



# RESOLUTION No. 20-197

## OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

### RESOLUTION TO PROVIDE FINANCIAL ASSURANCE FOR POST-CLOSURE MAINTENANCE AND REASONABLY FORESEEABLE CORRECTIVE ACTIONS FOR THE MCCOURTNEY ROAD LANDFILL AND RESCIND RESOLUTION 97-80

WHEREAS, Public Resources Code sections 43500 through 43610.1 and Title 27, California Code of Regulations (27 CCR), 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; and

WHEREAS, the Board of Supervisors established a Pledge of Revenue from Solid Waste Parcel Charges per Resolution 97-80 (Section G-IV 8.16 of Chapter IV, Article 8 of the General Code of the County of Nevada); and

WHEREAS, the Pledge of Revenue requires updating per 2019 financial assurance cost estimates approved by CalRecycle and needs to include corrective actions in accordance with 27 CCR, sections 22228 and 22245.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors of the County of Nevada that:

1. The Director of Public Works is hereby authorized to execute the attached Pledge of Revenue Agreement for Postclosure Maintenance and Corrective Action, McCourtney Road Landfill on behalf of the County of Nevada with the California Department of Resources Recycling and Recovery (CalRecycle).
2. The County of Nevada maintains the closed McCourtney Road Landfill, a solid waste landfill, in conformance with the findings, conditions, prohibitions and requirements contained in the Solid Waste Permit No. 29-AA-0001 issued by the Nevada County LEA, serving as Local Enforcement Agency for the California Department of Resources Recycling and Recovery (CalRecycle).
3. Resolution 97-80 is hereby rescinded.
4. Disbursement of funds for postclosure maintenance and/or corrective action shall be in accordance with the final postclosure maintenance and/or corrective action plan, as approved by CalRecycle.

5. In the event CalRecycle determines the County of Nevada has failed or is failing to perform postclosure maintenance and/or corrective action as required by law, CalRecycle may direct the County Auditor-Controller to pay the Director of the Department of Public Works from the pledged revenues sufficient funds to ensure postclosure and/or corrective action, who then shall be obligated to use such funds for postclosure maintenance and/or corrective action in accordance with the directives of CalRecycle.
6. The Director of the Department of Public Works is directed to produce an Annual Certification Report (form CalRecycle 114) as required by 27 CCR, section 22233(b)(4)(B) to demonstrate the pledge revenue continues to be available when needed and will cover the cost estimates identified in the updated Annual Inflation Report required by 27 CCR, section 22236. It is understood that copies of the Resolution and Pledge of Revenue Agreement are not required annually, unless amended.
7. The number of current members of the Board of Supervisors of the County of Nevada who voted affirmatively when this resolution was adopted:

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 9th day of June, 2020, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward Scofield, Dan Miller, Susan K. Hoek and Richard Anderson.

Noes: None.

Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER  
Clerk of the Board of Supervisors

By:  \_\_\_\_\_

  
\_\_\_\_\_  
Heidi Hall, Chair

6/9/2020 cc: DPW\*  
AC\*

**PLEDGE OF REVENUE AGREEMENT FOR  
POSTCLOSURE MAINTENANCE AND CORRECTIVE ACTION  
MCCOURTNEY ROAD LANDFILL**

This agreement establishes a Pledge of Revenue to assure that adequate funds are available to carry out the post-closure maintenance and/or corrective action for the Nevada County McCourtney Road Landfill.

