

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO AN IRREVOCABLE CONTRACT OF OBLIGATION WITH ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY FOR CLOSURE OF THE NORTH LITTLE ROCK AIRPORT LANDFILL; AND FOR OTHER PURPOSES.

WHEREAS, the City of North Little Rock, Arkansas (the “City”) is the owner of a landfill located on property at the North Little Rock Airport (“NLR Airport”), and as the owner of a landfill, is required to provide financial assurances to the Arkansas Department of Environmental Quality (“ADEQ”) to ensure sufficient funds are on hand to meet the costs of closure, post closure and corrective actions for known releases; and

WHEREAS, pursuant to Ark. Code Ann. § 8-6-1603, municipal and county governments as owners or operators of solid waste management facilities may utilize an alternate method of providing financial assurance for closure, post-closure care and corrective care through the issuance of a Contract of Obligation to ADEQ; and

WHEREAS, the required amount of financial assurance for the NLR Airport solid waste management facility is \$5,916.08 annually for a period of five years; and

WHEREAS, the City deems it is necessary and proper to enter into a Contract of Obligation with ADEQ as authorized by Ark. Code Ann. § 8-6-1603.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH LITTLE ROCK, ARKANSAS:

SECTION 1: That the Mayor and City Clerk are hereby authorized to enter into a Contract of Obligation (substantially similar to Exhibit A attached hereto and incorporated herein by reference), and to sign said Contract on behalf of the City of North Little Rock.

SECTION 2: That funds for required annual payments of financial assurance pursuant to the Contract will be included in the City’s annual budgets beginning with the 2024 Budget.

SECTION 3: That this Resolution shall be in full force and effect from and after its passage and approval.

PASSED:

APPROVED:

Mayor Terry C. Hartwick

SPONSOR:

ATTEST:

TERRY C Hartwick
Mayor Terry C Hartwick *by AF*

Diane Whitbey, City Clerk

APPROVED AS TO FORM:

Amy Beckman Fields
Amy Beckman Fields, City Attorney

PREPARED BY THE OFFICE OF THE CITY ATTORNEY/kt

FILED	<u>11:00</u>	A.M.	_____	P.M.
By	<u>A. Fields</u>			
DATE	<u>9.3.24</u>			
Diane Whitbey, City Clerk and Collector North Little Rock, Arkansas				
RECEIVED BY	<u>S. Ussery</u>			

MUNICIPALITY SOLID WASTE FACILITY FINANCIAL ASSURANCE
AGREEMENT --
§8-6-1603(d)(4) (CONTRACT OF OBLIGATION)

1. The **CITY OF NORTH LITTLE ROCK** (MUNICIPALITY), a Municipality government of the State of Arkansas, is owner or operator of a solid waste management facility permitted by Arkansas Department of Energy and Environment, Division of Environmental Quality (DEQ) Permit No. **0138-S4-R3** (Permit). Pursuant to Ark. Code Ann. § 8-6-1603, MUNICIPALITY is required to provide financial assurance to ensure that sufficient funds are available to meet the costs of corrective action, closure and post-closure care of the permitted solid waste facility.

2. The current required amount of financial assurance for corrective action, closure and post-closure care as provided by Ark. Code Ann. § 8-6-1603(a), (b), and (c) for the MUNICIPALITY's permitted solid waste management facility is **FIVE-THOUSAND NINE HUNDRED-SIXTEEN DOLLARS AND .08 CENTS (\$5,916.08)**.

3. To satisfy its statutory obligations, MUNICIPALITY hereby elects to execute this binding agreement (AGREEMENT) described in Ark. Code Ann. § 8-6-1603(d)(4) as a "Contract of Obligation" in accord with the provisions of that statute and with Arkansas Pollution Control and Ecology Commission (APC&EC) Rule 22.1405(n) as codified in the Code of Arkansas Rules, 8 CAR §60-1405(o).

4. By this AGREEMENT, pursuant to the provisions of Ark. Code Ann. § 8-6-1603(d)(4) and Rule 22.1405(n) as codified in 8 CAR §60-1405(o), MUNICIPALITY pledges general revenues equal to the amount of the required financial assurance in Paragraph 2 of this AGREEMENT, and authorizes the Director of DEQ to collect any general revenues being disbursed or to be disbursed from the State to MUNICIPALITY pursuant to Rule 22.1406(b) as codified in 8 CAR §60-1406(b)

should MUNICIPALITY fail to properly perform corrective action, closure or post-closure of the permitted solid waste management facility as required by state law, agency rule, or the Permit.

