

ORDINANCE NO. 9672 (N.S.)

AN ORDINANCE AMENDING SECTION 454.1  
OF THE SAN DIEGO COUNTY ADMINISTRATIVE CODE,  
TO PERMIT ENVIRONMENTAL TRUST FUND MONIES  
TO BE USED FOR THE SAN MARCOS II LANDFILL CLOSURE

The Board of Supervisors of the County of San Diego ordains as follows:

**Section 1.** Section 454.1 of the San Diego County Administrative Code, which established the Environmental Trust Fund from proceeds from the sale of County solid waste facility operations, does not provide for use of Environmental Trust Fund monies for San Marcos II Landfill closure. The reason for not including the San Marcos II Landfill in the category of authorized expenditures at that time was the simultaneous creation of a separate fund for its permanent closure. The Board of Supervisors finds that the Solid Waste Landfill Closure Reserve, established in 1997 to fund the permanent closure of the San Marcos II Landfill, does not hold adequate monies to complete the permanent closure.

The amendment of Section 454.1 to permit use of Environmental Trust Fund monies for the required closure is consistent with the purpose of the Environmental Trust Fund, to properly maintain and close former County solid waste facilities. Because the San Marcos II Landfill closure must be completed and the original separate fund is no longer adequate to pay the known current cost, this amendment is intended to authorize use of Environmental Trust Fund monies to complete the project.

**Section 2.** Section 454.1 of the San Diego County Code is hereby amended to read as follows:

**SEC. 454.1. SOLID WASTE ENVIRONMENTAL TRUST FUND.**

There is hereby established the Solid Waste Environmental Trust Fund (“Trust Fund”) to be administered by the Director. Expenses incident to the monitoring, maintenance, repair, remediation, conversion, construction, closure, lease, or sale of County-owned or formerly County-owned or operated inactive or closed solid waste disposal facilities or other real property necessary to the management of these facilities shall be paid for from this Trust Fund. These facilities and properties exclude those assets sold to Allied Waste Industries, Inc. as specified in the Purchase and Sale Agreement executed on August 12, 1997. Also, expenses incident to carrying out the County’s responsibilities related to the Otay Class I site, the Ramona (landfill) Offsite Environmental Conditions and any pre-existing environmental liabilities at the North County Resource Recycling Facility (NCRRF) or solid waste facilities leased to Allied

Waste Industries, Inc., as set forth in the Purchase and Sale Agreement shall be paid for from this Trust Fund. The funds held in the Trust Fund shall not be used or budgeted other than for the purposes set forth in this section. Anticipated costs for these various activities will be budgeted annually in the Inactive Waste Site Management Special Revenue Fund. The following costs that are related or incidental to the functions and responsibilities listed above that may be paid for from the Trust Fund include:

- a) Procurement of necessary services and supplies;
- (b) Payment for permits or other regulatory fees and fines;
- (c) Repayment of any loans;
- (d) Legal services and litigation expenses;
- (e) Acquisition or leasing of new and replacement equipment;
- (f) Payment of allocated department personnel salaries and benefits;
- (g) Payment of County and Departmental overhead and support costs;
- (h) Acquisition of real property;
- (i) Construction of major or minor facilities; and
- (j) Procurement of technological studies and site management services.

This Trust Fund shall be established from a portion of the proceeds of the sale of the Solid Waste System to Allied Waste Industries, Inc. and transfers from the Borrego, Otay, Ramona, and Sycamore Landfill Solid Waste Landfill Closure Reserve Trust Funds, and shall survive for a period of no less than thirty (30) years. The adequacy of the Trust Fund with respect to the responsibilities of the County for these sites, both during and beyond the initial thirty (30) year period, shall be reassessed and the information presented to the Board at least once every five (5) years. Monies from this fund shall be invested by the County Treasurer such that earnings are consistent with prudent investment practices and all earnings accrue to the Trust Fund. All interest earned by the Inactive Waste Site Management Special Revenue Fund shall also accrue to this Trust Fund. Monies from this Trust Fund may be loaned to any of the County family of funds for a period not to exceed 180 days with interest to accrue at the higher of the Treasurer's pool rate or the overnight investment rate.

**Section 3.** This ordinance amendment shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for or

against it in the San Diego Union-Tribune, a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED AND ADOPTED THIS 28th day of July, 2004.