

RESOLUTION NUMBER R- **286073**

ADOPTED ON **JUL 17 1995**

WHEREAS, Public Resources Code sections 43500 through 43610.1 and sections of Title 14 of the California Code of Regulations ("Regulations"), Division 7, Chapter 5, Article 3.5, require operators of solid waste landfills to demonstrate the availability of financial resources to conduct closure and postclosure maintenance activities; and

WHEREAS, sections 18283 and 18285 of the Regulations specify an Enterprise Fund and related financial assurance mechanisms as acceptable mechanisms to demonstrate financial responsibility for financing the closure and/or postclosure maintenance of a solid waste landfill; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, as follows:

1. That the Auditor and Comptroller is authorized and directed to establish and maintain an Enterprise Fund for the Miramar Landfill, Facility No. 37-AA-0020, and to deposit in the Enterprise Fund all revenue derived from the operations of the Miramar Landfill.

2. That the Auditor and Comptroller is hereby authorized to transfer funds from the Enterprise Fund to the financial assurance mechanism hereafter provided, sufficient to meet the requirements of sections 18282 and 18285 of the California Code of Regulations on a timely basis.

3. That the funds referred to in section 2 above shall be deposited and retained by the City Auditor and Comptroller in a separate fund to be known as the Miramar Landfill Closure/Postclosure Maintenance Fund and shall be used to pay only for closure and postclosure maintenance of the Miramar Landfill.

4. That the Closure/Postclosure Maintenance Fund shall be and remain inviolate against all other claims, including claims of The City of San Diego or its City Council or the creditors thereof, it being the intent of this resolution that the mechanism established will provide equivalent protection to a trust fund by ensuring that

(a) the required funds will be available in a timely manner for closure and/or postclosure maintenance of the Miramar Landfill; and

(b) the payments from the Fund shall be made by the Auditor and Comptroller as directed by the California Integrated Waste Management Board ("Board"), in writing, for the payment of the costs of closure and/or postclosure maintenance of the landfill(s) covered by this resolution.

5. That the disbursement of funds for closure shall be in accordance with section 18262.3 of the California Code of Regulations and as prescribed in section 4.(b) above.

6. That the disbursement of funds for postclosure maintenance shall be in accordance with the final plan, as approved by the Board.

7. That the Closure/Postclosure Maintenance Fund shall be invested by the City Treasurer in the manner provided by law.

8. That in the event the Board determines that the City Manager has failed, or is failing to perform closure and/or postclosure maintenance as required by law, the Board may direct the Auditor and Comptroller to make available to the City Manager from the Closure/Postclosure Maintenance Fund sufficient funds to ensure closure and/or postclosure maintenance, who then shall be obligated to use such funds for closure or postclosure maintenance in accordance with the directives of the Board.

9. That the City Manager shall produce an annual report for transmittal to the Board, containing the following information concerning the Miramar Landfill:

(a) As appropriate, a revised closure cost estimate, prepared as specified by section 18263 of the Regulations.

(b) As appropriate, a revised postclosure maintenance cost estimate, prepared as specified by section 18266 of the Regulations.

(c) Status, including current balance of the Miramar Landfill Closure/Postclosure Maintenance Fund.

APPROVED: JOHN W. WITT, City Attorney

By


Elmer L. Heap Jr.
Deputy City Attorney

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