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**DEPARTMENT OF  
FINANCE**

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DIVISIONS:  
ACCOUNTING  
BUDGET  
REVENUE  
RISK MANAGEMENT

May 16, 1990

Budget and Finance Committees  
Sacramento, California

Honorable Members in Session:

**SUBJECT: LANDFILL CLOSURE AND POST CLOSURE MAINTENANCE FINANCIAL ASSURANCE**

**SUMMARY**

As an alternative to advanced funding for postclosure maintenance of the 28th Street landfill, it is recommended that an annual Pledge of Revenue be used as a financing mechanism. The cost of this alternative is \$57,000 per year, estimated to begin in FY 1994-95. This will allow deletion of the proposed FY 1990-91 funding for CIP project YA06, which budgeted \$494,000 for landfill postclosure. This change, in addition to defunding of the Landfill Gas Control Program (YA36) in the amount of \$470,000, allows the proposed Solid Waste rate increase to be adjusted from 18% to 9%.

**BACKGROUND**

The Solid Waste Division has prepared a cost estimate for closure and postclosure for the 28th Street landfill pursuant to the California Integrated Waste Management Board's (CIWMB) August 1989 Emergency Regulations (Sections 18263 and 18266 of Title 14, of the California Code of Regulations ("Regulations"), Chapter 5, Subarticle 3.4). This estimate includes the costs involved with closing the landfill in accordance with current CIWMB and Central Valley Regional Water Quality Control Board (RWQCB) Regulations and the cost of 15 years of postclosure maintenance. The estimate also includes a CIWMB mandated 20% contingency.

The Regulations detail acceptable financial mechanisms or combinations of mechanisms which can be used to assure the funding of the closure and post closure activities. City staff in the Departments of Public Works and Finance have examined these alternative financial assurance mechanisms. Staff has determined it is in the City's best interest to use an Enterprise Fund as specified in Section 18285 of the Regulations for funding closure activities. A Pledge of Revenue as detailed in Section 18290 of the Regulations is recommended to assure funding post closure maintenance costs. Other mechanisms available are trust funds, Government Securities, Letter of Credit, Surety Bond, Financial Means Test, and Guarantees. Most of these are more appropriate for privately owned landfills and do not lend themselves well to government financing.

A Pledge of Revenue Agreement, as specified by Sections 18283 and 18290 of the Regulations, can be used to demonstrate financial responsibility for postclosure maintenance only. The mechanism consists of a Council Resolution authorizing an agreement between the operator of the landfill and the CIWMB to establish the Pledge, a commitment from the operator that the necessary post closure maintenance funds will be available in a timely manner, and a further commitment that the operator will at all times retain control of the ability to allocate any pledged revenue to pay post closure maintenance costs. As stated in Section 18277 of the Regulations, post closure maintenance of the landfill must continue for a minimum of 30 years.



# RESOLUTION NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF \_\_\_\_\_

## FINANCIAL ASSURANCE FOR CLOSURE AND POSTCLOSURE MAINTENANCE OF THE CITY OF SACRAMENTO 28TH STREET SOLID WASTE LANDFILL

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WHEREAS, Government Code Section 66796.22 and Sections of Title 14 of the California Code of Regulations ("Regulations"), Chapter 5, Subarticle 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 mechanism as an acceptable mechanism to demonstrate financial responsibility for financing closure and/or postclosure maintenance of a solid waste landfill; and

WHEREAS, Sections 18283 and 18290 of the Regulations specify a pledge of revenue as an acceptable mechanism to demonstrate financial responsibility for financing postclosure maintenance of a solid waste landfill; and

WHEREAS, The City of Sacramento has established and maintains an Enterprise Fund ("Enterprise Fund") which includes funding for the 28th Street solid waste landfill ("Landfill") and deposits in the Enterprise Fund all fees derived from solid waste collection activities.

NOW, THEREFORE, BE IT RESOLVED by the City Council of The City of Sacramento that:

1. The Director of Finance ("Director") is directed to transfer from the Enterprise Fund into the financial assurance mechanism hereafter provided, sufficient funds to meet the requirements of Sections 18282 and 18285 of the Regulations on a timely basis.

