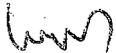


**MEMORANDUM
DEPARTMENT OF FACILITY SERVICES
COUNTY OF PLACER**

To: **BOARD OF SUPERVISORS**

Date: **OCTOBER 21, 2008**

From: **JD JAMES DURFEE / WILL DICKINSON** 

Subject: **EASTERN REGIONAL LANDFILL – PLEDGE OF REVENUE**

ACTION REQUESTED/RECOMMENDATION: Adopt the attached Resolution authorizing the Director of Facility Services to sign an Agreement with the California Integrated Waste Management Board (CIWMB) establishing a Pledge of Revenue for the Post-Closure Maintenance and Corrective Action of the Eastern Regional Landfill, Facility No. 31-AA-0560, upon review by County Counsel and Risk Management.

BACKGROUND: Public Resource Code and California Code of Regulations (Regulations) require operators of solid waste landfills to demonstrate the availability of financial resources to conduct closure, post-closure maintenance and corrective action activities. On October 20, 1992, your Board approved a Resolution establishing the Eastern Regional Landfill (ERL) Closure/Post-Closure Maintenance Fund (Closure Fund). The Closure Fund was funded through tipping fees received at the ERL Material Recovery Facility. Disbursement of monies from the Closure Fund must be approved by the CIWMB and is restricted to conducting closure work, post-closure maintenance and corrective action activities. Closure of the ERL was completed in 1998. The current estimated annual post-closure maintenance cost is \$176,713. Corrective action is estimated at a one-time cost of \$674,420. The current fund balance is \$3,621,394.

Title 27 of the Regulations now allows the use of a Pledge of Revenue to demonstrate financial responsibility for post-closure maintenance and/or corrective action activities. Pledging a portion of the tipping fee revenue stream to fund post-closure maintenance and corrective action costs will allow the County to eliminate the existing Closure Fund. Staff intends to redirect the funding in the Closure Fund into reserves that will be used to fund the future purchase the on-site buildings and equipment owned by ERL Inc. In order to proceed, staff recommends that your Board adopt a Resolution authorizing the Director of Facility Services to sign an Agreement with the CIWMB establishing a Pledge of Revenue for the Post-Closure Maintenance and Corrective Action of the Eastern Regional Landfill.

ENVIRONMENTAL CLEARANCE: Substitution of a financial assurances mechanism is not considered a project under the California Environmental Quality Act (CEQA). The proposed change is consistent with facility permits, applicable State minimum standards in Title 14, closure plans and applicable CEQA documents.

FISCAL IMPACT: There is no direct fiscal impact associated with establishing a Pledge of Revenue Agreement. Execution of the Agreement will allow reserve funds currently restricted for post-closure and corrective action to be redirected into reserves that will be used to fund the purchase of on-site buildings owned by ERL Inc. Adequate funding for post-closure maintenance and corrective action costs will be included in the annual Eastern Regional Landfill Budget.

Before the Board of Supervisors County of Placer, State of California

In the matter of:

Resolution _____

A RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF AN AGREEMENT TO ESTABLISH A PLEDGE OF REVENUE FOR THE POSTCLOSURE MAINTENANCE AND CORRECTIVE ACTION OF THE EASTERN REGIONAL LANDFILL, FACILITY NO. 31-AA-0560.

The following RESOLUTION was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held _____, by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chairman, Board of Supervisors

Attest:

Clerk of said Board

WHEREAS, the Public Resources Code and California Code of Regulations (Regulations) require operators of solid waste landfills to demonstrate the availability of financial resources to conduct closure, post-closure maintenance, and corrective action activities; and

WHEREAS, the Regulations specify a Pledge of Revenue as an acceptable mechanism to demonstrate financial responsibility for post-closure maintenance and/or corrective action costs of a solid waste landfill; and

WHEREAS, the County is the provider of financial assurances for the Eastern Regional Landfill (ERL) and currently maintains a reserve account within the ERL Enterprise Fund to pay for post-closure maintenance; and

WHEREAS, by substituting a Pledge of Revenue for the requirement to maintain the post-closure reserve account, the reserve account funds could be used to reduce the magnitude of any future rate increases at the ERL.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Placer, State of California that this Board approves and authorizes the attached Agreement to establish a Pledge of Revenue between the California Integrated Waste Management Board and the County of Placer to cover both post-closure maintenance and corrective action costs.

ATTACHMENT: AGREEMENT

**PLEDGE OF REVENUE AGREEMENT FOR POSTCLOSURE MAINTENANCE AND
CORRECTIVE ACTION OF THE PLACER COUNTY EASTERN REGIONAL LANDFILL**

This Pledge of Revenue Agreement (Agreement) establishes a Pledge of Revenue to assure that adequate funds are available to carry out the Postclosure Maintenance and Corrective Action of the Eastern Regional Landfill, Solid Waste Facilities Permit No. 31-AA-0560.

