



DATE: May 7, 2015

TO: Programs & Administration Committee
Planning & Organization Committee/Recycling Board

FROM: Wendy Sommer, Deputy Executive Director
Meri Soll, Senior Program Manager

SUBJECT: Reusable Bag Ordinance 2012-2: Potential Expansion (Discussion)

BACKGROUND

The purpose of this memo is to provide Committee members with an update on the outcomes of the Board-approved process to consider expansion of Ordinance 2012-2. As a review, the following highlights the history of the Reusable Bag Ordinance:

- January 25, 2012 – Reusable Bag Ordinance 2012-2 adopted by WMA Board. The ordinance covers approximately 1300 stores that sell packaged food. At that time, the Board stated it would consider possible expansion or modifications of the ordinance at a later time, when staff could present information on the effectiveness of the Ordinance.
- January 1, 2013 – Ordinance becomes effective. Single-use plastic bags no longer available at stores that sell milk, bread, soda and snack foods. A minimum of 10 cents charged for each paper bag or reusable bag.
- September 17, 2014 - based on data presented by staff, the WMA Board made a finding that the ordinance has achieved its goal to substantially reduce environmental impacts. Under the term of the ordinance, making this finding means that the minimum price per compliant bag will not increase from 10 cents to 25 cents. Link to September staff memo can be found [here](#).
- October 9, 2014 – staff presented information to both the P&A and P&O/RB Committees regarding budget and scope for potential expansion of the ordinance. Both Committees in support of the need for buy in from *all* fifteen member agencies that participate in the current ordinance.
- October 22, 2014 – WMA Board unanimously adopted the proposed schedule and deliverables ([ATTACHMENT A](#)) as the process to be followed for consideration of expansion of Ordinance 2012-2. Link to the October staff memo can be found [here](#)

- March 1, 2015 – Deadline for Alameda County Clean Water Program to provide details regarding levels of commitment to support expansion.

DISCUSSION

This and prior memos provide Committee members with a variety of data regarding ordinance effectiveness, expansion options, and the costs and benefits of expansion.

Board Approved Process

The Board adopted a process in October 2014 which outlined specific commitments and deliverables to be accomplished for the Agency to move forward with any consideration of ordinance expansion. The first two deliverables that needed to be in place by March 1, 2015 (before the FY 15/16 budget proposal) were:

- 1. Commitment from Alameda County Clean Water Program to provide financial and programmatic support if the ordinance is expanded to additional stores**

The Clean Water program agreed to provide \$180,000 if Ordinance 2012-2 is amended to expand to all retail stores (not including restaurants), estimated at 7,000 additional stores.

- 2. Alameda County Clean Water Program staff at all fifteen currently participating member agencies to obtain Chief Executive support or neutrality for the same option (or options, if there is agreement among all fifteen at the staff level that more than one option would be desirable or acceptable)**

Not all Clean Water Program members (staff of local jurisdictions) were able to obtain support or neutrality from each of their local jurisdictions' Chief Executive. Only eight cities were able to provide written support for expansion. Several staff members expressed confusion and difficulty with implementing the proposed process, citing the need for City Council action to provide direction. However, the approved process did not ask for a City Council policy decision at this time -- only a statement that there was no objection from an administrative perspective to expansion, with the understanding that City Councils would have an opportunity to weigh in later, after a stakeholder engagement process, via their representative on the WMA Board. The majority of the Clean Water Program members show support for the expansion – though not unanimously.

Obtaining consensus among member agency staff is crucial to implementing an expansion, since varying coverage of the ordinance in different parts of the County would be confusing for shoppers; and as we have learned with Mandatory Recycling Ordinance, difficult and more expensive to implement than a uniform expansion.

In terms of options, the Clean Water Program supports adding all retail stores (not including restaurants) using a complaint based enforcement approach due to the large number of affected stores. The current ordinance enforcement uses an inspection based protocol, meaning all affected stores are inspected for compliance. Stores affected by the current ordinance are at 88% compliance, and we continue to work with these stores to bring them into compliance. If the ordinance is expanded, enforcement would need to switch from compliance based to complaint based, and compliance therefore might be lower.

