



March 7, 2024

Board of Directors
Ventura Regional Sanitation District
Ventura, California

APPROVE VRSD BOARD RESOLUTION NO. 24-01 AND AUTHORIZE EXECUTION OF PLEDGE OF REVENUE AGREEMENT WITH CALRECYCLE ADDRESSING FINANCIAL ASSURANCE FOR POSTCLOSURE MAINTENANCE AND CORRECTIVE ACTION FOR THE TOLAND LANDFILL

RECOMMENDATION

- A. Approve VRSD Board Resolution No. 24-01 Financial Assurance for Postclosure Maintenance and Corrective Action of the Toland Landfill
- B. Authorize the General Manager to Execute Pledge of Revenue Agreement for Toland Landfill

FISCAL IMPACT

As described below.

BACKGROUND/ANALYSIS

California Public Resources Code section 43501 and Title 40, Code of Federal Regulations section 258.73 requires landfill operators/owners to demonstrate financial assurance for closure and postclosure maintenance and corrective actions, if any.

The acceptable mechanisms set by CalRecycle to meet the financial assurance requirement are identified Title 27, California Code of Regulations (Regulations), Division 2, Subdivision 1, Chapter 6, include:

1. a Trust Fund;
2. an Enterprise Fund;
3. Government Securities;
4. a Letter of Credit;
5. a Surety Bond;
6. an Insurance Policy;
7. a Financial Means Test;
8. a Corporate Guarantee;

9. a Pledge of Revenue;
10. a Local Government Financial Test;
11. a Local Government Guarantee; or
12. a Federal Certification.

Until May of 2023, the District elected to meet its obligation for each of the three subjected landfills (Toland, Bailard, and Coastal) by setting aside necessary monies in separate trust funds. On May 4, 2023, the VRSD Board approved switching the financial assurance mechanism for Bailard and Coastal landfills to Pledge of Revenue agreements, which then enabled VRSD to secure the funding needed for the final build-out phase (Cell 4C) of the Toland landfill, which was projected to cost at the time \$7.2 million.

As described and discussed more fully on the companion agenda item on the redesign of Cell 4C at the Toland Road Landfill, additional funding of \$7.3 million is needed to complete the final build-out phase of the Toland landfill under the redesigned plans, if so approved by your Board. This additional funding need for Toland causes or requires District staff to revisit the financial assurance mechanism options for Toland. Once again, given the current elevated cost associated with commercial borrowing, staff evaluated the financing costs and realized that the District might benefit from utilizing some of the existing funds held for postclosure and corrective actions to fund the Cell 4C construction

Staff reached out to CalRecycle on this matter and was provided the attached Board Resolution and Pledge of Revenue Agreement to initiate the change in financial assurance mechanism for Toland Landfill. Given the District's cash flow need over the next couple of years for build-out of the final phase of Toland landfill and after the evaluation of the costs associated with financing that build-out, staff determined the District is better off financing the Cell 4C project internally by utilizing the monies freed up by the Pledge of Revenues option offered by CalRecycle for the Toland Landfill.

The resolutions and agreements attached are required to utilize the Pledge of Revenues to meet the District's financial assurance obligations for Toland Landfill. These resolutions and agreements utilize the templates previously approved by the CalRecycle team, which includes legal counsel.

If you should have any questions or need additional information, please contact me at (805) 658-4646 or via email at TinaRivera@vrzd.com.



