

RESOLUTION NO. BOS-2024-85

**RESOLUTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CLARA
APPROVING THE COLLECTION OF A COUNTYWIDE AB 939 IMPLEMENTATION
FEE AND DELEGATING AUTHORITY TO THE COUNTY EXECUTIVE, OR
DESIGNEE, TO AMEND, TERMINATE, AND TAKE ANY AND ALL NECESSARY OR
ADVISABLE ACTIONS REGARDING AGREEMENT FOR AB 939
IMPLEMENTATION FEE**

WHEREAS, the California Integrated Waste Management Act of 1989 (“AB 939”) and subsequent legislation, codified at Public Resources Code section 40900 et seq., require cities and counties to prepare, adopt, and implement plans to reduce their jurisdictions’ waste disposal in landfills;

WHEREAS, pursuant to Public Resources Code section 41901, a city, county, or city and county may impose fees in amounts sufficient to pay the costs of preparing, adopting, and implementing a countywide integrated waste management plan;

WHEREAS, a Countywide AB 939 Implementation Fee (“Fee”) was established in 1992 to assist the fifteen cities and the County unincorporated area (“Jurisdictions”) to fund costs of preparing, adopting, and implementing the integrated waste management plan in each Jurisdiction;

WHEREAS, the County of Santa Clara (“County”) Board of Supervisors approved increasing the Fee beginning in Fiscal Year 2010 to \$4.10 per ton of wastes disposed at landfills located within Santa Clara County or taken to non-disposal facilities located within Santa Clara County and subsequently transported for disposal to landfills outside of Santa Clara County, in order to assure equal assessment of the Fee on wastes, and reauthorized the Fee at \$4.10 per ton through Fiscal Year 2021;

WHEREAS, the Recycling and Waste Reduction Commission of Santa Clara County (“Commission”) has recommended that in order to fund AB 939 compliance activities, including provision of household hazardous waste services in the fifteen cities and the unincorporated area of Santa Clara County, the Fee should be reauthorized at \$4.10 per ton for Fiscal Years 2022, 2023, and 2024. The Fee will be imposed on each ton of waste landfilled or incinerated within Santa Clara County; received at any non-disposal or collection facility located within Santa Clara County and subsequently transported for disposal or incineration outside of Santa Clara County; collected from any location within Santa Clara County by a solid waste hauler operating pursuant to a franchise, contract, license, or permit issued by any local Jurisdiction and subsequently transported for disposal or incineration outside of Santa Clara County; or removed from any location in Santa Clara County by any person or business for disposal or incineration outside Santa Clara County;

//

WHEREAS, the Commission has further determined that the County should collect said Fee on behalf of Jurisdictions from each landfill, non-disposal or collection facility located within Santa Clara County; solid waste haulers operating pursuant to a franchise, contract, license, or permit; or person or business that removed waste from any location in Santa Clara County for disposal or incineration outside Santa Clara County, and distribute the Fee to the Jurisdictions and to the Countywide Household Hazardous Waste Program according to the terms of the Agreement for Countywide AB 939 Implementation Fee (“Agreement”);

WHEREAS, the County will verify landfill and non-disposal facility reports of tons of waste disposed in landfills to assure that required Fees are paid by conducting a review of State Board of Equalization (“BOE”) audit reports or equivalent audit reports;

WHEREAS, said Agreement as amended states the terms and conditions under which the County will collect and distribute the Fee for a three-year term, which begins July 1, 2021;

WHEREAS, in accordance with the California Environmental Quality Act (“CEQA”), the Fee is categorically exempt under State CEQA Guidelines Section 15308 and is statutorily exempt under Public Resources Code Section 21080(b)(8) and State CEQA Guidelines Section 15273;

WHEREAS, the County has prepared a cost of services and estimated fee schedule, attached hereto and incorporated herein as Exhibit A, which includes reasonable estimates of the costs of providing the services, calculates the amount, and sets forth the allocation of the proposed Fee for Fiscal Years 2022, 2023, and 2024;

WHEREAS, the Board of Supervisors considered the reauthorization of the Countywide AB 939 Implementation Fee on this date;

WHEREAS, the Board of Supervisors may delegate contracting authority to County officials, and has done so from time to time as deemed necessary and in the interests of the County; and