This agreement shall become effective immediately and is made and entered into by and between the County of Nevada (County) 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 (27 CCR), Division 2, Subdivision 1, Chapter 6 requires operators of solid waste landfills to demonstrate the availability of financial resources to conduct post-closure maintenance and corrective action activities; and

WHEREAS, 27 CCR, sections 22228 and 22245 specify a Pledge of Revenue as an acceptable mechanism to demonstrate financial responsibility for post-closure maintenance and corrective action costs of a solid waste landfill; and

WHEREAS, the County of Nevada maintains the closed McCourtney Road Landfill in conformance with the findings, conditions, prohibitions and requirements contained in the Solid Waste Permit No. 29-AA-0001 issued by the Nevada County LEA, serving as Local Enforcement Agency for CalRecycle; and

WHEREAS, the County is pledging revenues from parcel charges deposited into the Western Nevada County Solid Waste Fund (4117) for post-closure maintenance and/or corrective actions for the McCourtney Road landfill; and

WHEREAS, the County has determined that projected net revenue from parcel charges during the state mandated period of post-closure maintenance, as determined pursuant to 27 CCR, section 21900 and during corrective action period, shall, during each year of this period, be greater than the yearly monitoring, post-closure maintenance and corrective action costs contained in the most recent Cost Estimates for McCourtney Road Landfill, submitted to CalRecycle, in accordance with 27 CCR, sections 21840 and 22100-22103.

NOW THEREFORE, the County of Nevada and CalRecycle do agree as follows:

1. The County hereby establishes a Pledge of Revenue to demonstrate financial responsibility for post-closure maintenance and corrective actions for the McCourtney Road Landfill in accordance with 27 CCR, sections 22228 and 22245.
2. The County agrees to pledge net revenue from parcel charges as described herein.

3. The amount of the pledge of revenue (including any funds carried over from prior years) shall be equal to \$340,278.20 per year for the state mandated period of post-closure maintenance, representing the most recent monitoring and post-closure maintenance cost estimate for the McCourtney Road 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 County and CalRecycle.

4. The amount of the pledged revenue shall be equal to \$157,625.20 per year for the estimated length of the corrective action period, representing the most recent corrective action cost estimate of the McCourtney Road 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 County and CalRecycle.

5. The total amount of the pledged revenue shall be equal to \$497,903.40 per year for the state mandated period for post-closure maintenance and the estimated length of the corrective action period. 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 County and CalRecycle.

6. The Director of the Department of Public Works is directed to produce an Annual Certification Report (form CalRecycle 114) as required by 27 CCR, section 22233(b)(4)(B) 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 27 CCR, section 22236. It is understood that copies of the Resolution and Pledge of Revenue Agreement are not required annually, unless amended.

7. If the County ceases at any time to retain control of its ability to allocate the pledged revenue as identified herein to pay post-closure maintenance costs and/or corrective action costs, the County shall notify CalRecycle and local enforcement agency and shall obtain alternate coverage within sixty (60) days after the control of funds lapses, pursuant to 27 CCR, section 22245.

8. In the event CalRecycle, RWQCB or LEA staff determines the County has failed or is failing to perform post-closure maintenance and/or corrective actions as required by law, CalRecycle, RWQCB and/or LEA staff shall confer with the County 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, the County, and any interested parties, prior to making a determination in the matter. In the event CalRecycle then determines the County has failed, or is failing, to perform post-closure maintenance and/or corrective action as required by law, CalRecycle may direct the Auditor-Controller to pay the Director of the Department of Public Works from the pledged revenues sufficient funds to ensure post-closure maintenance and/or corrective action who then shall be obligated to use such funds for post-closure maintenance and/or corrective action in accordance with the directives of CalRecycle

and the RWQCB.

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

By County this \_\_\_\_\_ day of \_\_\_\_\_, 2020

By CalRecycle this \_\_\_\_\_ day of \_\_\_\_\_, 2020

STATE OF CALIFORNIA

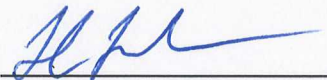
California Department of Resources  
Recycling and Recovery (CalRecycle)

By: \_\_\_\_\_  
Authorized Officer of the CalRecycle


APPROVED AS TO FORM  
AND PROCEDURE:

By: \_\_\_\_\_  
Authorized Counsel of the CalRecycle

COUNTY OF NEVADA

By:   
Director of Public Works

ATTEST:

By:   
Julie Patterson-Hunter  
Clerk of the Board

APPROVED AS TO FORM  
AND PROCEDURE:

By:   
County Counsel