

City of Columbia

701 East Broadway, Columbia, Missouri 65201



Agenda Item Number: B 7-15

Department Source: Public Works

To: City Council

From: City Manager & Staff

Council Meeting Date: January 5, 2015

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

Documents Included With This Agenda Item

Council memo, Resolution/Ordinance, Exhibits to Resolution/Ordinance

Supporting documentation includes: Letter from MDNR

Executive Summary

Authorizing the City Manager to execute a Contract of Obligation in the amount of \$10,298,681 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 \$10,237,511 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

Short-Term Impact: None

Long-Term Impact: None

Vision, Strategic & Comprehensive Plan Impact

Vision Impact: Not Applicable

Strategic Plan Impact: Not Applicable

Comprehensive Plan Impact: Not Applicable

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Suggested Council Action

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

Legislative History

This legislation is authorized by Council on an annual basis.

A handwritten signature in cursive script, appearing to read "John D. Glass", written over a horizontal line.

Department Approved

A handwritten signature in cursive script, appearing to read "Marilyn M. [unclear]", written over a horizontal line.

City Manager Approved

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 7-15

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 for operation of a solid waste disposal area; 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 for operation of a solid waste disposal area. The form and content of the Obligation shall be substantially as set forth in "Exhibit A" attached hereto.

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

PASSED this _____ day of _____, 2015.

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 NINETY-EIGHT THOUSAND, SIX HUNDRED EIGHTY ONE U.S. Dollars (\$10,298,681.00) 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 NINETY-EIGHT THOUSAND, SIX HUNDRED EIGHTY ONE U.S. Dollars (\$10,298,681.00) 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 resolution 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: _____

BY: _____ TITLE City Manager
Mike Matthes

APPROVED AS TO FORM:

BY: _____ TITLE City Counselor
Nancy Thompson

Signatory Agent

FOR: THE DIRECTOR, MISSOURI DEPARTMENT OF NATURAL RESOURCES

BY: _____, TITLE _____

DATE: _____

City of Columbia

701 East Broadway, Columbia, Missouri 65201



**SUPPORTING DOCUMENTS INCLUDED WITH
THIS AGENDA ITEM ARE AS FOLLOWS:**

Letter from MDNR



Jeremiah W. (Jay) Nixon, Governor • Sara Parker Pauley, Director
DEPARTMENT OF NATURAL RESOURCES

www.dnr.mo.gov

DEC 11 2014

CERTIFIED MAIL # 7012 1010 0003 6926 4226
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 2014 is now due.

Basic Information:

Closure Amount (based on 2004 dollars)	\$5,100,571
Post closure Amount (based on 2004 dollars)	\$3,379,200
Number of Post closure Years	30

Inflation Update (Gross Domestic Product impact)*

IPD based on 2014 Q3	108.607
IPD based on 2004 Q3	89.422
IPD	1.2145

* IPD data collected from Bureau of Economic Analysis on December 3, 2014.

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

$(108.607/89.422) \times \$5,100,571$ (2013 *closure amount*) = \$6,194,643
2014 FAI Closure Requirement

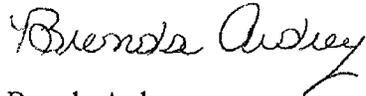
$(108.607/89.422) \times \$3,379,200$ (2004 *Post closure cost*) = \$4,104,038
2014 FAI Post Closure Requirement

If you have any questions or need information identifying your alternatives, please contact Mr. Aaron J. Libbert of the SWMP at (573) 751-5401, P.O. Box 176, Jefferson City, Missouri 65102-0176, or via email 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