

RESOLUTION NO. 2023-55

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FREMONT
ADOPTING THE DISPOSAL FEES AT THE ALTAMONT DISPOSAL
FACILITY COMMENCING ON JANUARY 1, 2024**

WHEREAS, the City of Fremont (“City”) has entered into an agreement with Waste Management of Alameda County (“Contractor”), to provide landfill disposal services at the Altamont Landfill and Resource Recovery Facility, which is owned and operated by the Contractor, to receive residue from the Fremont Transfer Station; and

WHEREAS, incorporated into the agreement is Exhibit 1 establishing the negotiated fees between the City and the Contractor for disposal services, and Exhibit 5 establishing the Liquidated Damages fees applicable to disposal services; and

WHEREAS, the City agreed to adjust the Disposal Fee and Liquidated Damages fees biennially over the Base Term to reflect change in the Consumer Price Index or “CPI” of the All Urban Consumers Index as provided in Article 8 of the aforementioned contract; and

WHEREAS, the revised Disposal Fee and Liquidated Damages fees will be in effect from January 1, 2024 to December 31, 2025; and

WHEREAS, there may be adjustments to the following regulatory fees: AB 939 Fee, Open Space Fee, Alameda County Measure D, Planning Fee, Business Tax, LEA Inspection Fee, Alameda County Household Hazardous Waste Fee and the Alameda County Facility Fee during the two year rate setting period, which are unknown at the time of adoption of this resolution, and therefore, the City Council intends to authorize the City Manager or designee to incorporate those revised fees into attached Exhibit 1 when the exact amount of those regulatory fee increases are known.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FREMONT
HEREBY RESOLVES AS FOLLOWS:

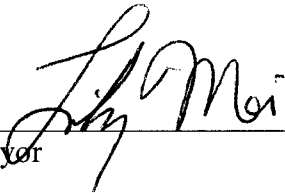
SECTION 1. The City Council authorizes the City Manager to incorporate any adjusted regulatory fee increases into attached revised Exhibit 1 when those increased rates are known.

SECTION 2. The City Council adopts the attached revised Exhibit 1 of the Altamont Landfill Agreement for disposal of Municipal Solid Waste between the City and Contractor.

SECTION 3. The City Council adopts the Liquidated Damages Fees shown in revised Exhibit 5 of the Altamont Landfill Agreement for disposal of Municipal Solid Waste between the City and Contractor.

ADOPTED December 12, 2023, by the City Council of the City of Fremont, by the following vote:

AYES: Mayor Mei, Councilmembers Keng, Campbell, Kassan, Salwan, and Cox
NOES: None
ABSENT: Vice Mayor Shao
ABSTAIN: None



Mayor

ATTEST:

APPROVED AS TO FORM:



City Clerk



City Attorney

**EXHIBIT 1
DISPOSAL AND OTHER FEES**

Waste Management of Alameda County guarantees disposal fees for waste delivered to Altamont Landfill by the City of Fremont from January 1, 2024 through December 31, 2025. Fees will be adjusted biennially to reflect inflation according to the escalation methodology described in the long-term landfill disposal capacity agreement, as amended.

Disposal Fee Components	Per Ton Disposal Fees valid from January 1, 2024 to December 31, 2025			
	Fremont only	Fremont + Newark	Fremont + Union City	Fremont + Newark + Union City
	Fixed component	\$2.25	\$2.22	\$2.22
Variable component	\$15.01	\$15.01	\$15.01	\$15.01
CA AB 939	\$1.40	\$1.40	\$1.40	\$1.40
Open Space/CUP	\$2.44	\$2.44	\$2.44	\$2.44
Measure D	\$8.23	\$8.23	\$8.23	\$8.23
Planning Fee	\$.17	\$.17	\$.17	\$.17
Business Tax	\$.95	\$.95	\$.95	\$.95
LEA Inspection Fee	\$.38	\$.38	\$.38	\$.38
AC HHW Fee	\$2.15	\$2.15	\$2.15	\$2.15
ACWMA Facility Operators Fee	\$4.34	\$4.34	\$4.34	\$4.34
State Water Resources Board Fee	\$.05	\$.05	\$.05	\$.05
Total pass-through component	\$20.11	\$20.11	\$20.11	\$20.11
Total Disposal Fee (Fixed + Variable + Pass-Through components)	\$37.37	\$37.34	\$37.34	\$37.30
Discount to disposal fee for materials used as alternative daily cover	80 % of total disposal fee			

Amount regarded as significant

\$23,457.00

EXHIBIT 5
LIQUIDATED DAMAGES
January 1, 2024 – December 31, 2025

The following Liquidated Damages shall be levied for Contractor's failure to meet specific Contractor's Obligations due to Contractor's fault during Facility Operations. Payment of Liquidated Damages in no way limits City's ability to seek other damages; and does not excuse Contractor from conducting appropriate cure of breach or default as provided in Article 11, or such other remedies as may be provided in this Agreement. The amounts for Liquidated Damages will be adjusted biennially to reflect changes in CPI in the manner described in Article 8.

The Parties acknowledge that timely and consistent, efficient Facility Operation is of utmost importance to the Transfer Contractor(s) and the City. Failure to Operate the Facility in accordance with Obligations in the Agreement and failure to allow Vehicles to efficiently unload at the Facility increase the City's and/or its Transfer Contractor(s)' costs; and the City has considered and relied on Contractor's representations as to its quality of service commitment in entering into this Agreement. The Parties further recognize that quantified standards of performance are necessary and appropriate to ensure consistent and reliable service. The Parties further recognize that if the Contractor fails in its Obligations, the City and its residents and businesses will suffer damages and that it is and will be impracticable and extremely difficult to ascertain and determine the exact amount of such damages. Therefore, the Parties agree that the following Liquidated Damages represent a reasonable estimate of the amount of such damages, considering all of the circumstances existing on the date hereto, including the relationship of the sums to the range of harm to the City, Transfer Contractor, and Collection Contractor(s), that reasonably could be anticipated and anticipation that proof of actual damages would be costly or inconvenient. The Contractor agrees to pay (as Liquidated Damages and not as a penalty) the amounts listed in the table below for failure to perform the specified events of failure listed in the table due to the Contractor's fault.

In signing this Agreement, the Contractor specifically confirms the accuracy of the statements made in this Exhibit with respect to Liquidated Damages for all events of failure listed below and the fact that it had ample opportunity to consult with legal counsel and obtain an explanation of such Liquidated Damage provisions at the time that this Agreement was made.

Event	Liquidated Damage (\$)
Failure to meet Vehicle Turnaround Guarantee	\$1.52 for each minute the average vehicle turnaround time exceeds twenty (20) minutes multiplied by the number of loads of Residue Delivered by Facility Users during the thirty (30) calendar day period under review
Failure to submit reports and/or failure to submit information as requested by City	\$762.86 per report per incident