The Board-approved decision process (Attachment A) requires that both commitments be met in order to amend Ordinance 2012-2. As only one of two required commitments has been met, the process of considering expansion should end at this time. However, there has been some change in Board membership, and more data gathered, since the process was approved. Additional information for Board consideration is included below.

Expansion Effectiveness

A thorough ordinance effectiveness analysis (for affected stores) was included in the September Board memo, summary can be found [here](#).

Staff has been conducting visual observations at a variety of stores since 2012 to gather baseline data for ordinance effectiveness. Recently, staff observed consumers at 48 retail stores not currently covered by our ordinance to assess the amounts and types of bags distributed in a one hour period. We did a similar store observation at 17 grocery, convenience and drug stores in 2012 prior to Ordinance 2012-2 implementation. The results show that the 48 non-covered retail stores as a group distributed only 33% the number of single use plastic bags in a one hour time frame than the 17 food related stores as a group did prior to the start of Ordinance 2012-2. On a per store basis, each non-covered store distributed less than 12% the number of single use plastic bags in a one hour time frame than each covered store prior to the start of the Ordinance. Either non-covered stores distributed far fewer bags than did covered stores prior to the start of the Ordinance, or the Ordinance caused positive changes to consumer behavior beyond the covered stores. The chart below summarizes store survey results:

BAG TYPE	17 COVERED STORES 2012 (pre-ordinance)	48 NON-COVERED STORES 2014
PAPER	657	23
PLASTIC	2241	732
REUSABLE CLOTH	343	94
NO BAG / HAND CARRY	281	909

# of shoppers counted in 1 hour	1592	1655
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**Non affected store types: Sporting goods, beauty stores, hardware, home improvement, art supply, electronics, fabric, pet food, toys, auto repair, clothing, office supply and fast food restaurants.*

An expanded retail ordinance (adding as many as 7,000 new stores) will certainly reduce the number of single-use plastic bags distributed in Alameda County. However, staff has been grappling with ways to assess just how many more single use plastic bags would be reduced should the ordinance be expanded. Based on the above (admittedly limited) data, the current ordinance (covering 1,300 stores) is estimated to capture more bags than we would from the 7,000 additional stores.

Data Quoted by Save the Bay

Save the Bay has sent letters to several member agencies' City Councils urging their support for expansion of the current ordinance (Attachment B). Two sources of data were quoted in the letter: data on plastic bag litter reduction as a result of San Jose's bag ordinance which affects all retail stores, and plastic bag persistence at Alameda County Trash Hot Spots 2011-2014.

