

City of Columbia

701 East Broadway, Columbia, Missouri 65201



Agenda Item Number: B 365-15

Department Source: City Utilities - Solid Waste

To: City Council

From: City Manager & Staff

Council Meeting Date: 12/7/2015

Re: Authorizing the Approval of a Sanitary Landfill Closure and Post-Closure Financial Assurance Instrument (FAI) with the Missouri Department of Natural Resources

Documents Included With This Agenda Item

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

Supporting documentation includes: Letter from MDNR

Executive Summary

Staff has prepared for Council consideration an ordinance authorizing the City Manager to execute a Contract of Obligation in the amount of \$10,399,609 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 \$10,298,691 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.

A portion of the required closure activities is completed each year as part of normal landfill operations including activities such as soil hauling and associated equipment and labor. The cost for these activities is included in the annual operating budget.

Fiscal Impact

Short-Term Impact: Closure activities that will be completed in FY16 are included in the FY16 operating budget.

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Long-Term Impact: Costs will be included annually in the operations budget for the landfill. The following note was included in the City's most recent financial statement related to Landfill Closure and Postclosure Costs:

State and federal laws and regulations require that the City of Columbia place a final cover on its landfill when closed and perform certain maintenance and monitoring functions at the landfill site for thirty years after closure. During fiscal year 1994, the City adopted the provisions of Governmental Accounting Standards Board (GASB) Statement No. 18, *Accounting for Municipal Solid Waste Landfill Closure and Postclosure Care Costs*. GASB No. 18 requires that, in addition to recognizing operating expenses related to current activities of the landfill, an expense provision and related liability be recognized for future closure and postclosure care costs that will be incurred near or after the date the landfill no longer accepts waste. The recognition of these landfill closure and postclosure care costs is accrued ratably over the useful life of the landfill based on the portion of the landfill used during the year and is being recorded in the Solid Waste Utility Enterprise Fund. As of September 30, 2014, the liability recorded for landfill closure and postclosure care costs was \$376,942, which is recorded as part of other liabilities and which is based on 61.49% usage of the landfill, less costs paid to date of \$7,151,152. The City will recognize the remaining costs of closure and postclosure care of \$2,867,076 as the remaining capacity is filled. The estimated total current costs of the landfill closure and postclosure care (\$10,395,170) is based on the amount that would be paid if all equipment, facilities, and services required to close, monitor and maintain the landfill were acquired as of September 30, 2014. However, the actual cost of closure and postclosure care may be higher due to inflation, changes in technology, or changes in landfill laws and regulations. The estimated remaining life of the landfill is approximately 15 years.

Vision, Strategic & Comprehensive Plan Impact

Vision Impact: Not Applicable

Strategic Plan Impact: Not Applicable

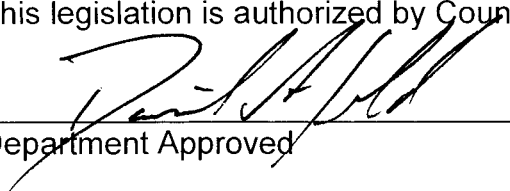
Comprehensive Plan Impact: Not Applicable

Suggested Council Action

Approve the ordinance authorizing the City Manager to execute the FAI with MDNR.

Legislative History

This legislation is authorized by Council on an annual basis.


Department Approved


City Manager Approved

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 365-15

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, THREE HUNDRED NINETY-NINE THOUSAND, SIX HUNDRED NINE U.S. Dollars (\$10,399,609.00) 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, THREE HUNDRED NINETY-NINE THOUSAND, SIX HUNDRED NINE U.S. Dollars (\$10,399,609.00) 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/Boone DATE: _____
(City/County)

BY: _____, Title City Manager
Michael Matthes,

Signatory Agent

FOR: THE DIRECTOR, MISSOURI DEPARTMENT OF NATURAL RESOURCES

BY: _____, Title _____
(Name)

DATE: _____

City of Columbia

701 East Broadway, Columbia, Missouri 65201



SUPPORTING DOCUMENTS INCLUDED WITH THIS AGENDA ITEM ARE AS FOLLOWS:

Letter from MDNR

STATE OF MISSOURI
DEPARTMENT OF NATURAL RESOURCES

www.dnr.mo.gov

NOV 10 2015

CERTIFIED MAIL # 7012 1010 0003 6926 1058
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 2015 is now due.

Basic Information:

Closure Amount (based on 2014 dollars)	\$6,194,643
Post closure Amount (based on 2014 dollars)	\$4,104,038
Number of Post closure Years	30

Inflation Update (Gross Domestic Product impact)*

IPD based on 2014 Q2	108.606
IPD based on 2015 Q2	109.674
IPD	1.0098

* IPD data collected from Bureau of Economic Analysis on October 28, 2015.

Ms. Cynthia Mitchell
Columbia Public Works Department
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\$10,399,609

FAI requirement Calculation:

$(109.674/108.606) \times \$6,194,643$ (2014 *closure amount*) = \$6,255,351
2015 FAI Closure Requirement


$(109.674/108.606) \times \$4,104,038$ (2014 *Post closure cost*) = \$4,144,258
2015 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