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RESOLUTION NO.: \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

2. The funds required for the financial assurance mechanism referred to in Section 1 above shall be accounted for by the Director in a separate fund to be known as the 28th Street Landfill Closure/Postclosure Maintenance Fund ("Closure/Postclosure Fund") established by the Director and shall be used to pay only for closure and postclosure maintenance of the Landfill.
3. To the extent permitted by law, the Closure/PostClosure Fund shall be and remain inviolate against all other claims, including claims of the City or its City Council or the creditors thereof, it being the intent of this Resolution that the mechanism established hereby will provide equivalent protection to a trust fund in ensuring that the assured amounts of funds will be available in a timely manner for closure and/or postclosure maintenance of the Landfill.
4. In the event the California Integrated Waste Management Board determines after a noticed public hearing, that the City has failed to perform closure and/or postclosure maintenance as required by law, the Board may direct the Director to pay from the Closure/Postclosure Fund such amounts as are necessary to insure sufficient closure and/or postclosure maintenance. Such funds shall then be used for closure or postclosure maintenance in accordance with the directive of the California Integrated Waste Management Board, which shall be given only after a noticed public hearing on the matter has been held.
5. In order to demonstrate financial responsibility for postclosure maintenance, the City Manager is authorized and directed to execute the attached agreement with the California Integrated Waste Management Board providing for a pledge of revenue from the fees collected from Solid Waste Collection Services in accordance with Section 18290 of the Regulations.
6. The Director of Public Works is directed to produce an annual report for transmittal to the California Integrated Waste Management Board, containing the following information concerning the 28th Street 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 Emergency Regulations.
  - (c) Status, including current balance of the 28th Street Landfill Closure/Postclosure Maintenance Fund.

7. The City Council shall reconsider this resolution whenever the number of then current members of the City Council who voted affirmatively when this Resolution was adopted or last reaffirmed is less than a majority of the total members.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
Secretary

## PLEDGE OF REVENUE AGREEMENT

### ESTABLISHING A PLEDGE OF REVENUE FOR POSTCLOSURE MAINTENANCE OF THE CITY OF SACRAMENTO LANDFILL.

This Agreement shall become effective immediately, and is made and entered into by and between City of Sacramento ("City") and the California Integrated Waste Management Board ("Board").

WHEREAS, California Government Code Section 66796.22 and Sections of Title 14 of the California Code of Regulations ("Regulations"), Chapter 5, Subarticle 3.5, require operators of solid waste landfills to demonstrate the availability of financial resources to conduct closure and postclosure maintenance activities;

WHEREAS, Sections 18283 and 18290 of the Regulations specify a pledge of revenue as an acceptable mechanism to demonstrate financial responsibility for postclosure maintenance of a solid waste landfill;

WHEREAS, The City operates the 28th Street Landfill, a solid waste landfill, in conformance with the findings, conditions, prohibitions and requirements contained in Solid Waste Facilities Permit No 34-AA-00018 issued by the County of Sacramento Environmental Health Department serving as Local Enforcement Agency for the Board;

WHEREAS, The City in its discretion collects fees for collection and disposal of solid waste;

WHEREAS, The City, in its discretion, will adjust the fee schedule for solid waste collection and disposal services as necessary to provide adequate funds for the postclosure monitoring and maintenance of the landfill in accordance with Board regulations;

WHEREAS, the 15 year postclosure period will begin when the closure/postclosure plan has been approved by the California Integrated Waste Management Board, Local Enforcement Agency and Regional Water Quality Control Board and the facility has completed all closure construction activities, which is estimated to occur on approximately January 1, 1995;

NOW THEREFORE, The City and Board do agree as follows;

1. The City shall establish a pledge of revenue to demonstrate financial responsibility for postclosure maintenance of the 28th Street Landfill in accordance with Sections 18283 and 18290 of the Regulations.
2. The City agrees to pledge revenues from solid waste collection fees as described herein.
3. The amount of the pledge revenue shall be equal to \$57,000 per year for the 15 year period commencing with the date of expiration of the current Solid Waste Facility Operating Permit representing the current monitoring and

postclosure maintenance cost estimate for the 28th Street Landfill, including contingencies of 20% of the total. It is agreed that the amount of this pledge may increase or decrease to match any adjustment to the identified cost estimate which is determined by an updated Engineers Estimate prepared by the City in accordance with Board Regulations.

4. If the City at any time determines to cease to allocate the pledge revenue as identified herein to pay postclosure maintenance costs, the City shall give the Board and the local enforcement agency sixty (60) days notice of its intention, and shall obtain alternate coverage within sixty (60) days of the date such notice specifies as the effective date of the City's action.
5. The City reserves the right as allowed by the existing law to rescind this Pledge of Revenue and to substitute one or more other available mechanisms to demonstrate financial responsibility for postclosure maintenance of the 28th Street Landfill.
6. In the event that the Board determines that the City has failed to perform postclosure maintenance as required by law, the Board may direct the Director of Finance to pay from the Postclosure Fund such amounts as are necessary to insure sufficient postclosure maintenance, in accordance with the Board regulations.

IN WITNESS HEREOF, The parties have executed this agreement on the date and year as set forth below.

CITY OF SACRAMENTO  
A Municipal Corporation

CALIFORNIA INTEGRATED WASTE  
MANAGEMENT BOARD

By \_\_\_\_\_  
City Manager

By \_\_\_\_\_

\_\_\_\_\_  
Title

APPROVED AS TO FORM:

ATTEST:

By \_\_\_\_\_  
City Attorney

By \_\_\_\_\_  
City Clerk