

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AMENDMENT TO THE CONTRACT IN LIEU OF PERFORMANCE BOND WITH THE TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION INCREASING THE AMOUNT OF FINANCIAL ASSURANCE FOR THE LANDFILL; AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT; AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AMENDMENT OR THIS RESOLUTION

WHEREAS, Tennessee's solid waste act requires that landfill owners be able to demonstrate financial responsibility for future closure and post-closure activities; and

WHEREAS, in June 1996, the city executed a contract in lieu of a performance bond, and the present amount of financial assurance is \$2,275,158.26, which must be adjusted annually for inflation; and

WHEREAS, the new amount of financial assurance is \$2,534,012.12, and requires an amendment to the contract.

Now therefore,

BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN AS FOLLOWS:

SECTION I. That an amendment to the agreement with Tennessee Department of Environment and Conservation (TDEC) for the for the inflation adjustment for the financial assurance for the landfill, is approved.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized to execute, in a form approved by the city attorney, and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, an amendment to the Tennessee Department of Environment and Conservation (TDEC) for the for the inflation adjustment for the financial assurance for the landfill, to deliver the agreement and take any and all action as may be required on the part of the city to carry out, give effect to, and consummate the transactions contemplated by the agreement and this resolution, said amendment being generally as follows:

Department of Environment and Conservation, Division of Solid Waste Management

1. This amendment is made by the City of Kingsport ("the City"), and the Tennessee Department of Environment and Conservation ("the Department") to the Contract of Obligation in Lieu of Performance Bond for proper operation, closure and/or post-closure of the City of Kingsport Demolition Landfill, Permit Number DML82000016 Phase 1 Area 2 only entered on or about 07/24/1996 ("the Contract").
2. Paragraph 3 of the Contract is amended by deleting the language in the paragraph and substituting the following language, which shall constitute Paragraph 3 of the Contract:
The total penal sum of this contract is:
\$ 2,534,012.12
3. Except as set forth in this amendment, or another prior amendment, the Contract is unaffected and shall continue in full force and effect in accordance with its terms. If there is any conflict between this amendment and the Contract or any earlier amendment, the terms of this amendment shall control.
4. A copy of this amendment shall be filed with the Commissioner of the Tennessee Department of Finance and Administration.

5. All signatories to this amendment warrant that they have actual authority to enter this amendment on the terms contained herein.

6. This amendment shall be effective upon signature by all parties by a person authorized to bind each party. The Department shall note the EffectiveDate upon all signatures.

[Acknowledgements Deleted for Inclusion in this Resolution]

SECTION II. That the mayor is further authorized to make such changes approved by the mayor and the city attorney to the amendment/agreement set out herein that do not substantially alter the material provisions of the agreement, and the execution thereof by the mayor and the city attorney is conclusive evidence of the approval of such changes.

SECTION III. That the board finds that the actions authorized by this resolution are for a public purpose and will promote the health, comfort and prosperity of the citizens of the city.

SECTION IV. That this resolution shall take effect from and after its adoption, the public welfare requiring it.

ADOPTED this the 6th day of February, 2024.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY