

**RESOLUTION NO. 18-54**

**A RESOLUTION DESIGNATING CERTAIN FUNDS IN ITS  
WATER FUND ACCOUNT "RESERVES FOR RADIUM REMOVAL"  
FOR RADIUM REMOVAL CONTINGENCIES**

**WHEREAS**, on or about the 2<sup>nd</sup> day of May 2006, the Village of Antioch ("Village") entered into a certain Radium Removal System Treatment Agreement ("Agreement") between the Village, WRT Environmental, LLC ("Environmental"), and R.M.D. Operations, LLC ("RMD"), a true and correct copy of which is attached hereto as Exhibit A; and

**WHEREAS**, on or about October 30, 2008, in a corporate consolidation action Environmental merged into a sister-company, Water Remediation Technology, LLC ("WRT"), with WRT being the surviving entity; and

**WHEREAS**, also on or about October 30, 2008, WRT assumed all of the assets, liabilities, rights, and obligations of RMD, including RMD's position in the Agreement and any of RMD's radioactive material licenses; and

**WHEREAS**, pursuant to the Agreement, radium is removed from the Village's public water supply and then must be removed from certain vessels and transported to a licensed disposal facility; and

**WHEREAS**, under the Agreement, WRT is required to remove and properly dispose of the spent media which contains radium from a radium removal site ("Site or Sites") with the Village; and

**WHEREAS**, a license has been issued to WRT (license #IL-02251-01) by the Illinois Emergency Management Agency, ("Agency") for the Site or Sites; and

**WHEREAS**, the Village acknowledges that, while WRT has contractual and legal obligations to remove all of the radium from the Site or Sites, if WRT does not remove the radium from the Site or Sites, such removal obligation will, as a practical matter, devolve upon the Village as the owner of the underlying property; and

**WHEREAS**, Section 326.30 of Title 32 of the Illinois Administrative Code requires that the licensee WRT must provide satisfactory financial assurances to the State of Illinois to ensure the protection of public health and safety in the event of abandonment, default or other inability of WRT to properly remove all of the radium from the Site or Sites; and

**WHEREAS**, under the Agreement, WRT has shifted to the Village this regulatory requirement of providing financial assurances; and

**WHEREAS**, the definition of financial assurance arrangement in Section 326.40 of Title 32 of the Illinois Administrative Code provides for alternate financial assurances as approved by the Agency; and

**WHEREAS**, the Village provides such financial assurances without prejudice to any action, cause of action, lawsuit or other recourse which it may have against WRT or others, under the Agreement or through some other action either at law or in equity; and

**WHEREAS**, this Resolution and the attached Self-Guarantee and Village Treasurer Statement are being adopted and the Village is obligating itself with regard to the State to perform as herein contemplated pursuant to the authority of the Intergovernmental Cooperation Act (5 ILCS 220/1 et seq.) and the Intergovernmental Cooperation provisions of the Illinois Constitution (Article VII Section 10, Illinois Constitution) and any and all other authority as such exists; and

**WHEREAS**, the Village's Water Fund has and will have sufficient cash available on hand to perform the radium removal without materially affecting the cash flow and operation of the Village water system; and

**WHEREAS**, the Village Board recognizes that the Agency may, from time to time, increase or reduce the financial assurances it imposes on the Village and the WRT, and that it is appropriate and prudent to direct the Village Administrator to budget and appropriate funds on a timely basis as such increases or reductions are announced by the Agency;

**NOW, THEREFORE BE IT RESOLVED**, by the Mayor and Board of Trustees of the Village of Antioch, Lake County, Illinois as follows:

**SECTION 1. Incorporation of Preambles:** The Preambles to this Resolution and all Exhibits are incorporated herein as if fully set forth in this Section 1.

**SECTION 2. Creation of Reserve:** There is hereby created within the Village's Water Fund the following line item: "Reserve for Radium Removal Contingencies" (the "Reserve").

**SECTION 3. Reserve Balance:** Unless monies in the Reserve are used to remove radium from a Site or Sites, the Village shall maintain a balance in the Reserve of not less than one hundred and thirty-four thousand, seven hundred and fifty dollars (\$134,750.00). The Reserve shall be fully funded 18 months from the date of this Resolution, the earliest anticipated date when reclamation activities and removal of spent media may become necessary should the licensee be unable to perform its contractual obligation. The monies in this Reserve shall not be used for any purpose except removal of radium from the Site or Sites. These monies shall be held for the benefit of the Agency until such time as regulations, statutes, or other applicable rule or opinion no longer require this commitment. The Village Administrator is directed to maintain communications with the Agency and to provide, by budgeting and appropriations subject to all applicable laws and ordinances, that the amount in the Reserve shall be increased or decreased on a timely basis, pursuant to any updated Reclamation Plan and Cost

Estimate as may in the future be approved in writing by the Agency.

**SECTION 4. Use of Reserve:** In the event of a default by WRT under the Agreement or when otherwise required by the Agency, the Village shall remove and properly dispose of all such radium in a properly licensed disposal facility. The Agency shall have oversight and approval of any expenditures of the Reserve. The Village may utilize the monies earmarked in the Reserve for such purpose.

**SECTION 5. Guarantee:** The Mayor hereby authorized and directed to execute on behalf of the Village a Self-Guarantee substantially in the form of Exhibit B attached hereto. The Village Treasurer is directed to execute the Statement substantially in the form of Exhibit C attached hereto.

**SECTION 6. Severability:** If any section, paragraph, clause or provision of this Resolution is held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Resolution.