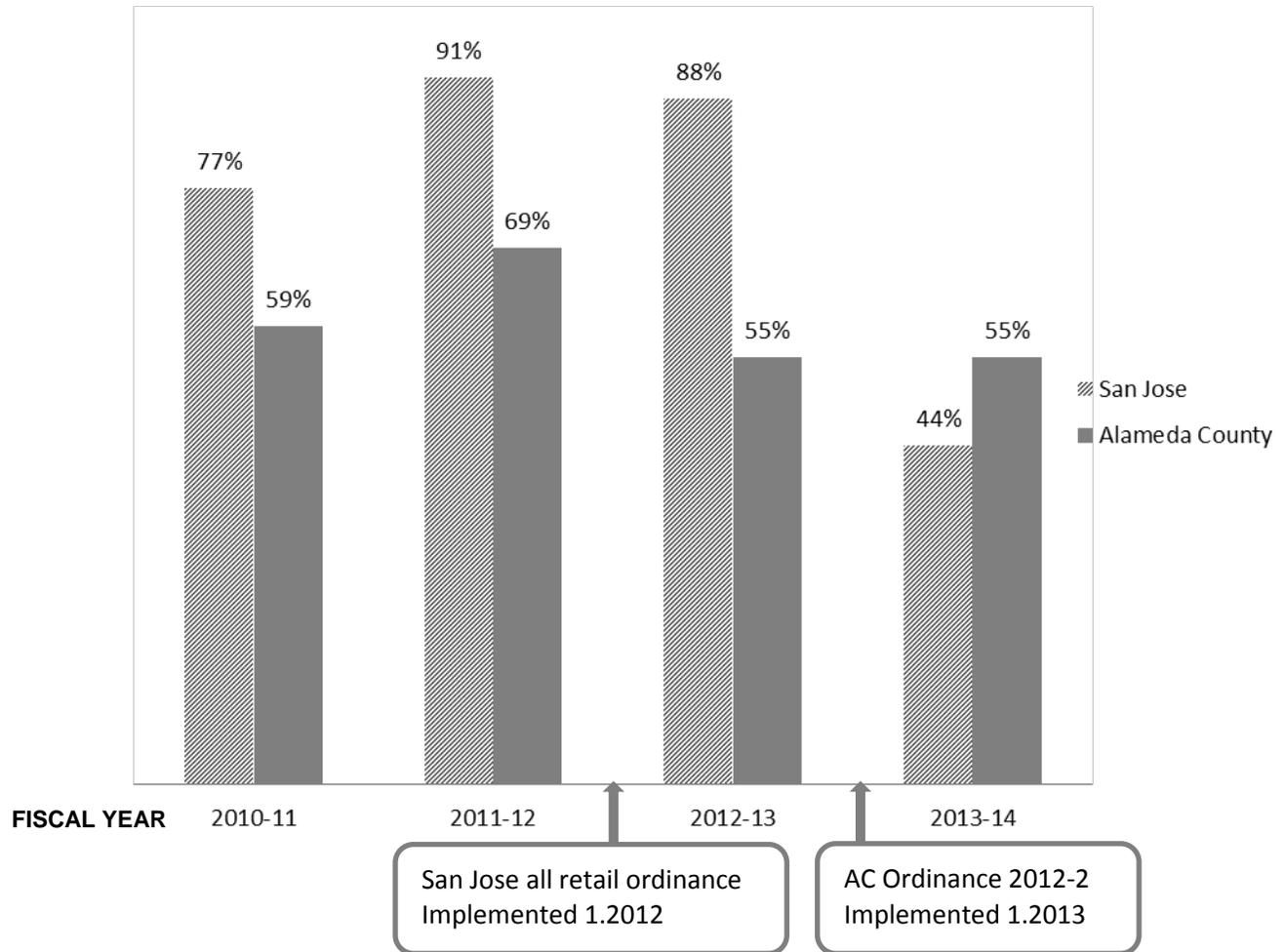
Their letter references the City of San Jose's all retail bag ordinance (which affects approximately 5,000 stores), as an example of a broader ordinance more effective at keeping bags out of local waterways. The letter cites a San Jose staff report showing a decrease of plastic bags found in municipal storm drains by 89% as a result of their all retail ordinance. Recent conversations with San Jose staff verified that, due to errors in calculations, plastic bag reductions in storm drains during the time of data collection was actually closer to 62% (not 89%). A similar study done for Alameda County storm drains fitted with capture devices showed a 44% reduction in bags one year after the bag ordinance affecting 1,288 stores was implemented.

Save the Bay's letter also references plastic bag persistence at Alameda County Trash Hot Spots (data pulled from the Alameda County cities' [Municipal Regional Stormwater Reports](#) required by the State Water Board under their NPDES permits). A trash hot spot is defined as a creek length of at least 100 yards or 200 yards of shoreline length that is the focus of required annual trash assessments and cleanups due to high levels of trash found in the waterway.

This data was used to illustrate that in 2014, plastic bags (and other types of plastic debris and trash) were still found at 55% of the county's trash hot spots. The data point only identifies the *presence* of plastic bag(s), not the type and quantity found or if there was an increase or decrease of the number of bags found at each hot spot. Although of concern, this measurement is not comprehensive enough to assess ordinance effectiveness or confirm that expanding the ordinance would yield substantially fewer hotspots with the presence of bags.

The chart below shows that even with an ordinance that affects all retail stores (such as San Jose's), plastic bags can still be found at many trash hot spots (44% in San Jose). This is because regardless of the number and types of stores affected by the ordinance, plastic bags are still available to, and used by, the general public in many ways other than carrying items purchased in stores. The majority of bag ordinances in other jurisdictions are relatively new with little data available for review.

