RESOLUTION NO. 2012-323

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF SANTA CLARA APPROVING THE COLLECTION OF
A COUNTYWIDE AB939 IMPLEMENTATION FEE AND
DELEGATING AUTHORITY TO THE DIRECTOR OF THE DEPARTMENT OF
AGRICULTURE AND ENVIRONMENTAL MANAGEMENT, OR DESIGNEE, TO
AMEND, TERMINATE, AND TAKE ANY AND ALL NECESSARY OR ADVISABLE
ACTIONS RELATING TO AGREEMENT FOR COUNTYWIDE AB939
IMPLEMENTATION FEE

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 an integrated waste management plan; and

WHEREAS, a Countywide AB939 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; and

WHEREAS, the fee of $4.10 per ton of wastes disposed at landfills located within the
County or taken to non-disposal facilities located within the County and subsequently
transported for disposal to landfills outside of Santa Clara County was approved for Fiscal Years
2010, 2011, and 2012, in order to assure equal assessment of the Fee on wastes; and

WHEREAS, the Recycling and Waste Reduction Commission of Santa Clara County
(“Commission”) has determined that in order to fund the household hazardous waste services
and expanded Universal Waste management in the fifteen cities and the unincorporated area of
the County the Fee should remain at $4.10 for Fiscal Years 2013, 2014, and 2015. The Fee will
be imposed on each ton of waste landfilled or incinerated within the County; received at any
non-disposal or collection facility located within the County and subsequently transported for
disposal or incineration outside of the 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 the County;
or removed from any location in the County by any person or business for disposal or
incineration outside the County; and

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 the County; solid waste haulers operating pursuant to a franchise, contract, license, or
permit; or person or business that removed waste from any location in the County for disposal or
incineration outside the 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 AB939 Implementation Fee ("Agreement") effective July 1, 2012; and

WHEREAS, 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; and

WHEREAS, said Agreement as amended states the terms and conditions under which County will collect and distribute the Fee for a three-year term which begins July 1, 2012; and

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; and

WHEREAS, the County has prepared a report, attached hereto and incorporated herein as Exhibit A (hereafter the "Report"), which includes reasonable estimates of the costs of providing the services and calculates the amount of the proposed Fee for Fiscal Years 2013, 2014, and 2015; and

WHEREAS, the Board of Supervisors considered the collection of the Countywide AB939 Implementation Fee on this date; and

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 Director of the Department of Agriculture and Environmental Management, or designee, to amend, terminate, and take any and all necessary or advisable actions relating to Agreement for Countywide AB939 Implementation Fee, following approval by County Counsel as to form and legality and approval by the Office of the County Executive, would facilitate continuity of services.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA:

1. County of Santa Clara approves the collection of a fee of $4.10 per ton for Fiscal Years 2013, 2014, and 2015 on all wastes landfilled or incinerated within the County; received at any non-disposal or collection facility located within the County and subsequently transported for disposal or incineration outside of the 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
the County; and removed from any location in the County by any person or business for disposal or incineration outside the County.

2. The Board of Supervisors of the County of Santa Clara approves entering into the Agreement for Countywide AB939 Implementation Fee with participating jurisdictions; and,

3. The Board of Supervisors delegates authority to the Director of the Department of Agriculture and Environmental Management to amend, terminate, and take any and all necessary or advisable actions regarding the Agreement for Countywide AB939 Implementation Fee with each jurisdiction, 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, 2015.

4. 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 Integrated Waste Management Division with access to all substantiating information as needed to reconcile or verify such reports.

5. A person or business owing the Fee must make payment and submit the required reports to the County within 45 days of the end of the calendar quarter for which the payment applies. Both Fees and reports are due within 45 days of the end of the calendar quarter. If Fees and reports are not submitted on a timely basis, additional charges will be added as follows:
   (a) A late processing fee of $200 will be added if either Fees or reports are not submitted within 45 days;
   (b) A delinquent penalty of 1% per month will be added if Fees accompanied by required reports are not submitted within 60 days of the end of the calendar quarter for which the payment applies.

6. Landfills, non-disposal facilities and collection facilities must provide copies of BOE audit reports or equivalent audit reports, or other relevant data to enable County to verify reports of tonnages disposed or incinerated.

7. Upon collection, the Fee and accrued delinquent penalties, if any, shall be distributed among jurisdictions according to the terms of the Agreement.

8. This Fee will become effective July 1, 2012, provided that all fifteen cities approve the Agreement for Countywide AB 939 Implementation Fee by July 1, 2012.

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9. 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 MAY 22, 2012 by the following vote:

AYES: Supervisors CORTESE, KNISS, SHIRAKAWA, WASSERMAN, YEAGER

NOES: Supervisors NONE

ABSENT: Supervisors NONE

ABSTAIN: Supervisors NONE

[Signature]
George Shirakawa, President
Board of Supervisors

ATTEST:

[Signature]
LYNN REGADANZ
Interim Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

[Signature] 4/26/2012
Mark Bernal
Deputy County Counsel

Exhibits to this Resolution:
A – County Report