



Legislation Details (With Text)

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Title: A Resolution authorizing the second amendment to the second amended and restated lease between Holcim-Mamr, Inc., formerly known as Lafarge Aggregates Illinois, Inc. and the City of Aurora.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Exhibit A - LaFarge Second Amendment to Second Amended Lease 2022

Date	Ver.	Action By	Action	Result
6/28/2022	3	City Council	approved on the Consent Agenda	
6/21/2022	3	Committee of the Whole	(PLACED ON CONSENT AGENDA)	
6/16/2022	3	Finance Committee	recommended for approval	Pass

TO: Mayor Richard C. Irvin

FROM: Water Production Division
Law Department

DATE: June 13, 2022

SUBJECT:

Amendment of the City's existing lease agreement with Holcim-Mamr, Inc, 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 product produced by the City's water treatment plant.

BACKGROUND:

All residents of the City of Aurora are provided with potable water from the City-owned and operated Water Treatment Plant (WTP). The main treatment process utilized at the WTP is the lime-softening process. This process not only removes and collects the solid particles that are present in the raw water sources (Fox River, shallow well, and deep well water), but also softens the water to provide customers with more aesthetically pleasing drinking water. As the solid particles are removed by the treatment process, they are concentrated and collected, and this by-product must be ultimately disposed.

Since the WTP's construction in 1992, the lime residual 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 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-Mamr Limestone Mine (HM-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 the IEPA is required. Through a lengthy process and via Permit No. UIC-015-COA, the IEPA has approved the underground injection of the lime residual into the spent portions of the HM-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 HM-Mine at a substantially lower cost. This alternative method, however required additional regulatory approvals and would ultimately require Holcim to change some of its mining processes and vacate a portion of its leasehold.

The City and Lafarge 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 LaFarge by June 30, 2022 if it wishes to discontinue its existing disposal methods. Because the City has not received approval for the alternative method, it is not in either party's to allow for the lease to expire.

The attached amended lease (Exhibit A) extends the Lease / Termination date to December 31, 2023. In addition, should the City and Holcim succeed in getting regulatory approvals, the amended lease allows for the continued cost share of the initial cost 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 sludge. Due to cost of living increases contemplated in the previous lease the amended lease sets the 2022 value at \$20.71 per wet ton and will be further adjusted due to cost of living changes for every subsequent year 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 explore the alternative transfer method described above as well as adjusts estimated 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 other regulatory approvals.

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 second amendment to the second amended and restated lease between Holcim-Mamr, Inc., 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, 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 waste product produced by its water treatment facility; and

WHEREAS, the City subsequently became aware of a more efficient alternative of transporting and storing its waste products 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, the City has not yet obtained the regulatory approvals for the alternate method of transporting; and

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

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-Mamr, Inc. 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.