

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 277-13

AN ORDINANCE

authorizing a Contract of Obligation with the Missouri Department of Natural Resources to satisfy financial assurance requirements for proper closure and post-closure care with respect to a permit to operate Columbia's landfill; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. City Manager Mike Matthes is hereby authorized to execute a Contract of Obligation with the Missouri Department of Natural Resources to satisfy financial assurance requirements for proper closure and post-closure care with respect to a permit to operate Columbia's landfill. The form and content of the Obligation shall be substantially as set forth in "Exhibit A" attached hereto and made a part hereof as fully as if set forth herein verbatim.

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2013.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor

CONTRACT OF OBLIGATION

THIS AGREEMENT is made and entered into by and between Columbia, Missouri and the Missouri Department of Natural Resources hereinafter referred to as the MoDNR.

WHEREAS Columbia, Missouri has submitted a permit application for the construction, operation and maintenance of a solid waste disposal area to MoDNR pursuant to the requirements of sections 260.200 to 260.345, RSMo, the Missouri Solid Waste Management Law (hereinafter "Law") and the rules promulgated thereunder; and

WHEREAS, pursuant to the Missouri Solid Waste Management Rules, 10 CSR 80-2.030 (4) (D) 7., a municipality or county may execute a "contract of obligation" to satisfy the requirements for a financial assurance instrument in applying for a permit to operate a solid waste disposal area.

NOW THEREFORE, in consideration of the issuance of Permit Number 101908 by MoDNR to Columbia, Missouri for the operation of a solid waste disposal area and in consideration of the mutual covenants contained herein, MoDNR and Columbia, Missouri hereby agree as follows:

1. Columbia, Missouri is hereby bound unto MoDNR in the sum of TEN MILLION, TWO HUNDRED THIRTY-SEVEN THOUSAND, FIVE HUNDRED ELEVEN U.S. Dollars (\$10,237,511.00) and hereby authorizes the Director of the MoDNR, or designee, to collect said sum from any funds being disbursed or to be disbursed by the state of Missouri to Columbia, Missouri upon failure of Columbia, Missouri to close and provide post-closure care for the solid waste disposal area in accordance with the requirements of the Law, the regulations duly promulgated thereunder and the approved closure and post-closure plans.
2. Should MoDNR find that Columbia, Missouri has failed to properly close or provide post-closure care for the solid waste disposal area, MoDNR shall notify Columbia, Missouri of such finding and pursuant to 260.235, RSMo shall afford the opportunity for administrative and judicial review of such finding.
3. Columbia, Missouri hereby authorizes the Director of the Department of Revenue and the State Treasurer to withhold from any funds being disbursed or to be disbursed by the state of Missouri to Columbia, Missouri the sum of upon receiving notice from the Director of MoDNR of Columbia, Missouri's failure to properly close or provide post-closure care for TEN MILLION, TWO HUNDRED THIRTY-SEVEN THOUSAND, FIVE HUNDRED ELEVEN U.S. Dollars (\$10,237,511.00) upon receiving notice from the Director of MoDNR of Columbia, Missouri's failure to properly close or provide post-closure care for the solid waste disposal area.
4. This contract shall terminate upon written notice from MoDNR that Columbia, Missouri is released from the requirements for a financial assurance instrument for closure or post-closure care as required by the Law and the rules promulgated there under.
5. If Columbia, Missouri desires to terminate this contract prior to completing proper closure and post-closure care for the solid waste disposal area it must:
 - (a) send a notice of termination in writing addressed and delivered to the MoDNR 120 days before that termination will occur; and

- (b) post with the MoDNR an acceptable alternative financial assurance instrument, as provided for by the Law or by any rules adopted pursuant to the Law within 90 days after the notice of termination is received by the department; and
- (c) receive a written acknowledgment from the MoDNR of receipt by MoDNR of an acceptable alternative financial assurance instrument.

If Columbia, Missouri does not provide an acceptable alternative financial assurance instrument within the time limit specified above, this contract shall remain in effect until terminated as specified in section 4. of this contract.

- 6. Columbia, Missouri has by ordinance attached hereto as Attachment A and which by this reference is incorporated herein and expressly made a part of this agreement, authorized the signatory hereof to execute this contract of obligation and bind Columbia, Missouri to the terms thereof.
- 7. The effective date of this contract is the date this contract is signed by the Director of MoDNR.

IN WITNESS WHEREOF the parties hereto have set their hands and seals.

