

(R-85-1675)

RESOLUTION NUMBER R- 262935

ADOPTED ON APR 15 1985

WHEREAS, the Solid Waste Management and Resource Recovery Act of 1972 established the California Waste Management Board which is the lead agency for California's resource recovery program; and

WHEREAS, one of the Board's major responsibilities has been the development of waste-to-energy processing facilities; and

WHEREAS, the Board has recommended the establishment of a goal of 50% of state municipal wastes to be processed by waste-to-energy facilities by the year 2000; and

WHEREAS, the San Diego City Council and the San Diego County Board of Supervisors, in 1981, executed a joint powers agreement establishing the San Diego Energy Recovery Project (SANDER) to respond to the State's goal; and

WHEREAS, SANDER, in 1982, issued a Request for Proposals (RFP) for the construction and operation of a large scale waste-to-energy facility in San Diego; and

WHEREAS, SANDER, in 1983, selected UOP, Inc. (a subsidiary of The Signal Company, Inc., of La Jolla) as the first ranked firm with which to commence contract negotiations for the Project; and

WHEREAS, shortly after UOP's selection, Signal merged with Wheelabrator-Frye, Inc., and merged the waste-to-energy divisions of both companies into a new entity called Signal Resco; and

WHEREAS, negotiations with Signal Resco to date have resulted in acceptable basic contract provisions for a solid waste disposal service agreement; NOW, THEREFORE,

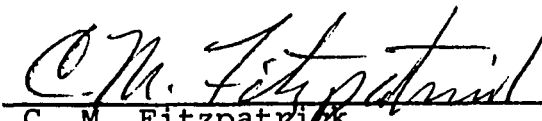
BE IT RESOLVED, by the Council of The City of San Diego, that the City Council approves in concept the basic contract provisions negotiated to date as outlined in Attachment No. 1 to City Manager's Report No. 85-96 dated 2-26-85.

BE IT FURTHER RESOLVED, that the City Attorney and City Manager are hereby directed to complete negotiations for a final solid waste disposal service agreement and return to the Council with that agreement at the earliest appropriate time.

BE IT FURTHER RESOLVED, that pursuant to the California Environmental Quality Act, §§ 21000 et seq. Public Resources Code, the findings contained in the Notice of Exemption, attached hereto as Exhibit A, are hereby adopted.

BE IT FURTHER RESOLVED, that the City Clerk be and is hereby directed to file the Notice of Exemption with a Notice of Determination with the County Clerk of the County of San Diego, within five (5) days of the date of the adoption of this Resolution.

APPROVED: John W. Witt, City Attorney

By 
C. M. Fitzpatrick
Assistant City Attorney

CMF:js:210
4/4/85
Or.Dept:Gen.Svcs.
R-85-1675
Form=r.none

EXHIBIT A

NOTICE OF EXEMPTION

Brief Description of the Project - A decision by the City Council of the City of San Diego to: (1) approve in concept certain basic contract provisions negotiated to date by City staff and Signal Resco for a solid waste disposal service agreement; (2) direct the City Attorney and City Manager to complete negotiations for a final solid waste disposal service agreement with Signal Resco and return to the Council with that agreement at the earliest appropriate time; (3) set the standard fee for disposal of commercial and industrial waste at \$8.00 per ton, effective July 1, 1985 to provide for appropriate cost recovery given the costs associated with the planned waste to energy facility; (4) declare the City Council's intention to establish fees for the disposal of commercial and industrial waste which are the same price per ton as the City must pay to Signal Resco for disposal of trash at a planned waste to energy facility, effective upon the commencement of operations at that facility.

Finding that the Project is Exempt - The City of San Diego hereby finds that the above-described project is exempt from the provisions of the California Environmental Quality Act pursuant to: Public Resources Code §§ 21080(b)(6), 21080(b)(8), and Title 14 California Administrative Code §§ 15271, 15273 and 15262.

Statement of Reasons to Support Finding of Exemption - This project, through actions (1) and (2) described above, involves a review by the City Council of previous negotiations, and a direction by the City Council to continue negotiations, to establish the terms and conditions and fee rates for a solid waste disposal service agreement. This agreement provides for the sale of municipal solid waste by the City of San Diego to the proposed Signal Resco waste to energy facility, a type of thermal powerplant as defined by Public Resources Code § 25120. The solid waste will serve as a fuel for the waste to energy thermal powerplant facility. The proposed terms for the agreement also provide for a lease of land by the City to Signal Resco for the waste to energy thermal powerplant facility. This lease will provide the thermal powerplant site. The proposed terms for the agreement further provide that the agreement is conditioned upon appropriate environmental study and approval by the California Energy Commission (also known as the State Energy Resources Conservation and Development Commission) pursuant

EXHIBIT A

to the California Environmental Quality Act (Public Resources Code § 21000, et. seq.) and the Warren-Alquist Act (Public Resources Code § 25000, et. seq.