Percentage of Trash Hot Spots with Plastic Bags



Please note, the chart included in the Save the Bay communications (Attachment B) included erroneous data for Alameda County in both FY 12/13 and FY 13/14 regarding percentage of hot spots with presence of plastic bags as well as the start date of Ordinance 2012-2. The chart above shows the correct data.

Agency Priorities and Budget Considerations

Should the WMA Board decide not to follow the previously approved process and move forward with an expansion, the proposed FY 15/16 budget will have to be amended. Staff estimates that for FY 15/16, an additional \$200,000 (labor and hard costs) would be needed to expand Ordinance 2012-2 to add 7,000 retail stores (this is in addition to the current ordinance project expenses of \$155,633 budgeted for FY 15/16). The additional \$200,000 breakdown is as follows:

- Labor costs: 575 staff hours totaling \$116,000. These hours will have to be re-allocated from other projects, primarily from Grants to Non Profits, Household Hazardous Waste Facilities, and the Mandatory Recycling Ordinance. These three projects are high priority work areas for the Agency at present.
- Hard costs: \$84,000 to cover activities involved in the update of database of affected stores (consultants and purchase of database) as well as communications and outreach to newly affected stores.

Additional costs for FY 16/17 and on-going costs once expansion has been implemented can be found in [ATTACHMENT C](#). The lowest cost approach -- complaint based enforcement -- is estimated to require \$200,000 for startup, and \$120,000 for first year implementation. The Alameda County Clean Water Program's \$180,000 contribution towards expansion will be offered only if Ordinance 2012-2 is amended to include all retail stores and does not nearly cover all costs for expansion. In addition, reallocation of staff labor hours from (currently) higher priority projects to expansion activities will need to be addressed.

In summary, staff sees the following options for committee members to discuss:

- Option 1: Adhere to Board-approved process; do not pursue expansion any further.
- Option 2: Continue to pursue expansion despite lack of consensus amongst member agency staff. Amend FY 15/16 Budget to re-allocate staff hours and add \$84,000 of hard costs.
- Option 3: Other? (Based on input from Committees)

RECOMMENDATION

This is an information item only for discussion by Committees.

We can schedule an action item for later meetings (both Committees first, or directly to the WMA, depending on Board feedback), if Board members would like to consider taking formal action (option 1 does not require action). The schedule for that depends on the feedback received. Note that the Recycling Board does not have the authority to adopt ordinances, and is being consulted in its capacity as a Committee of the WMA.

Attachments:

- [ATTACHMENT A](#) - Proposed Expansion Process and Schedule approved by WMA
- [ATTACHMENT B](#) - Save the Bay Correspondence
- [ATTACHMENT C](#) - Ordinance Expansion Budget

ATTACHMENT A – Proposed Schedule

The proposed schedule below outlines commitments and deliverables to be accomplished in order for the Agency to move forward with any expansion of the ordinance.

TASK	TIMING
Committees: Overview of potential expansion	October 2014
<p>COMMITMENTS NEEDED BEFORE THE FY15/16 BUDGET PROPOSAL:</p> <p>Commitment from Alameda County Clean Water Program to provide financial and programmatic support if the ordinance is expanded to additional stores</p> <p>Clean Water Program staff at <u>all fifteen</u> currently participating member agencies to obtain Chief Executive support or neutrality for <u>the same option</u> (or options, if there is agreement among all fifteen at the staff level that more than one option would be desirable or acceptable).</p>	By March 1, 2015
<i>IF THE TWO COMMITMENTS ABOVE HAVE BEEN MADE, the following activities would be part of FY 15/16 project budget:</i>	
Finalize Clean Water Program Commitments (in part, through an MOU)	April 2015
Outreach to stakeholders	May – September 2015
Coordinate with cities outside our County with similar expanded store set(s). Review approaches/results/lessons learned	May – August 2015
Compile database of affected stores	July–November 2015
Develop ordinance parameters	July -September 2015
Provide project budget, scope and recommendation to WMA	September 2015
Proposed amendment language presented and reviewed by WMA Board	October 2015
CEQA analysis/EIR Amendment – ONLY if expansion to restaurants is part of proposed project.	November to February 2016
WMA representatives and member agency staff consult with elected colleagues.	November to February 2016
1st reading	March 2016
2nd reading and Adoption	April 2016
Merge data into current database and/or expand to CRM	March - June 2016
Revise and reprint outreach materials	April 2016
Collect baseline data for pre ordinance metrics (parking lot surveys, purchasing data, creek audits, etc)	April –August 2016
Outreach to public and stores	April - September 2016
Mail to notify affected stores with materials and message to use up bags	May 2016
Second mailing to affected stores - remind to use up bags, purchase compliant bags	July 2016
Third mailing to affected stores – final reminder	September 2016
Ordinance Effective	October 2016
FY 16/17 - FY 18/19 (Implementation and enforcement - timeframe dependent upon store set and enforcement approach)	2016-2019
Ongoing activities:	2019 and beyond
Update affected store database, ongoing enforcement, new store inspections, complaint follow ups, respond to hotline calls, update compliant bag listings, effectiveness studies	On going