WHEREAS, delegating authority to the County Executive, or designee, to amend, terminate, and take any and all necessary or advisable actions regarding the Agreement for Countywide AB 939 Implementation Fee, following approval by County Counsel as to form and legality, would facilitate continuity of services.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Santa Clara, State of California, that:

1. The Board of Supervisors approves the collection of a fee of \$4.10 per ton for Fiscal Years 2022, 2023, and 2024 on all wastes landfilled or incinerated within Santa Clara County; received at any non-disposal or collection facility located within Santa Clara County and subsequently transported for disposal or incineration outside of Santa Clara County; collected from any location within the County by a solid waste hauler operating pursuant to a franchise, contract, license,

or permit issued by any local Jurisdiction and subsequently transported for disposal or incineration outside of Santa Clara County; and removed from any location in Santa Clara County by any person or business for disposal or incineration outside Santa Clara County.

2. The Board of Supervisors delegates authority to the County Executive, or designee, to amend, terminate, and take any and all necessary or advisable actions regarding the Agreement for Countywide AB 939 Implementation Fee with participating Jurisdictions, following approval by County Counsel as to form and legality and approval by the Office of the County Executive, and that said delegation of authority shall expire on June 30, 2024.
3. A person or business owing the Fee must, in addition to paying the Fee to the County, provide the County with a report indicating the source and disposition of all materials collected or disposed. Such persons must provide the County Recycling and Waste Reduction Division with access to all substantiating information as needed to reconcile or verify such reports.
4. A person owing the Fee must make payment to the County within seventy-five (75) days of the end of the calendar quarter for which the payment applies. If the Fee is not paid on time, additional charges will be added as follows:
 - (a) A late Fee of \$1,000 will be added if the Fee is not paid within seventy-five (75) days of the end of the calendar quarter for which the payment applies; and
 - (b) A delinquent penalty Fee of 10% will be added to the balance due if not paid within ninety (90) days of the end of the calendar quarter for which the payment applies; and
 - (c) Interest, equal to the Internal Revenue Service Rate for unpaid income tax balances, will be added to the amount owed, including any late or penalty Fee, beginning on the due date and ending when the balance is paid in full. Interest compounds daily from the quarterly due date of the payment until the balance is paid in full.
5. Landfills, non-disposal facilities and collection facilities must provide copies of BOE audit reports or equivalent audit reports, or other relevant data to enable the County to verify reports of tonnages disposed or incinerated.
6. Upon collection, the Fee and accrued delinquent penalties, if any, shall be distributed among the Jurisdictions according to the terms of the Agreement.
7. This Fee will become effective July 1, 2021, and shall be disbursed and used in accordance with Exhibit A hereto and the terms and conditions of the Agreement for Countywide AB 939 Implementation Fee.

8. In accordance with CEQA, the Board of Supervisors finds that the collection of the Fee is necessary for meeting operating expenses. The collection of the Fee is categorically exempt under State CEQA Guidelines section 15308 and is statutorily exempt under Public Resources Code section 21080(b)(8) and State CEQA Guidelines section 15273.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California, on JUN 08 2021, by the following vote:

AYES: **CHAVEZ, ELLENBERG, LEE
SIMITIAN, WASSERMAN**

NOES: NONE


ABSENT: NONE

ABSTAIN: ~~NONE~~


MIKE WASSERMAN, President
Board of Supervisors

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.

ATTEST:


MEGAN DOYLE
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:



Stephanie Safdi
Deputy County Counsel

Exhibit A - County Cost of Services and Estimated Fee Schedule

Table 1: HHW Portion of the AB 939 Fee (\$2.60 per Ton) Allocation
 Projected for Fiscal Years 2022, 2023, and 2024 by Jurisdiction

