

**OFFICE OF THE CITY MANAGER
LITTLE ROCK, ARKANSAS**

**BOARD OF DIRECTORS COMMUNICATION
MARCH 19, 2024 AGENDA**

<p>Subject:</p> <p>Authorization to execute a Consent Administrative Order with the Arkansas Department of Energy & Environment, Division of Environmental Quality regarding a Civil Penalty at the City of Little Rock Landfill.</p> <p>Submitted By:</p> <p>City Attorney’s Office</p>	<p>Action Required:</p> <p style="text-align: center;">Ordinance √ Resolution</p>	<p>Approved By:</p> <p style="text-align: center;">Emily Cox Acting City Manager</p>
<p>SYNOPSIS</p> <p>FISCAL IMPACT</p> <p>RECOMMENDATION</p> <p>BACKGROUND</p>	<p>A resolution to execute a Consent Administrative Order with the Arkansas Department of Energy & Environment, Division of Environmental Quality regarding a Civil Penalty at the City of Little Rock Landfill.</p> <p>The total cost of the Civil Penalty is \$5,940.00.</p> <p>Approval of the resolution.</p> <p>On March 14, 2023, Division of Environmental Quality (DEQ) personnel conducted a routine compliance inspection of the City of Little Rock’s Landfill. During this inspection, it was found that three (3) emergency generators had been replaced without a required modification of the DEQ Operating Title V Air Permit. DEQ alleged that this action violates General Provision 23 of the Permit and therefore alleges a violation of Ark. Code Ann.§ 8-4-217(a)(3)¹,</p> <p>On April 12, 2023, DEQ personnel notified Public Works Staff of the alleged violations found during the inspection.</p>	

**BACKGROUND
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On May 8, 2023, Public Works provided a response to DEQ, stating that they would prepare a permit modification application to remove the sources no longer present at the Landfill and to add the unpermitted sources to the permit.

On June 13, 2023, DEQ notified Public Works that the alleged violations regarding the three (3) unpermitted emergency generators were routing through formal enforcement channels, and on October 2, 2023, DEQ sent Public Works a proposed Consent Administrative Order (CAO). Under the authority of Ark. Code Ann. § 8-4-103, Arkansas Pollution Control & Ecology Commission Regulation No. 7 and the DEQ Uniform Penalty Policy, DEQ proposed a Civil Penalty of \$7,920.00. DEQ counted each unpermitted emergency generator as a separate violation. In response to the proposed CAO, on November 8, 2023, Public Works submitted a permit modification application for the three (3) unpermitted emergency generators located at the Landfill.

On January 23, 2024, DEQ sent Public Works a re-proposed CAO that included a Paragraph 12 in the Findings of Fact Section that added the Public Works Permit modification application. On January 24, 2024, Public Works notified the City Attorney's Office of the re-proposed CAO and asked that a legal review of the document be conducted.

The City Attorney's Office contacted the DEQ Legal Office and requested that a DEQ Attorney make contact to discuss the re-proposed CAO. On January 30, 2024, the City Attorney's office e-mailed Public Works the proposed redlined clarifications to the CAO, and on January 31, 2024, Public Works responded that they had reviewed the comments and approved that the redlined CAO be sent to DEQ for their review.

On February 20, 2024, the City received a revised CAO from the DEQ Legal Office, and the requested changes to the CAO were made and the negotiated reduction of the proposed Civil Penalty was amended from \$7,920.00 to \$5,940.00 in full settlement of the alleged violations referenced in the CAO.

The final executed CAO is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and is not effective until thirty (30) calendar days after public notice of the CAO is given.