ALVERTINA RIVERA, DIRECTOR OF FINANCE

APPROVED FOR AGENDA:



Chris Theisen, General Manager

- Attachments:
1. Resolution No. 24-01 - Toland
 2. Pledge of Revenues Agreement - Toland

R E S O L U T I O N No. 24-01

**FINANCIAL ASSURANCE FOR
POSTCLOSURE MAINTENANCE AND CORRECTIVE ACTION
OF THE TOLAND LANDFILL**

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, postclosure maintenance, and corrective action activities; and

WHEREAS, sections 22228 and 22245 of the Regulations specify a Pledge of Revenue as an acceptable mechanism to demonstrate financial responsibility for financing postclosure maintenance and/or corrective action costs of a solid waste landfill.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of Ventura Regional Sanitation District that:

1. Ventura Regional Sanitation District operates the Toland Landfill, a solid waste landfill, in conformance with the findings, conditions, prohibitions and requirements contained in Solid Waste Facilities Permit No. 56-AA-0005 issued by the Ventura County Resource Management Agency, Environmental Health Division, serving as Local Enforcement Agency for the California Department of Resources Recycling and Recovery (CalRecycle); and
2. Ventura Regional Sanitation District shall establish a Pledge of Revenue to demonstrate financial responsibility for postclosure maintenance and corrective action of the Toland Landfill in accordance with sections 22228 and 22245 of the Regulations.
3. Disbursement of funds for postclosure maintenance and corrective action shall be in accordance with the final postclosure maintenance and corrective action plans, as approved by CalRecycle.
4. In the event CalRecycle determines that Ventura Regional Sanitation District has failed, or is failing, to perform postclosure maintenance and corrective action as required by law, CalRecycle may direct the Director of Finance to pay from the pledged revenues sufficient funds to ensure postclosure maintenance and corrective action, in accordance with the directives of CalRecycle.
5. The Director of Finance is directed to produce an Annual Certification Report (form CalRecycle 114) as required by Section 22233(b)(4)(B) of the 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 Regulations. It is understood that copies of the Resolution and Pledge of Revenue Agreement are not required annually, unless amended.

6. The number of current members of the Board of Directors of Ventura Regional Sanitation District who voted affirmatively when this resolution was adopted:

Ayes:
Noes:

* * * * *

STATE OF CALIFORNIA)
) ss.
COUNTY OF VENTURA)

I, Mayra Rodriguez, Clerk of the Board of Ventura Regional Sanitation District, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by the Board of Directors at a regular meeting held on March 7, 2024, and duly entered in the minutes of said District.



S E A L

Clerk of the Board

Attachment 5

PLEDGE OF REVENUE AGREEMENT FOR
POSTCLOSURE MAINTENANCE AND CORRECTIVE ACTION
TOLAND LANDFILL

This agreement establishes a Pledge of Revenue to assure that adequate funds are available to carry out the Postclosure Maintenance and Corrective Action of the Toland Landfill.

This Agreement shall become effective immediately, and is made and entered into by and between Ventura Regional Sanitation District and the California Department of Resources Recycling and Recovery (CalRecycle).

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, postclosure maintenance, and corrective action activities; and

WHEREAS, sections 22228 and 22245 of the Regulations specify a Pledge of Revenue as an acceptable mechanism to demonstrate financial responsibility for postclosure maintenance and corrective action costs of a solid waste landfill; and

WHEREAS, Ventura Regional Sanitation District operates the Toland Landfill, a solid waste landfill, in conformance with the findings, conditions, prohibitions and requirements contained in Solid Waste Facilities Permit No. 56-AA-0005 issued by the Ventura County Resource Management Agency, Environmental Health Division, serving as Local Enforcement Agency (LEA) for CalRecycle; and

WHEREAS, Ventura Regional Sanitation District is pledging revenues from tipping fees of the Toland Landfill, Solid Waste Facilities Permit No. 56-AA-0005 deposited into the Toland Post-closure Maintenance Waste Fund; and

WHEREAS, Ventura Regional Sanitation District has determined that projected net revenues from tipping fees during the state mandated period of postclosure maintenance, as determined pursuant to section 21900 of the Regulations, and during the corrective action period, shall, during each year of this period, be greater than the yearly monitoring and postclosure maintenance costs and corrective action costs contained in the most recent Cost Estimates for the Toland Landfill, which have been submitted to CalRecycle in accordance with section 21840 and sections 22100 - 22103 of the Regulations.

