

ORDINANCE NO. 56

1 AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE
2 MIDWAY CITY SANITARY DISTRICT OF ORANGE
3 COUNTY, CALIFORNIA, MAKING FINDINGS AND
4 AFFIRMING THE FEES ESTABLISHED BY ORDINANCE
5 NO. 26

6 **WHEREAS**, on or about April 20, 1983, the Board of Directors of the Midway City
7 Sanitary District ("District") approved Ordinance No. 26 (Exhibit "A") setting services
8 charges applicable to the provision of sanitation and sewer service facilities for certain
9 properties annexed to the District; and

10 **WHEREAS**, the District now desires to make certain findings related to Ordinance
11 No. 26 and affirm that the fees and charges adopted in Ordinance No. 26 are consistent
12 with the findings; and

13 **WHEREAS**, the enactment of this Ordinance No.56 in no way increases the rate of
14 the charges set by Ordinance No. 26 and Ordinance No. 26 otherwise remains in full
15 force and effect; and

16 **WHEREAS**, the Board of Directors of the Midway City Sanitary District does
17 hereby **MAKE THE FOLLOWING FINDINGS:**

18 **A.** The District's General Manager previously prepared financial and
19 engineering reports setting forth financial projections for providing the sanitation and
20 sewer services and facilities to the annexed properties served pursuant to Special Usage
21 Permit Agreement and Restrictive Covenant documents ("Usage Agreements") which
22 have been recorded with the County Recorder.

23 **B.** The fees established by Ordinance No. 26 reflect the agreement of the
24 parties to the Usage Agreements and represent an allocation of the costs of operation
25 and maintenance such that the fees do not exceed the estimated reasonable cost to
26 provide the sanitation and sewer services to the individual parcels of real property served
under the Usage Agreements; and

C. That the owners and occupants of the properties served under the Usage

1 Agreements and from whom the fees established by Ordinance No. 26 are collected use
2 both the sewer collection system and the sanitary disposal service, and said services are
3 owned, operated and maintained by the District; and

4 D. That pursuant to the Usage Agreements, the basis for the respective fees is
5 the request of the owner of a parcel, for the benefit of the owner or occupants of the
6 property, to receive services provided by the District in lieu of other means of disposal;
7 and

8 E. That the fees set in Ordinance No. 26 were established upon a rational
9 basis between the fees charged each customer and the services and facilities provided to
10 each customer.

11 F. That the revenues derived from Ordinance No. 26 are used only for the
12 acquisition, construction, reconstruction, maintenance, and operation of sanitation and
13 sewer facilities, to repay principal and interest on bonds used for the construction or
14 reconstruction of these systems and facilities and to repay federal or state loans or
15 advances made for the construction or reconstruction of these systems and facilities in
16 accordance with Health and Safety Code Section 5471.

17 **NOW, THEREFORE,** the Board of Directors of the Midway City Sanitary District
18 does hereby **ORDAIN** as follows:

19 **Section 1.** Ordinance No. 26 (Exhibit "A") and the fees set therein are affirmed
20 by the Board of Directors as consistent with the findings herein above stated.

21 **Section 2.** Any property owner served pursuant to Usage Agreements may
22 appeal the levy of the charges adopted pursuant to Ordinance No. 26, and if the charges
23 have been paid to the Orange County Tax Collector, together with property taxes, the
24 owner may submit a claim for rebate to the District, on the forms prescribed and provided
25 by the District, within one hundred twenty (120) days after the annual property tax bill is
26 mailed. All applications for rebate of the annual fees will be determined by the General
27 Manager of the District, who may grant a partial or full rebate or adjustment of the charge

1 based on receiving satisfactory proof that the services have been otherwise provided as
2 required by District Ordinance (in order to prevent any nuisance or danger to public health
3 and safety) and/or that there is an actual inequity between the amount of the charge and
4 the services provided by the District. Such inequities may include, but are not limited to:

- 5 A. The parcel of property is not connected to the District's sewer
6 collection system or is vacant land which does not utilize curbside
7 trash collection;
- 8 B. The use of the parcel is different from the use indicated by the
9 charge;
- 10 C. The principal use of the land is agricultural and all trash disposal is
11 self-haul in accordance with District Ordinance 53 and evidence of
12 self-haul disposal is provided;
- 13 D. Nuisance conditions do not exist and have not existed on the
14 property, which would be otherwise abated by the provision of
15 services by the District.

16 **Section 3.** Pursuant to Ordinance No. 26, the fees set by Ordinance No. 26 shall
17 continue to be collected on the County Tax Roll by the authority granted in California
18 Health and Safety Code Section 5473. The County Tax Collector is authorized and
19 ordered to make said collections in accordance with the terms and conditions of
20 agreements between the County of Orange and the District.

21 **Section 4.** If any provision of this Ordinance or the application to any person or
22 circumstance is held invalid by order of court, the remainder of the Ordinance or the
23 application of such provision to other persons or other circumstances shall not be
24 affected.

25 **Section 5.** This Ordinance shall become effective on June 21, 1997. The
26 Secretary of the Board shall certify to the adoption of this Ordinance and shall cause a
summary of the same to be published in a newspaper of general circulation in the District,

as required by law.

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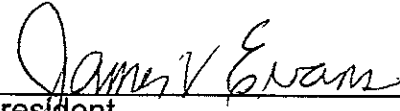
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ADOPTED, SIGNED AND APPROVED this 17th day of June, 1997.

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President

ATTEST:



Secretary

CERTIFICATION

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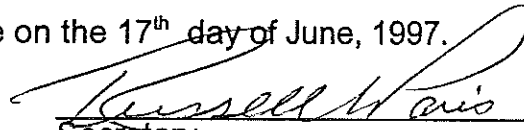
I, Russell C. Paris, Secretary of the Midway City Sanitary District of Orange County, California, do hereby certify that the foregoing Ordinance No. 56 was duly adopted at a regular meeting of the Board of Directors of said District, held on the 17th day of June, 1997, by the following vote of the members of the Board:

AYES: Directors Epperson, Evans, Neugebauer, Paris, Rice

NOES: None

ABSENT: None

and I further certify that James V. Evans, as President and Russell C. Paris, as Secretary, signed and approved said Ordinance on the 17th day of June, 1997.

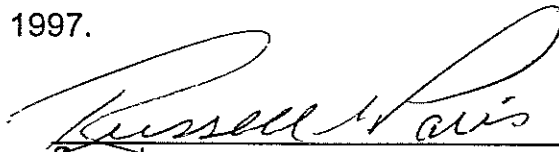

Secretary

(District Seal)

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.

I, Russell C. Paris, Secretary of Midway City Sanitary District of Orange County, California, do hereby certify that the foregoing is a full, true and correct copy of Ordinance No. 56, passed and adopted by the Board of Directors of said District at a regular meeting thereof held on the 17th day of June, 1997.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official Seal of said District this 17th day of June, 1997.


Secretary

(District Seal)