



Legislation Details (With Text)

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On agenda: 12/19/2023 **Final action:** 12/19/2023
Title: A Resolution authorizing the third amendment to the second amended and restated lease between Holcim-Mamr, Inc. (Holcim), formerly known as LaFarge Aggregates Illinois, Inc., and the City of Aurora.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Exhibit A - 2024, 2. R22-200

Date	Ver.	Action By	Action	Result
12/19/2023	2	Committee of the Whole	(PLACED ON CONSENT AGENDA)	
12/19/2023	2	City Council	approved on the Consent Agenda	
12/14/2023	2	Finance Committee	recommended for approval	Pass

TO: Mayor Richard C. Irvin

FROM: Alex Alexandrou, Chief Management Officer
Ken Schroth, Director of Public Works/City Engineer
Robert Leible, Superintendent of Water Production

DATE: November 30, 2023

SUBJECT:

Amendment of the City's existing lease agreement with Holcim-Mamr, Inc. (Holcim), formerly known as LaFarge Aggregates Illinois, Inc. to extend certain lease internal deadlines as well as acknowledge price increases from the previous lease.

PURPOSE:

To afford the City additional time to secure regulatory approvals required for it to undertake a more cost-effective means of storing lime residual material produced in the City's water treatment process.

BACKGROUND:

All residents of the City of Aurora are provided with potable water from the city-owned and operated Water Treatment Plant (WTP). A key, primary treatment process utilized at the WTP is lime softening. This process removes and collects the solid particles that are present in the raw water sources (the Fox River and groundwater), as well as chemically softening the water to remove dissolved minerals and metals, which provides customers more aesthetically pleasing drinking water. As the solid particles and precipitates are removed by the clarification process, these treatment by-products are concentrated and removed for ultimate disposal.

Since the WTP's construction in 1992, the lime residual material has been disposed by landfilling at great annual expense to the City. In 2012, through an Illinois Environmental Protection Agency (IEPA) permit, the Water Production Division (WPD) began a program to dispose of the lime residual material via land application on agricultural fields. Land application allows a beneficial reuse of the waste product and reduces the cost of ultimate disposal by approximately 25%. As this process is still expensive, starting in 2006, a more efficient method of ultimate disposal was investigated regarding placing the lime residual in repurposed portions of a limestone mine.

The Holcim Limestone Mine (Holcim Mine) is located at the intersection of Interstate 88 and IL Highway 25. The mine is approximately 200 to 400 feet below grade, is located in both Aurora and North Aurora, and is mainly used to produce limestone and dolomite aggregates for construction uses. The portion of the mine located in Aurora is typically referred to as the south mine and currently has two distinct levels with a third level to be constructed in the future. The first two levels of the mine are almost spent (completely excavated) and thus are no longer useful for material production.

As such, the City and Holcim have been in discussions for quite some time to develop a plan to allow the lime residual material to be placed into the first two levels of the south mine as a method of ultimate disposal. In order to proceed with the placement of the material, a permit from IEPA is required. Through a lengthy process and via Permit No. UIC-015-COA, the IEPA approved the underground injection of the lime residual into the spent portions of the Holcim Mine as a method of ultimate disposal. This permit became effective on August 24, 2015.

Shortly thereafter in spring 2016, the City became aware of an alternate transfer method to physically place the lime residual material into the Holcim Mine at a substantially lower cost. However, this alternative method requires additional regulatory approvals and ultimately would require Holcim to change some of its mining processes and vacate a portion of its leasehold.

The City and Holcim entered into an amended lease in 2019 and then again in 2021 that specifically contemplated use of this alternate method upon future regulatory approvals. The agreement contemplated the City providing notice to Holcim by June 30, 2022, if it wished to discontinue its existing disposal methods. Because the City had not received approval for the alternative method, it was not in either party's best interest to allow for the lease to expire. In June of 2022 a lease amendment/extension was agreed to through December 31, 2023.