NOW THEREFORE, Ventura Regional Sanitation District and CalRecycle do agree as follows;

1. Ventura Regional Sanitation District hereby establishes a pledge of revenue to demonstrate financial responsibility for postclosure maintenance and corrective action costs of the Toland Landfill in accordance with sections 22228 and 22245 of the Regulations.
2. Ventura Regional Sanitation District agrees to pledge net revenues from tipping fees at the Toland Landfill as described herein.
3. The amount of the pledged revenue shall be equal to \$363,350 per year for the state mandated period of postclosure maintenance, representing the most recent monitoring and postclosure maintenance cost estimate for the Toland Landfill. It is agreed that the amount of this pledge may increase or decrease to match any adjustment to the identified cost estimate, which is mutually agreed to by the Ventura Regional Sanitation District and CalRecycle.

and

4. The amount of the pledged revenue shall be equal to \$630,741 per year for the estimated length of the corrective action period, representing the most recent corrective action cost estimate for the Toland Landfill. It is agreed that the amount of this pledge may increase or decrease to match any adjustment to the identified cost estimate, which is mutually agreed to by Ventura Regional Sanitation District and

(01-2012)

CalRecycle.

5. The total amount of the pledged revenue shall be equal to \$994,091 per year for both the state mandated period of postclosure maintenance and for the estimated length of the corrective action period, representing the most recent postclosure maintenance and corrective action cost estimates for the Toland Landfill. It is agreed that the amount of this pledge may increase or decrease to match any adjustment to the identified cost estimates, which is mutually agreed to by Ventura Regional Sanitation District and CalRecycle.

6. The Director of Finance is directed to produce an Annual Certification Report (form CalRecycle 114) as required by Section 22233(b)(4)(B) of the 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 Regulations. It is understood that copies of the Resolution and Pledge of Revenue Agreement are not required annually, unless amended.

7. If Ventura Regional Sanitation District ceases at any time to retain control of its ability to allocate the pledged revenue as identified herein to pay postclosure maintenance costs and corrective action costs, Ventura Regional Sanitation District shall notify CalRecycle and the local enforcement agency and shall obtain alternate coverage within sixty (60) days after the control of funds lapses, pursuant to section 22245 of the Regulations.

8. In the event that CalRecycle, RWQCB or LEA staff determine that Ventura Regional Sanitation District has failed, or is failing, to perform postclosure maintenance and corrective actions as required by law, CalRecycle, RWQCB and/or LEA staff shall confer with Ventura Regional Sanitation District and attempt to resolve the alleged violation. If no agreement is reached, the matter shall be presented to CalRecycle which shall give reasonable notice, hold a public hearing, and consider the testimony and documentation submitted by CalRecycle and/or LEA staff, Ventura Regional Sanitation District, and any interested parties, prior to making a determination in the matter. In the event CalRecycle then determines that Ventura Regional Sanitation District has failed, or is failing, to perform postclosure maintenance and corrective action as required by law, CalRecycle may direct the Director of Finance to pay from the pledged revenues sufficient funds to ensure postclosure maintenance and corrective action, in accordance with the directives of CalRecycle and RWQCB.

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

By Ventura Regional Sanitation District this _____ day of _____, 2024

By CalRecycle this _____ day of _____, 2024

STATE OF CALIFORNIA

VENTURA REGIONAL
SANITATION DISTRICT

California Department of Resources
Recycling and Recovery (CalRecycle)

By: _____
Authorized Officer of the CalRecycle

By: _____
General Manager

APPROVED AS TO FORM
AND PROCEDURE:

ATTEST:

By: _____
Authorized Counsel of the CalRecycle

By: _____
Mayra Rodriguez, Clerk of
the Board

APPROVED AS TO FORM
AND PROCEDURE:

By: _____

Robert N. Kwong, District Counsel