April 2, 2015

Pleasanton City Council
P.O. Box 520
Pleasanton, CA 94566

RE: Single-use bags in Alameda County

Dear Mayor Thorne and Council Members:

On behalf of Save The Bay's 60,000 members throughout the Bay Area, including over 600 in Pleasanton, we urge the city to support an expanded single-use bag ordinance throughout Alameda County. The current ordinance only covers 1,900 out of the 7,000 retailers in the county – plastic bags are still being littered throughout Alameda County and its waterways. Like other Bay Area cities, Pleasanton must reduce trash in its stormwater system by 70 percent by 2017; eliminating common litter items like plastic bags is a proven way to achieve trash reductions.

Plastic bags continue to pollute Alameda County trash hotspots – creek and shoreline locations where trash accumulates. In 2014, plastic bags were found at 70 percent of the county's trash hot spots, compared with 58 percent prior to the ordinance going into effect. In Pleasanton, plastic bags continue to be dominant litter items around Stoneridge Mall and in the industrial/retail area surrounding Hopyard Rd. and Owens Dr. Plastic bags on the street become creek and Bay trash when they enter storm drains, which flow directly into the Bay.

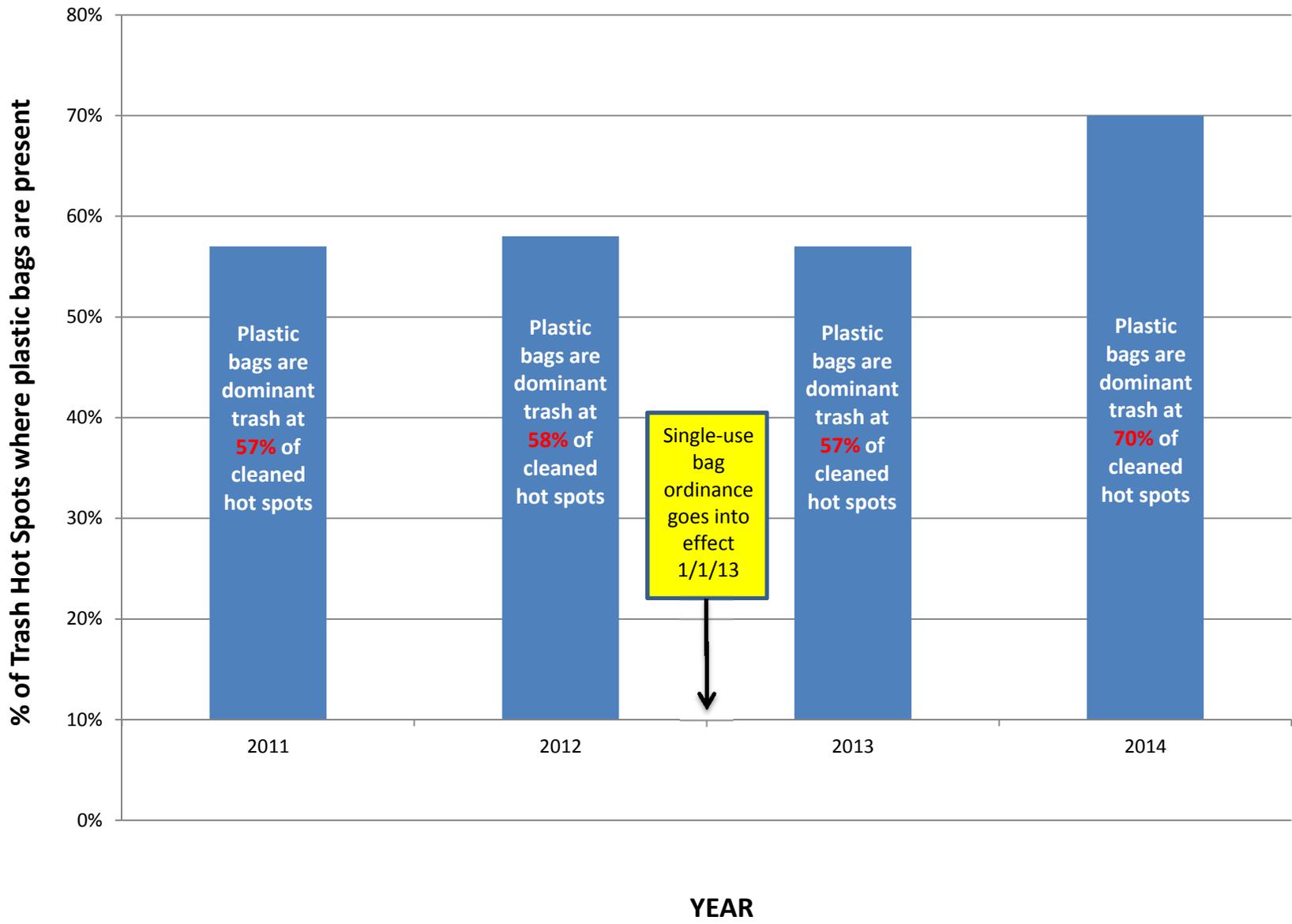
We know that broader ordinances covering all retailers are effective at keeping bags out of local waterways. One year after San Jose implemented its bag ordinance, which covers retailers of all sizes, the city found that over three years, plastic bag litter decreased by 71 percent in local waterways and 89 percent in municipal storm drains. Plastic bag bans are prevalent across the Bay Area – 80 percent of Bay Area residents now live in jurisdictions that have banned plastic bags.

