

(R-2009-1239 Corr.)

HEET

107
10/13

RESOLUTION NUMBER R- 305322

DATE OF FINAL PASSAGE OCT 27 2009

A RESOLUTION OF THE CITY OF SAN DIEGO
ESTABLISHING A CORRECTIVE ACTION FUND FOR THE
MIRAMAR LANDFILL AND TAKING RELATED ACTIONS.

WHEREAS, California Public Resources Code sections 43500 through 43610.1 and sections 22220 and 22221 of Title 27 California Code of Regulations require operators of solid waste disposal facilities to demonstrate financial resources sufficient to conduct corrective action for all known or reasonably foreseeable releases from the disposal facility; and

WHEREAS, pursuant to section 22221 of Title 27, California Code of Regulations, the required financial resources must at a minimum meet the current corrective action cost estimate approved by the applicable Regional Water Quality Control Board; and

WHEREAS, the San Diego Regional Water Quality Control Board has approved the City's current corrective action cost estimate; and

WHEREAS, sections 22228 and 22241 of Title 27 California Code of Regulations provide that an Enterprise Fund is an acceptable mechanism for demonstrating the required financial resources; and

WHEREAS, this activity is statutorily exempt from the California Environmental Quality Act pursuant to CEQA Guidelines section 15273 as the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies; NOW,
THEREFORE,

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

1. That the City Comptroller is authorized and directed to establish and maintain, within the Refuse Disposal Enterprise Fund series, a separate fund for corrective action for all known or reasonably foreseeable releases from the Miramar Landfill, which fund shall be known as the Refuse Disposal-Miramar Corrective Action Fund [Corrective Action Fund] No. 41203.

2. That the City Comptroller is authorized and directed to de-appropriate \$1,510,000 from Refuse Disposal-CIP Fund 41201, CIP No. 37-056.9, West Miramar Landfill Liner Module E.

3. That the City Comptroller is authorized and directed to transfer \$1,510,000 from Refuse Disposal-CIP Fund 41201 to the Corrective Action Fund No. 41203 and to transfer additional amounts from Refuse Disposal Enterprise Fund 41200 to the Corrective Action Fund No. 41203, as necessary, to continue to meet the requirements of sections 22225 and 22241 of Title 27 California Code of Regulations on a timely basis;

4. That the City Comptroller is authorized and directed to appropriate and expend funds from Corrective Action Fund No. 41203 to pay for corrective action for all known or reasonably foreseeable releases from the Miramar Landfill, with disbursements to be made in accordance with section 7 below.

5. That the funds deposited to the Corrective Action Fund shall only be used to pay for corrective action for known or reasonably foreseeable releases from the Miramar Landfill.

6. That the Corrective Action 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 Corrective Action Fund will provide equivalent protection to a trust fund by ensuring:

(a) that the required amount of funds shall be available in a timely manner for corrective action of the Miramar Landfill; and

(b) that payments from the Corrective Action Fund shall be made by the City Comptroller, as directed by the California Integrated Waste Management Board [CIWMB], in writing, for the payment of the costs of corrective action of the Miramar Landfill.

7. That disbursements of funds for corrective action shall be in accordance with section 22234 of Title 27 California Code of Regulations and as prescribed in section 6(b) above.

8. That if the CIWMB determines that the City has failed or is failing to perform corrective actions, as required by law, the CIWMB may direct the City Comptroller to make payments from the Corrective Action Fund to pay the costs of corrective action as directed in writing by the CIWMB.

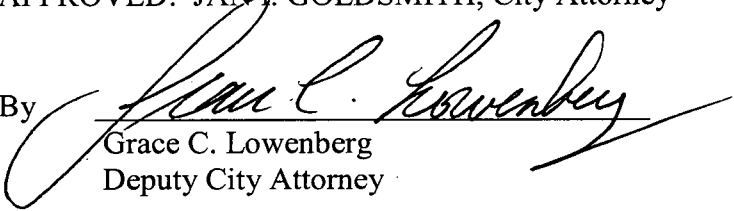
9. That the Corrective Action Fund shall be invested by the City Treasurer in the manner provided by law.

10. That the Mayor is authorized and directed to produce an annual report for submittal to the CIWMB regarding the status of the Miramar Landfill and the Corrective Action Fund, including the current balance of the fund, in accordance with section 22225 of Title 27 California Code of Regulations.

11. That the City Comptroller is authorized to provide a Certification of Funds letter to the CIWMB, upon request, in connection with the Corrective Action Fund.

APPROVED: JANI GOLDSMITH, City Attorney

By


Grace C. Lowenberg
Deputy City Attorney

GCL:mb
06/11/09
Cert.No:2900800
Or.Dept:ESD
R-2009-1239

I hereby certify that the foregoing Resolution was passed by the Council of the City of Diego,
at its meeting of OCT 13 2009.

ELIZABETH S. MALAND, City Clerk

By 
Deputy City Clerk

Approved: 10-27-09
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

**The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER**

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING

AC 2900800

DEPT. NO.: 7521

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: \$1,510,000.00 Fund: 30244

Purpose: Authorizing the transfer of \$1,510,000 from CIP 370569, West Miramar Landfill Liner Module E to newly established Fund 41203. Refuse Disposal-Miramar Corrective Fund, based on the cost estimate from the California Regional Water Quality Control Board, for the cost of initiating and completing corrective action for all known or reasonably foreseeable releases from the disposal facility.

Date: Initiated May 26, 2009

By: *Jessamine R. Plonka*
AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA

ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
1	0	30244	30244	113	4279	370569				\$1,510,000.00
TOTAL AMOUNT										\$1,510,000.00

FUND OVERRIDE

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: _____

Vendor: _____

Purpose: _____

Date: _____

By: _____
AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA

ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
TOTAL AMOUNT										

FUND OVERRIDE

AC 2900800