This Agreement shall become effective immediately, and is made between the County of Placer and the California Integrated Waste Management Board (CIWMB).

WHEREAS, the County of Placer completed closure of the Eastern Regional Landfill in 1998; and

WHEREAS, the County of Placer has in place a post-closure maintenance fund equal to the estimated cost of 15 years of post-closure maintenance that was required during the time period that the landfill was in operation; and

WHEREAS, in 1997 the CIWMB extended the post-closure maintenance financial assurance requirement from 15 to 30 years in order to comply with Subpart G of Part 258 of Title 40 of the Code of Federal Regulation; and

WHEREAS, Sections 258.72 and 258.73, Title 40 Code of Federal Regulations, Public Resources Code sections 43501 and 43600 through 43610.1 and sections of 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 post-closure 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 post-closure maintenance and corrective action costs of a solid waste landfill; and

WHEREAS, the County of Placer is the owner and has operated the Eastern Regional Landfill in conformance with the findings, conditions, prohibitions, and requirements contained in the referenced Solid Waste Facilities Permit:

Eastern Regional Landfill
Facility No. 31-AA-0560;

and

WHEREAS, the County of Placer is pledging revenues from tipping fees of the Eastern Regional Materials Recovery Facility and Transfer Station, Solid Waste Facilities Permit No. 31-AA-0625 deposited into the Operating Fund to provide for post-closure maintenance and corrective action costs and will continue to generate such revenue for the required post-closure maintenance period and for corrective action; and

WHEREAS, the County of Placer has determined that projected net revenues from tipping fees during the remaining post-closure maintenance and corrective action period shall, during each year of this period, be greater than the yearly post-closure monitoring and maintenance, and corrective action costs contained in the most recent Cost Estimates for the Eastern Regional Landfill which have been submitted to the Local Enforcement Agency (LEA), CIWMB, and Regional Water Quality Control Board (Regional Board) in accordance with section 22221(a)(1) of the Regulations; and

NOW, THEREFORE, the County of Placer and the CIWMB do agree as follows;

County of Placer hereby establishes a Pledge of Revenue to demonstrate the availability of financial resources to conduct post-closure maintenance and corrective action activities at the Eastern Regional Landfill in accordance with Sections 22228 and 22245 of the Regulations.

1. The County of Placer agrees to pledge net revenues from tipping fees and reserves for contingency of the Eastern Regional Material Recovery Facility and Transfer Station, Solid Waste Facilities Permit No. 31-AA-0625 as described herein.
2. The amount of the pledge of revenue shall be equal to \$176,713 per year for the remaining 20 year period of post-closure maintenance, representing the most recent monitoring and post-closure maintenance cost estimate for the Eastern Regional Landfill. It is agreed that the amount of this pledge may increase or decrease to match any adjustment to the identified cost estimate as approved by the LEA, CIWMB, and Regional Board as applicable.
3. The amount of the pledged revenue shall be equal to \$674,420 for the remaining 20 year period of corrective action representing the most recent corrective action cost estimate for the Eastern Regional Landfill. It is agreed that the amount of this pledge may increase or decrease to match any adjustment to the identified cost estimate as approved by the LEA, CIWMB, and the Regional Board as applicable.
4. If the County of Placer ceases at any time to pay post-closure maintenance costs and to retain control of its ability to allocate the pledged revenue as identified herein for corrective action costs, the County of Placer shall notify the CIWMB and shall obtain alternate coverage within sixty (60) days after the control of funds lapses, pursuant to Section 22245 of the Regulations.
5. In the event the CIWMB determines that the County of Placer has failed, or is failing to perform post-closure maintenance as required by law, the CIWMB may direct the Auditor-Controller to pay to the Chief Engineer from the pledged revenues sufficient funds to ensure post-closure maintenance, who then shall be obligated to use such funds for post-closure maintenance in accordance with the directives of the CIWMB.
6. In the event that the Regional Board or the CIWMB find that the County of Placer has failed or is failing to perform corrective action as required by law, the LEA, CIWMB, and Regional Board staff shall confer with the County and attempt to resolve the alleged violation. If no agreement can be reached, the matter shall be referred to the Regional Board. In the event the Regional Board determines the County has failed to perform corrective action as required by law, the CIWMB may direct the County to make such expenditures from the pledged revenues to the Regional Board as are necessary to ensure adequate corrective action for each known release as approved in the corrective action plan.

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

By County this _____ day of _____, 2008

By CIWMB this _____ day of _____, 2008

STATE OF CALIFORNIA
California Integrated Waste Management Board

COUNTY OF PLACER

By: _____
Authorized Officer of the CIWMB

By: _____
Director of Facility Services

Approved as to Form and Procedure:

By: _____
Authorized Counsel of the CIWMB

By: _____
County Counsel

By: _____
County Auditor

ATTEST:

By: _____
Clerk of the Board