It is time for Pleasanton and others in Alameda County to catch up to the majority of Bay Area cities that have implemented stronger policies to protect the Bay from plastic pollution. We urge you to support expanding the current ordinance and put the city on a stronger path toward zero trash. Thank you for your consideration.

Sincerely,

David Lewis
Executive Director

Plastic bag persistence at Alameda County Trash Hot Spots 2011-2014



ORDINANCE 2012-2 -- BUDGET SCENARIOS

	FY 14- 15 Mid Year Budget	FY 15-16 Mtc Mode/ No Expansion	FY 15/16 Expansion Only	FY 15/16 Mtc and Expansion	FY 16/17 Expansion Only	FY 16/17 Estimated Expansion and Mtc Mode
LABOR COSTS	\$194,584	\$138,653	\$115,173	\$253,826	\$71,490	\$210,143
HARD COSTS	\$22,500	\$17,000	\$84,000	\$101,000	\$47,000	\$64,000
TOTAL PROJECT COSTS	\$217,084	\$155,653	\$199,173	\$354,826	\$118,490	\$274,143

LABOR TASKS

FY 15/16 Mtc Mode - Update of current database, visit new stores, follow up on complaints, coordinate in field inspectors, compliant bag communications, hotline inquiry response

FY 15/16 Expansion - Ordinance amendment, board presentations, identify affected stores and sources of data (city, county, D&B, etc), update database, stakeholder outreach activities.

FY 16/17 if expanded - Add new stores to database, store surveys, visit stores, enforcement activities begin.

HARD COSTS

FY 15/16 Mtc Mode: Database update purchase and consultant, new store notification and inspection costs,

FY 15/16 Expansion Costs: Database purchase and IT Consultant, newly affected store notification and outreach costs.

FY 16/17 if expanded: Notification and enforcement for newly affected stores costs.