FOR: Columbia, Missouri Date _____
(City/County)

BY _____ Title City Manager
Mike Matthes

APPROVED AS TO FORM:

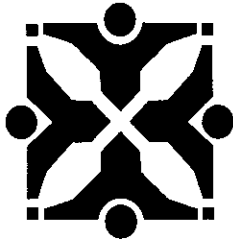
Nancy Thompson Title City Counselor

Signatory Agent

FOR: THE DIRECTOR, MISSOURI DEPARTMENT OF NATURAL RESOURCES

BY: _____ Title _____
(Name)

DATE: _____



Source: Public Works

To: City Council
From: City Manager and Staff

Council Meeting Date: Sep 16, 2013

Agenda Item No:

Re: Sanitary Landfill Closure and Post-Closure Financial Assurance Instrument (FAI)

EXECUTIVE SUMMARY:

Staff has prepared for Council consideration an ordinance authorizing the City Manager to execute a Contract of Obligation in the amount of \$10,237,511 with the Missouri Department of Natural Resources (MDNR) for the purpose of providing financial assurance for proper closure and post-closure activities of the City of Columbia Sanitary Landfill. This is an increase over last year's amount of \$10,044,692 due to required annual Implicit Price Deflator adjustment requirements.

DISCUSSION:

Missouri Solid Waste Management law has required annual Financial Assurance Instruments (FAI) of operators of sanitary landfills since 1988. This agreement provides that in the event the City should fail to perform required closure and post-closure activities at the landfill, MDNR shall collect the required amount from any state funds which are normally disbursed to the city in the amount determined to be necessary to complete the City's obligation.

The amounts are based on estimates in current dollars for a third party to conduct and complete closure and post-closure activities. These estimates must equal a maximum closure cost at any time during the life of the facility and include estimates for each closure activity. The Contract of Obligation is reviewed annually and updated when there are changes to the landfill or new index dollars.

FISCAL IMPACT:

None

VISION IMPACT:

<http://www.gocolumbiamo.com/Council/Meetings/visionimpact.php>

None

SUGGESTED COUNCIL ACTIONS:

Approve the ordinance authorizing the City Manager to execute a Contract of Obligation with MDNR.

FISCAL and VISION NOTES:					
City Fiscal Impact Enter all that apply		Program Impact		Mandates	
City's current net FY cost	\$0.00	New Program/ Agency?	No	Federal or State mandated?	No
Amount of funds already appropriated	\$0.00	Duplicates/Epands an existing program?	Yes	Vision Implementation impact	
Amount of budget amendment needed	\$0.00	Fiscal Impact on any local political subdivision?	No	Enter all that apply: Refer to Web site	
Estimated 2 year net costs:		Resources Required		Vision Impact?	No
One Time	\$0.00	Requires add'l FTE Personnel?	No	Primary Vision, Strategy and/or Goal Item #	
Operating/ Ongoing	\$0.00	Requires add'l facilities?	No	Secondary Vision, Strategy and/or Goal Item #	
		Requires add'l capital equipment?	No	Fiscal year implementation Task #	

COPY



Jeremiah W. (Jay) Nixon, Governor • Sara Parker Pauley, Director

DEPARTMENT OF NATURAL RESOURCES

www.dnr.mo.gov

CERTIFIED MAIL # 7009 3410 0001 9190 6581
RETURN RECEIPT REQUESTED

Ms. Cynthia Mitchell
Columbia Public Works Department
P.O. Box 6015
Columbia, MO 65205-6015

RE: Update Financial Assurance Instrument (FAI) for City of Columbia Sanitary Landfill,
Permit Number 0101908, Boone County

Dear Ms. Mitchell:

The Department of Natural Resources, Solid Waste Management Program (SWMP) has reviewed the Financial Assurance Instrument (FAI) for the above-referenced landfill. FAIs are required to be updated for inflation annually per 10 CSR 80-2.030; our records indicate your update for inflation in 2013 is now due.

Basic Information:

Closure Amount (based on 2004 dollars)	\$5,179,161
Annual Post-closure Amount (based on 2004 dollars)	\$ 112,640
Number of Post-closure Years	30

Inflation Update (Gross Domestic Product impact)*

IPD based on 2013 Q2	106.294
IPD based on 2004 Q2	88.861
IPD	1.1962

* IPD data collected from Bureau of Economic Analysis on August 29, 2013.

Ms. Cynthia Mitchell
Columbia Public Works Department
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FAI requirement Calculation:

$(106.294/88.861) \times \$5,179,161$ (2004 closure amount) = \$6,195,312
2013 FAI Closure Requirement

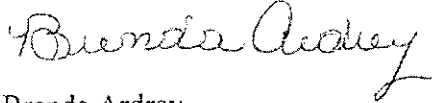
$(106.294/88.861) \times \$112,640$ (2004 Post-closure annual cost) x 30 = \$4,042,199
2013 FAI Post Closure Requirement

If you have any questions or need information identifying your alternatives, please contact Mr. Aaron J. Libbert of the SWMP at (573) 751-5401, by mail at P.O. Box 176, Jefferson City, Missouri 65102, or email him at aaron.libbert@dnr.mo.gov.

Thank you for your efforts in protecting Missouri's natural resources.

Sincerely,

SOLID WASTE MANAGEMENT PROGRAM



Brenda Ardrey
Operations Section Chief

BA:alm