

COUNTY OF MILWAUKEE
INTER-OFFICE COMMUNICATION

DATE: June 24, 2022

TO: Marcelia Nicholson, Chairwoman, County Board of Supervisors

FROM: Scott B. Manske, Comptroller, Office of the Comptroller
Calli Berg, Director, DAS – Economic Development Division

SUBJECT: Response to Audit Recommendations #7 and #8: Status of Landfill Infrastructure Capital Fund and other Financial Items Contained within the Contribution and Participation Agreement

REQUEST

The Audit report, “Between The Rock and a Hard Place: Former Landfill Becomes Entertainment Center with Unresolved Community Concerns Beyond the County’s Ability to Solve” was released in August 2021. The report included several recommendations. Two of the recommendations were for the Department of Administrative Services – Economic Development to work with the Office of the Comptroller to provide a status of the Landfill Infrastructure Capital (“LIC”) Fund and other financial items contained within the Contribution and Participation Agreement. The estimated vs. actual LIC Fund contributions are included in the table below. As of April 25, 2022 there have been no distributions from the LIC Fund.

The County contributes an amount equal to the tax share collected by the County for real and personal property located within the tax incremental financing (“TIF”) district. The amount was estimated to be \$20,000 annually. The actual amounts are determined by multiplying the base amount of the TIF district by County’s tax rate. BPC (“Ballpark Commons”) County Land LLC is to contribute \$127,000 annually till 2038. The annual amount will become \$136,000 in 2039 and \$186,000 in 2059.

LIC Fund Contributions and Total Balance as of April 25, 2022							
	BPC County Land (Buyer)				Milwaukee County (Seller)		
	Estimate	Actual	Variance		Estimate	Actual	Variance
2019	\$ 127,000.00	\$ 127,000.00	\$ -		\$ 20,000.00	\$ 14,928.23	\$ (5,071.77)
2020	\$ 127,000.00	\$ 127,000.00	\$ -		\$ 20,000.00	\$ 14,566.96	\$ (5,433.04)
2021	\$ 127,000.00	\$ 127,000.00	\$ -		\$ 20,000.00	\$ 14,022.46	\$ (5,977.54)
2022 YTD	\$ 127,000.00	\$ 31,750.00			\$ 20,000.00	\$ 13,047.63	\$ (6,952.37)
Subtotal		\$ 412,750.00				\$ 56,565.28	
Collected	\$ 469,315.28	In Transit	\$ (13,047.63)	Bank Fees	\$ (528.94)	Bank Stmt	\$ 455,738.71
Note: The 2022 collected amount reflects the first quarter contribution made by the Buyer and the Contribution made by Milwaukee County to BPC County Land in January 2022. It is expected that the Buyer will make the remaining quarterly payments before the end of the year. The total includes Bank Service Fees.							

The 2022 collected amount in the table above reflects the first quarter contribution made by BPC County Land (aka “Buyer”). It is expected that the Buyer will make the remaining quarterly payments before the end of the year. The collected amount reflects the payment made

by Milwaukee County (aka “Seller”) to BPC County Land LLC in January 2022 but had not yet been transferred to the LIC Fund bank account. The total also includes bank service fees.

BACKGROUND

Since 1999, Milwaukee County owned and operated the gas migration system and monitored ground water and leachate levels at the former Franklin Landfill to stay in compliance with Wisconsin Department of Natural Resources (“WDNR”) requirements. The County contracted for the service of maintenance and testing of the landfill gas control systems.

In late 2017 and early 2018, the County entered into the following agreements with the Rock:

- Option to Purchase Agreement
- Development Agreement
- Contribution and Participation Agreement
- Ski Hill Lease

LIC Fund

The LIC Fund is included in the Contribution and Participation Agreement (“Agreement”) between BPC County Land LLC (aka “the Buyer”) and Milwaukee County (aka “the Seller”). The LIC Fund was primarily intended to be used for the estimated future capital costs of replacing the landfill infrastructure, including the methane control system that is likely to be needed as long as decomposing organic wastes remain at the property.

The Buyer is responsible for administering all future capital and operating needs of the landfill infrastructure, including the methane control system, which is offset in whole or in part, by funding from the LIC Fund. The parties also intended that the LIC Funds can be secondarily sought by the Buyer to help with extraordinary operating costs of the landfill and/or methane control system subject to specific limitation of the Agreement.

The LIC Fund is governed by an Oversight Committee. The representatives of the Oversight Committee included a representative from the Buyer, the Seller, and the Ball Park Commons (“BPC”) Association. The three members are currently: Tom Johns (Chief Financial Officer, Roc Ventures), Scott B. Manske (Milwaukee County Comptroller), and Maureen O’Leary (Owner/President O’Leary-Guth Law Office, S.C.).

Upcoming use of LIC Funds

On May 19, 2022 a meeting of the Landfill Oversight Committee occurred. The Committee unanimously approved a motion to use \$95,000 from the LIC Fund to perform the activities identified by Foth Engineering, who is the Environmental Site Consultant. Foth Engineering and BPC identified six tasks appropriate for improvement. These tasks include:

- Monitoring well optimization
- Monitoring well improvements
- Gas probes optimization
- Gas extraction well placements
- Leachate flow investigation
- Knockout sump improvements

These infrastructure improvements are anticipated to minimize operational costs and increase efficiency and infrastructure longevity. Modifications will be submitted to the Wisconsin Department of Natural Resources, as required.

RECOMMENDATION

This report is informational only. It is recommended to be placed on file.

SCOTT MANSKE _____

Scott B. Manske
Milwaukee County Comptroller

Calli Berg _____

Calli Berg
Director, DAS – Economic Development Division

cc: David Crowley, County Executive
Felesia A. Martin, Chairwoman, Audit Committee
Mary Jo Meyers, Chief of Staff, County Executive
Kelly Bablitch, Chief of Staff, County Board
Aaron Hertzberg, Director, Department of Administrative Services
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