Additionally, actions (3) and (4) described above are also actions undertaken by a public agency relating to a thermal powerplant site or facility, because they provide for an appropriate form of financing the facility through the setting of disposal fees at necessary levels.

The waste to energy thermal powerplant site and related facility which is the subject of these four actions will be the subject of an environmental report or negative declaration or other document prepared pursuant to a regulatory program certified pursuant to Public Resources Code § 21080.5. This document will be prepared by the State Energy Resources Conservation and Development Commission, and will include the possible environmental impact, if any, of the actions of the City of San Diego which are described above and are the subject of this Notice of Exemption. The project therefore satisfies all of the requirements for the exemption provided by Public Resources Code § 21080 for actions undertaken by a public agency relating to any thermal powerplant site or facility.

The portion of the project which deals with the level of fees for the disposal of commercial and industrial wastes, (items (3) and (4) described above) also falls within the scope of the exemption described in Public Resources Code § 21080(b)(8) and 14 Cal. Admin. Code § 15273 related to rates, tolls, fares and charges. While the City Council's action in item (4) at this time is only a nonbinding statement of the Council's intention regarding the future setting of fee levels, to the extent that it is related to the actual establishment, modification, structuring, restructuring or approval of such fees, it is for the purposes contained within this exemption.

The July 1985 fee increase and future decision to set disposal fees charged by the City at the same price per ton as the City must pay Signal Resco for the disposal of trash at a waste to energy facility will be for the purpose of meeting operating expenses of the City's waste disposal program. One of the operating costs for disposal of solid waste that the City faces is the City's costs of obtaining and providing an ultimate disposal site for the waste. The operating expenses of the City's waste disposal program, which currently provides for the disposal of waste at the Miramar landfill, will therefore be affected by disposal of

EXHIBIT A

waste at the waste to energy facility owned and operated by Signal Resco, rather than at the current landfill site. The project therefore falls within one of the specified purposes of § 21080(b)(8), changes in fee levels for the purpose of meeting operating expenses.

Additionally, the waste to energy facility should be regarded as a capital project which is part of the City's overall waste disposal program. Because the Miramar landfill has a limited useful life, it will be necessary to implement this capital project to provide a replacement method of disposal in order to maintain service within existing service areas. Therefore, the July 1985 fee increase and the future decision regarding fee levels should also be regarded as a change in fees or rates for the purpose of obtaining funds for capital projects, necessary to maintain service within existing service areas. This falls within a second specified purpose under § 21080(b)(8). Finally, the City of San Diego has met the requirement of Public Resources Code § 21080(b)(8) that written findings be incorporated in the record of the proceedings for this project setting forth with specificity the basis for the claim of exemption.

The actions of the City Council described above involving approval in concept of basic contract provisions and the direction to complete negotiations and return with a proposed solid waste disposal agreement to the City Council at a future date, items (1) and (2) described above, also fall within the exemption described in Title 14 Cal. Admin. Code § 15262 for feasibility and planning studies. By having City staff complete negotiations on a proposed solid waste disposal agreement according to certain terms and conditions, the City Council is providing for the preliminary work necessary to prepare a feasible agreement which could be reviewed, considered and entered into at a later date by the City Council, should the City Council then so decide. Until such a feasible proposed contract is developed by City staff, the City Council will be unable to properly evaluate whether, and on what terms, the City should enter into a contract for solid waste disposal. The actions by the City Council at this time related to a possible solid waste disposal agreement do not bind the City to any particular terms, or commit the City to enter into any form of agreement, and therefore do not constitute a "plan" that will have a legally binding effect on later activities. All of the requirements specified in § 15262 have therefore been met.

5405b

APR 15 1985

Passed and adopted by the Council of The City of San Diego on
by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible
Bill Mitchell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
William Jones	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dick Murphy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Uvaldo Martinez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Roger Hedgecock	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

ROGER HEDGECOCK
Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

(Seal)

By *Barbara Baxter*, Deputy.

Office of the City Clerk, San Diego, California

Resolution Number **R-262935** Adopted **APR 15 1985**

RECEIVED
CITY CLERK'S OFFICE
1985 APR -9 PM 3:30
SAN DIEGO, CALIF.

00505