



DEPT. OF ENVIRONMENT AND ENERGY

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05-175Qa1

Revised September, 2021

Resolution No. ____

FINANCIAL ASSURANCE FOR CLOSURE AND POST-CLOSURE CARE FOR THE _____ LANDFILL, PERMIT NO. _____, _____ COUNTY, NE

A Resolution of the City/County of _____ to provide financial assurance to the State of Nebraska for the closure/post-closure care of the _____ Landfill; authorizes special fund for paying closure/post-closure care costs; provides for reporting requirements to the State of Nebraska.

WHEREAS, the Nebraska Environmental Protection Act, (Reissue Revised Statutes on Nebraska, 1943, § 81-1501 et seq.), the Integrated Solid Waste Management Act, (Reissue Revised Statute of Nebraska, 1943, § 13-2001 et seq.), as amended, and Nebraska Administrative Code Title 132 - Integrated Solid Waste Management Regulations require owners and operators of municipal solid waste disposal areas to demonstrate financial responsibility for closure and post-closure care activities; and

WHEREAS, the City/County of _____, Nebraska is the owner and operator of the _____ Landfill, Permit No.: NE; and

WHEREAS, the demonstration of financial responsibility for closure and post- closure care can be made by using an Enterprise Fund mechanism approved by the Nebraska Department of Environmental Quality;

NOW, THEREFORE, BE IT RESOLVED by the City/County of _____, Nebraska that:

1. The Director of Finance and Director of Public Works are authorized and directed to continue to maintain an Enterprise Fund for the _____ Landfill, and to deposit in the Enterprise Fund all revenue derived from the operations of the _____ Landfill.
2. The Director of Finance and Director of Public Works are further directed to withdraw funds from the Enterprise Fund, for deposit into the financial assurance mechanism hereafter provided, sufficient to meet the requirements of Chapter 8 of Title 132 on a timely basis.
3. The funds referred to in Section 2 above shall be deposited and retained by the City/County Treasurer of _____ ("Treasurer") in a separate account of the fund to be known as the _____ Solid Waste Landfill Closure/Post-Closure Care Fund. The Closure/Post-Closure Care Fund shall be maintained by the Treasurer, and shall be used to pay only for closure and post-closure care of the _____ Landfill.

4. The Closure/Post-Closure Care Fund shall be and remain inviolate against all other claims, including claims of the City/County of _____ or its governing body or the creditors thereof, it being the intent of this Resolution that the mechanism established will provide equivalent protection to a trust fund by ensuring:
 - a) the assured amount of funds will be available in a timely manner for closure and/or post-closure care of the _____ Landfill; and
 - b) that payments from the Fund shall be made by the Treasurer, as required by the Director of Public Works, for the payment of the costs of closure and/or post-closure care of the landfill covered by this Resolution in accordance with the approved closure and/or post-closure plans.
5. Disbursement of funds for closure activities shall be in accordance with Title 132, Chapter 8 and as prescribed in Section 4(b) above.
6. Disbursement of funds for post-closure care shall be in accordance with Title 132 Chapter 8 and as prescribed in Section 4(b) above.
7. The Closure/Post-Closure Care Fund shall be invested by the Treasurer in the manner provided by law.
8. In the event the Director of the Nebraska Department of Environment and Energy (NDEE) determines that the City/County of _____ has failed, or is failing, to perform the closure and/or post-closure care activities in accordance with the approved closure and post-closure plans or as required by law, the NDEE Director may direct the City/County Treasurer or Chief Financial Officer to pay to the Director of Public Works from the Closure/Post-Closure Care Fund sufficient funds to pay the costs of closure and/or post-closure care, who then shall be obligated to use such funds for closure or post-closure care in accordance with the directives of the NDEE Director.
9. The Director of Finance and Director of Public Works are directed to provide an annual report to the Nebraska Department of Environmental Quality containing the following information regarding the financial responsibility of the _____ Landfill:
 - a) the most recent comprehensive annual financial report that includes the Enterprise Fund and the Governmental Accounting Standards Board (GASB) Statement #18 disclosures;
 - b) as appropriate revised closure and post-closure care cost estimates; and
 - c) a report of the status, including the current balance of the Closure/Post- Closure Care Fund and where the funds are held; and
 - d) the most recent "pay-in" amount equivalent to the "pay-in" amount for trust funds to cover the liabilities as determined by the updated closure and post- closure care cost estimates.

PASSED AND APPROVED this _____ day of _____, [year].
City/County of _____, Nebraska by _____ (Mayor/ Board Chairman)