**SECTION 7. Repealer:** All ordinances, resolutions, orders or parts thereof, which conflict with the provisions of this Resolution, are to the extent of such conflict, hereby repealed.

**SECTION 8. Effective Date:** This Resolution shall be in full force and effect after its passage and approval. The Village may only repeal or amend this Resolution with the prior written consent of the Illinois Emergency Management Agency.

**PASSED** this 13<sup>th</sup> day of August, 2018.

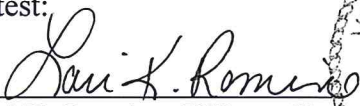
AYES: 6: Jozwiak, Pierce, Poulos, Dominiak, Johnson and Macek.

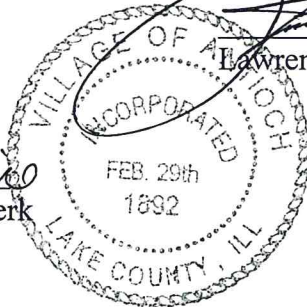
NAYS: 0.

ABSTAIN: 0.

**APPROVED** this 13<sup>th</sup> day of August, 2018.

Attest:

  
Lori K. Romine, Village Clerk



  
Lawrence M. Hanson, Mayor

EXHIBIT B  
**SELF-GUARANTEE**

This Self-Guarantee is made this 13 day of August, 2018 by the Village of Antioch (“Village”) to the Illinois Emergency Management Agency, (“Agency”). For purposes of this Self-Guarantee, the “licensee” means Water Remediation Technology, LLC or its successors or assigns. This Self-Guarantee is being given with regard to Water Remediation Technology, LLC License Number IL-02251-01.

**RECITALS**

1. The Village has the full authority and capacity to enter into this Guarantee under the authority of and cited in Resolution No. 18-54 adopted by the Village.
2. This guarantee is being issued to comply with regulations issued by the Agency, pursuant to the Radiation Protection Act of 1990. The Agency has promulgated regulations in 32 Ill. Adm. Code 326 that require that general or specific licensees provide assurance that funds will be available when needed for reclamation activities. While the Village is not a licensee, as approved by the Agency, the Village is permitted to provide this guarantee in lieu of the licensee.
3. The guarantee is issued to provide financial assurance for reclamation activities associated with the removal of radium from the Village’s public water supply as required by 32 Ill. Adm. Code 326. The reclamation costs are as follows: one hundred and thirty-four thousand, seven hundred and fifty dollars (\$134,750.00). This amount shall be placed in a separate account Reserve within 18 months after the date of this Self-Guarantee, when reclamation activities and removal of spent media may become necessary.
4. Reclamation activities as used below refer to the activities required by 32 Ill. Adm. Code 330 for reclamation of a facility located at Wells No. 9 and No. 10 in the Village of Antioch, Illinois.
5. The Village guarantees to the Agency that in the event of a refusal by the licensee to perform or when otherwise required by the Agency that it will: (A) Carry out the required reclamation activities as required by 32 Ill. Adm. Code 330; or (B) Upon written notification from the Agency, pay the reclamation cost amount guaranteed for the Facility(ies) to the Agency as directed by the Director of the Illinois Emergency Management Agency. The Agency shall have oversight and approval of any expenditure of the funds pledged herein.
6. The Village shall submit audited financial statements to the Agency annually within 90 days after the close of its fiscal year. Upon review, if the Agency deems it necessary, the

Village of Antioch, Illinois

Village shall provide alternate financial assurance within 120 days of such written notice by the Agency.

7. The Village, as well as its successors and assigns, agrees to remain bound under this guarantee notwithstanding any or all of the following: amendment or modification of the license or Agency-approved reclamation funding plan for that facility, the extension or reduction of the time of performance of required activities, or any other modification or alteration of an obligation of the licensee pursuant to 32 Ill. Adm. Code 326.
8. The Village shall remain bound under this guarantee for as long as the licensee must comply with the applicable financial assurance requirements of 32 Ill. Adm. Code 326 for the previously listed facility(ies) or if the Village is no longer required by law and valid contract to comply.
9. All bound parties shall be jointly and severally liable for all litigation costs incurred by the Agency in any successful effort to enforce this guarantee.

This Self-Guarantee is issued this 13 day of August, 2018 at the Village of Antioch, Illinois.

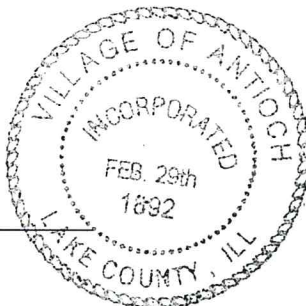
By: \_\_\_\_\_

Lawrence M. Hanson  
In his capacity as Mayor  
and not individually

Attest:

By: \_\_\_\_\_

Lori K. Romine, Village Clerk



*Village of Antioch, Illinois*

**VILLAGE TREASURER'S STATEMENT**

I am the Treasurer for the Village of Antioch, an Illinois municipal corporation. This letter is in support of the Village providing an alternate financial assurance for the reclamation of Village well sites in the event of a failure or refusal of the licensee Water Remediation Technology, LLC under License No. IL -02251-01 or its successors or assigns to perform such remediation or at the request of the Director of the Illinois Emergency Management Agency.

I certify that attached hereto are the latest audited financial statements of the Village of Antioch, Illinois.

Executed at the Village of Antioch, Illinois  
This 17 day of August, 2018.

  
\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
Treasurer