contribution will be revisited in that report.
6. CONCLUSION

Based on the cost of service analysis, cost recovery evaluation, and fee establishment phases of analysis in this study, the proposed master schedule of fees formatted for implementation has been prepared and included in the Department’s accompanying staff report.

As discussed throughout this report, the proposed fee schedule includes fee increases intended to greatly improve the County’s recovery of costs incurred to provide individual services, as well as to adjust fees downward where fees charge exceed the average costs incurred. Because the Department is a special revenue fund, setting fees for service at as close to 100% cost recovery levels is important, and identification of alternate revenue sources for activities not recoverable through user and regulatory fee charges are imperative.

Predicting the amount to which adjustments to fees will affect Department revenues and fund performance is difficult to quantify. For the near-term, the County should not count on increased revenues to meet any specific expenditure plan. Experience with these fee increases should be gained first before revenue projections are revised. However, unless there is some significant, long-term change in activity levels at the County, these proposed fee amendments should – over time – enhance the Department’s revenue capabilities, providing it the ability to stretch other resources further for the benefit of the public at large.

The Department’s fee schedule should become a living document but handled with care:

- A fundamental purpose of the fee schedule is to provide clarity and transparency to the public and to staff regarding fees imposed by the County. Once adopted by the Board, the fee schedule is the final word on the amount and manner in which fees should be imposed by the departments. Old fee schedules should be superseded by the new master document. If the master document is found to be missing fees, those fees need eventually to be added to the Master Fee Schedule and should not continue to exist outside the consolidated, master framework.

- The County should consider adjusting these user fees and regulatory fees on an annual basis to keep pace at least with cost inflation. For other fees and charges, the County already uses a Consumer Price Index adjustment, and that practice would be well applied to the new fee schedule. Conducting a comprehensive user fee study is not an annual requirement; it becomes worthwhile only over time as significant shifts in organization, local practices, legislative values, or legal requirements change. In NBS’ experience, a comprehensive analysis such as this should be performed every three to five years. It should be noted that when an automatic adjustment is applied annually, the County is free to use its discretion in applying the adjustment; not all fees need to be adjusted, especially when there are good policy reasons for an alternate course. The full cost of service is the County’s only limit in setting its fees.

As a final note in this study, it is worth acknowledging the path that fees in general have taken in California. The public demands ever more precise and equitable accounting of the basis for governmental fees and a greater say in when and how they are imposed. It is inevitable in the not too distant future that user fees and regulatory fees will demand an even greater level of analysis and supporting data to meet the public’s evolving expectations. Technology systems will play an increased and significant role in an agency’s ability to accomplish this. The Department has an organizational culture of tracking time to specific activities for many years already. The continuous improvement and refinement of time tracking practices will greatly enhance the Department’s ability to set fees for service and identify unfunded activities in years to come.