

Tues 11-12-16
(O-2016-44) Item
#57

ORDINANCE NUMBER O- 20590 (NEW SERIES)

DATE OF FINAL PASSAGE JAN 28 2016

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
SAN DIEGO ESTABLISHING A PLEDGE OF REVENUE
AS A FINANCIAL ASSURANCE MECHANISM FOR POST
CLOSURE MAINTENANCE OF THE WEST MIRAMAR
LANDFILL.

WHEREAS, the City of San Diego operates the West Miramar Landfill, a solid waste landfill, in conformance with the findings, conditions, prohibitions, and requirements contained in Solid Waste Facilities Permit No. 37-AA-0020 issued by the City of San Diego Local Enforcement Agency (LEA), serving as LEA for the California Department of Resources Recycling and Recovery (CalRecycle); and

WHEREAS, Public Resources Code sections 43500 through 43610.1 and Title 27, California Code of Regulations (Regulations), Division 2, Subdivision 1, Chapter 6, require operators of solid waste landfills to demonstrate the availability of financial resources to conduct closure and post closure maintenance activities; and

WHEREAS, on July 17, 1995, the City Council adopted Resolution R-286073, which established the Miramar Landfill Closure/Post Closure Maintenance Fund No. 700041 to demonstrate the City's availability of financial resources to conduct closure and post closure maintenance activities for the West Miramar Landfill through an Enterprise Fund; and

WHEREAS, the City desires to release that portion of funding from the Miramar Landfill Closure/Post Closure Maintenance Fund No. 700041 that is currently being held to demonstrate the City's availability of financial resources for post closure maintenance activities; and

WHEREAS, section 22228 and 22245 of the Regulations specify a Pledge of Revenue as an acceptable mechanism to demonstrate financial responsibility for financing post closure maintenance costs of a solid waste landfill; and

WHEREAS, the City now desires to establish a Pledge of Revenue as a financial assurance mechanism for post closure maintenance of the West Miramar Landfill; and

WHEREAS, on November 4, 2015, the Committee on the Environment reviewed this action and recommended approval by the full City Council; NOW, THEREFORE,

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

Section 1. The City of San Diego shall establish a Pledge of Revenue to demonstrate financial responsibility for post closure maintenance of the West Miramar Landfill in accordance with sections 22228 and 22245 of the California Code of Regulations. The pledged revenue shall consist of revenues from greenery tipping fees and commodity sales from the Miramar Greenery Composting Facility, Solid Waste Facility Permit 37-AB-0003, which are deposited into the Refuse Disposal Enterprise Fund.

Section 2. The Mayor, or his designee, is authorized to execute, for and on behalf of the City, an agreement with CalRecycle to establish the Pledge of Revenue, under the terms and conditions set forth in the Agreement on file in the Office of the City Clerk as Document No.

OO- 20590 .

Section 3. The Chief Financial Officer is authorized to appropriate and expend an amount not to exceed \$18,000,000 from the Miramar Landfill Closure/Post Closure Maintenance Fund No. 700041, which is currently being held to demonstrate the City's availability of financial resources for post closure maintenance activities.

Section 4. The Chief Financial Officer is authorized to transfer an amount not to exceed \$18,000,000 from the Miramar Landfill Closure/Post Closure Maintenance Fund No. 700041 to the Refuse Disposal Fund No. 700039.

Section 5. Resolution R-286073 is repealed to the extent it requires a separate fund for post closure maintenance of the West Miramar Landfill.

Section 6. The Mayor or designee is directed to produce an Annual Certification Report (form CalRecycle 114, or later iteration) as required by section 22233(b)(4)(B) of the California Code of Regulations to demonstrate that the pledged revenue continues to be available when needed and will cover the cost estimates identified in the updated Annual Inflation Report required by section 22236 of the California Code of Regulations.

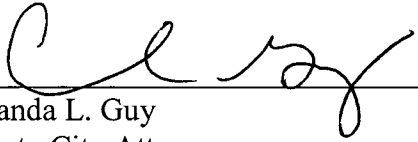
Section 7. That disbursement of funds for post closure maintenance shall be in accordance with the final closure plan, as approved by CalRecycle.

Section 8. That in the event that CalRecycle determines that the City of San Diego has failed, or is failing, to perform post closure maintenance as required by law, CalRecycle may direct the Chief Financial Officer to provide to the Mayor, or his designee, sufficient funds from the pledged revenues to ensure post closure maintenance, who then shall be obligated to use such funds for post closure maintenance in accordance with the directives of CalRecycle.

Section 9. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been made available to the City Council and the public prior to the day of its passage.

Section 10. That this ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

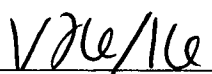
By 
Amanda L. Guy
Deputy City Attorney

ALG:js
11/19/2015
Or.Dept:ESD
Doc.No.: 1173225

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JAN 12 2016

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on JAN 12 2016, by the following vote:

| Councilmembers | Yeas | Nays | Not Present | Recused |
|-----------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Sherri Lightner | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Lorie Zapf | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Todd Gloria | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Myrtle Cole | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mark Kersey | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Chris Cate | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Scott Sherman | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| David Alvarez | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Marti Emerald | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Date of final passage JAN 28 2016

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By Aty Chady, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

DEC 08 2015, and on JAN 28 2016

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By Aty Chady, Deputy

Office of the City Clerk, San Diego, California

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