Cities	No of Households	4% of Households	Disposal Tonnage	AB939 HHW Fee \$2.60 per Ton	Fixed Cost \$3.75 per HH	SJ Facility \$8.29 Surcharge	Variable Cost \$58.20 per Car	Abandoned Waste Disposal Cost \$.05 per Household	Discretionary Fund	Estimated Augmentation	Anticipated Participation	Anticipated Participation at SJ Facility
Campbell	18,158	726	40,970	\$ 106,521	\$ 68,093	\$ 7,162	\$ 42,272	\$ 908	\$ (11,913)	\$ 45,525	1,268	1,221
Cupertino	21,050	842	41,603	\$ 108,168	\$ 78,938	\$ 4,242	\$ 49,004	\$ 1,053	\$ (25,068)	\$ 36,963	1,034	723
Gilroy	16,676	667	53,681	\$ 139,571	\$ 62,535	\$ 1,086	\$ 38,822	\$ 834	\$ 36,295	\$ 23,027	1,038	185
Los Altos	11,677	467	17,678	\$ 45,963	\$ 43,789	\$ 4,188	\$ 27,184	\$ 584	\$ (29,781)	\$ 90,803	1,451	714
Los Altos Hills	3,180	127	9,303	\$ 24,188	\$ 11,925	\$ 958	\$ 7,403	\$ 159	\$ 3,743	\$ 4,413	259	163
Los Gatos	13,637	545	25,338	\$ 65,878	\$ 51,139	\$ 6,784	\$ 31,747	\$ 682	\$ (24,474)	\$ 66,018	1,216	1,157
Milpitas	22,553	902	100,225	\$ 260,586	\$ 84,574	\$ 5,247	\$ 52,503	\$ 1,128	\$ 117,135	\$ 24,851	1,303	895
Monte Sereno	1,383	55	1,278	\$ 3,323	\$ 5,186	\$ 789	\$ 3,220	\$ 69	\$ (5,941)	\$ 11,138	139	135
Morgan Hill	15,350	614	43,759	\$ 113,774	\$ 57,563	\$ 2,252	\$ 35,735	\$ 768	\$ 17,456	\$ 78,579	1,881	384
Mountain View	36,727	1,469	77,033	\$ 200,285	\$ 137,726	\$ 4,700	\$ 85,500	\$ 1,836	\$ (29,478)	\$ 39,356	1,628	802
Palo Alto	29,298	0	63,437	\$ 164,936		\$ -	\$ -	\$ 1,465	\$ 163,471			
San Jose	336,507	13,460	810,331	\$ 2,106,860	\$ 1,261,901	\$ 114,172	\$ 783,388	\$ 16,825	\$ (69,427)	\$ 476,507	20,026	19,470
Santa Clara	48,975	1,959	160,175	\$ 416,455	\$ 183,656	\$ 9,178	\$ 114,014	\$ 2,449	\$ 107,157	\$ 121,604	3,920	1,565
Saratoga	11,301	452	19,996	\$ 51,990	\$ 42,379	\$ 4,458	\$ 26,309	\$ 565	\$ (21,720)	\$ 45,244	831	760
Sunnyvale	60,273	2,411	116,128	\$ 301,932	\$ 226,024	\$ 6,717	\$ 140,316	\$ 3,014	\$ (74,138)	\$ 152,321	3,672	1,145
Unincorporated	18,558	742	38,112	\$ 99,092	\$ 69,593	\$ 4,640	\$ 43,203	\$ 928	\$ (19,271)	\$ 57,932	1,677	791
Total	665,303	25,440	1,619,047	\$ 4,209,522	\$ 2,385,019	\$ 176,572	\$ 1,480,620	\$ 33,265	\$ 134,047	\$ 1,274,282	41,345	30,110

Notes: No of HH and Disposal tonnage are based on FY2019-2020 actuals. Anticipated participation and anticipated participation at SJ facility are based on 15% increase from FY2018-2019 actual participation.

Table 2: Program Portion of the AB939 Fee (\$1.50 per Ton) Allocation Projected in Fiscal Years 2022, 2023, and 2024 by Jurisdiction*

Jurisdiction	Estimated Disposal (Tons)	Projected Implementation Fee Allocation
Campbell	40,970	61,455
Cupertino	41,603	62,405
Gilroy	53,681	80,522
Los Altos	17,678	26,517
Los Altos Hills	9,303	13,954
Los Gatos	25,338	38,006
Milpitas	100,225	150,338
Monte Sereno	1,278	1,917
Morgan Hill	43,759	65,639
Mountain View	77,033	115,549
Palo Alto	63,437	95,155
San Jose	810,331	1,215,496
Santa Clara	160,175	240,262
Saratoga	19,996	29,994
Sunnyvale	116,128	174,192
Unincorporated	38,112	57,168
Total	1,619,047	2,428,570

*The Program portion of the fee assists in funding costs of preparing, adopting, and implementing the integrated waste management plan in the 15 cities and the unincorporated area of the County.