5. This AGREEMENT is for one fiscal year of MUNICIPALITY and shall automatically renew for each subsequent fiscal year. MUNICIPALITY agrees that the amount of financial assurance required at the time of each annual renewal shall be based upon the latest available annual reporting mechanisms submitted for the permitted facility and reviewed and approved by DEQ. This amount may be increased or decreased upon each annual renewal as required to reflect estimated costs for corrective action, closure, and post-closure care.

6. MUNICIPALITY acknowledges that this AGREEMENT is legally valid, binding, and enforceable and is irrevocable unless terminated upon written approval from the DEQ Director that:

- a. The solid waste management facility has closed in compliance with the law; and
- b. MUNICIPALITY has completed post-closure care in compliance with the law; or
- c. MUNICIPALITY provides an alternate financial assurance mechanism acceptable to DEQ and in compliance with applicable law.

7. MUNICIPALITY shall file a copy of this AGREEMENT with the Commissioner of Revenues, Department of Finance and Administration and the Local Government Services Division, Arkansas State Treasury, no later than the tenth (10th) calendar day following the effective date of this AGREEMENT. MUNICIPALITY shall provide the DEQ Director with file-marked copies of this AGREEMENT no later than the fifteenth (15th) calendar day following the effective date of this AGREEMENT.

8. COUNTY represents and affirms that it has sufficient funds on-hand, appropriated by the annual budget, and available to comply with the terms and conditions of this AGREEMENT.

9. All notices required by this AGREEMENT shall be made by certified mail, return receipt requested, and addressed as follows:

Arkansas Department of Energy and Environment, DEQ
Attn: Bailey Taylor, Division of Environment Quality, Director
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317

City of North Little Rock, Arkansas
Attn: The Honorable Terry Hartwick, Mayor
P. O. Box 5757
North Little Rock, Arkansas 72119

Arkansas Department of Finance and Administration
Attn: Commissioner of Revenues
P.O. Box 1272
Little Rock, Arkansas 72203

Arkansas State Treasury
Attn: Local Government Services Division
220 State Capitol
Little Rock, Arkansas 72201

10. Funds collected through this AGREEMENT will be used for closure and post-closure activities in accordance with Rule 22. In the event that there are funds remaining after DEQ certifies the necessary closure and post-closure activities are completed then DEQ will return those funds to the MUNICIPALITY.

11. Nothing herein shall prevent DEQ from initiating any enforcement proceeding against MUNICIPALITY. Nothing herein is construed to relieve MUNICIPALITY from any closure or post-closure action resulting from the solid waste management facility that is the subject of the Permit.

Nothing herein is construed to limit the liability of MUNICIPALITY for any closure or post-closure resulting from the subject solid waste management facility to the amount established by this AGREEMENT.

12. This AGREEMENT shall be effective upon the DEQ Director's signature.

13. This AGREEMENT has been reviewed and approved by the governing body of the MUNICIPALITY in a duly called and convened meeting with a quorum present.

14. The governing body of the MUNICIPALITY has authorized the MUNICIPALITY JUDGE to sign this AGREEMENT on the behalf of MUNICIPALITY as evidenced by the attached resolution.

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

**Arkansas Department of Energy and Environment,
Division of Environmental Quality**

Bailey Taylor
Division of Environment Quality, Director

Date

MUNICIPALITY

Terry Hartwick
Mayor

Date

Attest:

[RECORDER/CLERK/DIRECTOR]

WHAT IS REQUIRED AT A MINIMUM:

- ✓ The financial assurance mechanism must ensure that the amount of funds assured is sufficient to cover the costs of closure, post-closure care, and corrective action when needed.

- ✓ The maximum amount pledged under the contract cannot exceed the total amount of general revenue disbursed to the County or Municipality in the last fiscal year, or, if approved by the DEQ Chief Administrator, the amount currently projected by the State to be disbursed during the current fiscal year.

- ✓ The contract of obligation must be irrevocable and issued for a period of at least one year.

- ✓ The owner or operator shall submit the contract of obligation on forms developed by DEQ and provided to the DEQ Director for approval.