



MEMORANDUM

Mark Whitley

TO: Timothy J. Baroody, City Manager
FROM: Mark Whitley, Assistant City Manager
RE: Change to Rappahannock Regional Solid Waste Board Agreement
DATE: March 10, 2020 (for March 10 Council Meeting)

ISSUE

Shall the City Council adopt a resolution that amends the agreement with Stafford County that governs the operation of the Rappahannock Regional Solid Waste Board (“R-Board”)?

RECOMMENDATION

Yes. Staff recommends the adoption of the attached resolution, which requires one reading.

BACKGROUND

The City and Stafford County have a long-standing partnership to operate a regional landfill in Stafford County, known as the “R-Board.” The partnership is governed by an Amended and Restated Operational Agreement, which provides for the governance and operation of the facility.

The landfill needs to move forward with the construction of the next landfill cell – Cell F3 – by the end of this calendar year. Unlike Cell F2, which the City and the County helped to finance, the R-Board is able to construct Cell F3 using R-Board funds. The R-Board is moving forward on that basis.

On a parallel track, the City and Stafford County have been working to re-negotiate certain terms of the Amended and Re-stated Operational Agreement, which is currently set to expire on December 31, 2024. The Amended and Re-stated Operational Agreement include provisions that the City and the County agree to share equally in the liability for damages, losses, expenses, and judgments arising out of the operations of the landfill, including closure, post-closure, and corrective action costs associated with the landfill that may be necessary in the future. The City and County have agreed that the proportional liability for the future Cell F3 should be re-set to an 80% County and 20% City split, which is more representative of the current jurisdictional source of the solid waste.

The attached resolution would amend the operating agreement to recognize this change. The City and the County are still in negotiations for additional changes to the operating agreement.

FISCAL IMPACT

The attached resolution would have a beneficial fiscal impact to the City, in that future liabilities would be more in-line with the volume of solid waste being taken to the landfill.

For information, the City at the close of FY 2019 had a liability for accrued landfill post-closure costs of \$1,438,386 on the Statement of Net Position. Actual future costs for these activities would depend upon the nature of any type of closure, post-closure, or corrective action activity.

As a note on the FY 2021 proposed Capital Improvements Plan, the City had included in the plan for FY 2021 financing for the construction of Cell F3. The ability of the R-Board to construct Cell F3 from its reserves allows the City to eliminate that project from the plan for the upcoming year.

cc: Kathleen Dooley, City Attorney
Robyn Shugart, Director of Finance



MOTION:

March 10, 2020
Regular Meeting
Resolution 20-__

SECOND:

RE: Approving an Amendment to the Stafford-Fredericksburg Regional Landfill Operational Agreement to Allocate Future Liabilities Resulting from the Construction and Operation of Landfill Cell F3

ACTION: APPROVED: Ayes: 0; Nays: 0

Stafford County and the City entered into the Operational Agreement for Regional Landfill on December 9, 1987 (the "Original Agreement"), which provided for the joint operation of a regional landfill in Stafford County serving both the County and the City (the "Landfill").

The Original Agreement was then amended and restated to reflect changes in the operation of the Landfill and to incorporate the previous amendment into one document by the Amended and Restated Operational Agreement for the Stafford-Fredericksburg Regional Landfill, dated January 24, 2000 (the "Amended and Restated Operational Agreement").

The County and City desire to amend the Amended and Restated Operational Agreement to address the liability resulting from the construction and operation of Landfill Cell F3.

Therefore, the City Council hereby resolves that:

- The City Manager is authorized to execute, deliver, and carry out the Amendment to the Amended and Restated Operational Agreement for the Stafford-Fredericksburg Regional Landfill in substantially the form submitted for approval.

Votes:

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

Clerk's Certificate

I certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No. 2x-__, adopted at a meeting of the City Council held March 3, 2020 at which a quorum was present and voted.

***Tonya B. Lacey, MMC
Clerk of Council***

AMENDMENT TO THE AMENDED AND RESTATED OPERATIONAL AGREEMENT
FOR THE STAFFORD-FREDERICKSBURG REGIONAL LANDFILL

THIS AMENDMENT TO THE AMENDED AND RESTATED OPERATIONAL AGREEMENT FOR THE STAFFORD-FREDERICKSBURG REGIONAL LANDFILL dated January 24, 2000 (“Amendment”) is entered into between the CITY OF FREDERICKSBURG, VIRGINIA, a Virginia municipal corporation, (the “City”) and the BOARD OF SUPERVISORS OF STAFFORD COUNTY, VIRGINIA, governing body of Stafford County, Virginia, a political subdivision of the Commonwealth of Virginia (the “County”), on this _____ day of _____, 2020.

RECITALS

WHEREAS, the County and the City entered into the Operational Agreement for Regional Landfill on December 9, 1987 (the “Original Agreement”), which provided for the joint operation of a regional landfill in Stafford County serving both the County and the City (the “Landfill”); and

WHEREAS, the Original Agreement was then amended and restated to reflect changes in the operation of the Landfill and to incorporate the previous amendment into one document by the Amended and Restated Operational Agreement for the Stafford-Fredericksburg Regional Landfill, dated January 24, 2000 (the “Amended and Restated Operational Agreement”); and

WHEREAS, the County and City desire to amend the Amended and Restated Operational Agreement to address the liability resulting from the construction and operation of Landfill Cell F3.

NOW THEREFORE, in consideration of mutual covenants contained herein, the parties agree to amend the Amended and Restated Operational Agreement as follows:

1. The foregoing recitals are incorporated herein as if restated in their entirety.
2. Section 8 Liability is amended to add an additional paragraph, to read as follows:

The City and County agree to share proportionally in the liability for all damages, losses, expenses and judgments arising out of the construction and operation of Landfill Cell F3, including closure and post closure costs and corrective action costs, based upon a calculation of 80% Stafford County and 20% City of Fredericksburg. This paragraph shall survive the withdrawal by the City and termination of the Agreement and under Section 7, or the expiration of the Agreement.

WHEREFORE, the parties evidence their intent to enter into this Amendment.

BOARD OF SUPERVISORS OF
STAFFORD COUNTY, VIRGINIA

By: _____

Printed Name: _____

Title: _____

CITY OF FREDERICKSBURG, VIRGINIA

By: _____

Printed Name: _____

Title: _____