Legislative approval was received via HB 3095 being passed by the Illinois General Assembly in May of 2023 (Public Act 103-0333) and signed by Gov. Pritzker on July 28, 2023, which requires the Illinois Pollution Control Board (IPCB) to adopt rules for the placement of municipal utility-generated limestone residuals in a limestone mine that is located in whole or in part below the municipality, effective January 1, 2024. A proposed lease extension through December 31, 2025, allows for the IPCB rule-making process to occur as well as permitting, design engineering, and related construction.

The attached amended lease (Exhibit A) extends the Lease/Termination date to December 31, 2025. In addition, should the City and Holcim succeed in getting regulatory approvals, the amended lease allows for the continued cost share of the initial capital cost. The original agreement capped the City contribution at \$550,000, however due to inflation, the current estimated initial capital estimate has risen to approximately \$1.3M and the attached agreement now caps the City contribution at \$650,000.

The City previously agreed to pay Holcim \$19.00 per wet ton for hauling and placing the lime residual material in the Holcim Mine. Due to cost-of-living increases contemplated in the previous lease the amended lease set the 2022 value at \$20.71 per wet ton and will be further adjusted annually in the event the storage facility becomes operational.

DISCUSSION:

The proposed resolution authorizes an amendment to the lease agreement allowing the City additional time to complete the regulatory approvals for the alternative transfer method described above as well as adjustments to the costs due to inflation.

IMPACT STATEMENT:

Approval of this resolution will extend the existing lease between the City and Holcim while both parties work cooperatively to pursue regulatory approval.

RECOMMENDATIONS:

That the Finance Committee recommend the resolution for approval.

cc: Finance Committee



CITY OF AURORA, ILLINOIS

RESOLUTION NO. _____
DATE OF PASSAGE _____

A Resolution authorizing the third amendment to the second amended and restated lease between Holcim-Mamr, Inc. (Holcim), formerly known as LaFarge Aggregates Illinois, Inc., and the City of Aurora.

WHEREAS, the City of Aurora has a population of more than 25,000 persons and is, therefore, a home rule unit under subsection (a) of Section 6 of Article VII of the Illinois Constitution of 1970; and

WHEREAS, subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals, and welfare; and

WHEREAS, in 1998, the City entered into a lease agreement with the predecessor in interest to LaFarge Aggregates Illinois, Inc. ("LaFarge") to operate and maintain a mine below City property located in the vicinity of Interstate 88 and Mettel Rd; and

WHEREAS, in 2012, the City and LaFarge (collectively "the Parties") entered into a revised and restated lease agreement that permitted LaFarge to continue its mining operations while facilitating the City's need to transport and store lime residual material produced by its water treatment facility; and

WHEREAS, the City subsequently became aware of a more efficient alternative of transporting and storing its lime residual material and negotiated a second amended lease to provide for the contingency; and

WHEREAS, in 2019, the Parties entered into a said lease agreement that extended the lease until June 30, 2021; and

WHEREAS, in 2021 an amended lease was approved by both parties extending the lease/termination date to June 30, 2022; and

WHEREAS, in 2022 an amended lease was approved by both parties extending the lease/termination date to December 31, 2023; and

WHEREAS, the City has obtained legislative approval but must still complete rulemaking via the Illinois Pollution Control Board as well as permitting, design, and construction relating to the alternate method of ultimate disposal; and

WHEREAS, Holcim also wishes to continue its operations and has no objection to affording the City additional time to obtain regulatory approval.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Aurora, Illinois, as follows: that an amendment to the lease agreement with Holcim US, with terms consistent with the purposes of this resolution shall be and hereby is authorized; and further,

BE IT RESOLVED, that the Mayor shall be and hereby is authorized to execute an amended lease agreement that substantially confirms to the amendment set forth in Exhibit A to this Resolution or a similar amendment or memoranda which accomplishes the purposes of this resolution and does not adjust any additional material term of the existing lease agreement.