

**NOTICE OF OPEN MEETING & VOTE TO  
CLOSE PART OF THE MEETING  
A G E N D A  
COUNCIL MEETING  
City of Moberly  
City Council Room – Moberly City Hall  
101 West Reed Street  
July 22, 2019  
12:00 PM**

**Posted: SPECIAL MEETING**

**Pledge of Allegiance**

**Roll Call**

**Approval of Agenda**

**Recognition of Visitors**

**Communications, Requests, Informational Items & Consent Calendar**

**Public Hearing and Receipt of Bids**

**Ordinances & Resolutions**

- 1.** A resolution approving execution of a Cooperative Agreement with the Missouri Department of Natural Resources

**Official Reports**

**Anything Else to Come Before the Council**

**Adjournment**

**The public is invited to attend the Council meeting. Representatives of the news media may obtain copies of this notice by contacting the City Clerk. If a special accommodation is needed as addressed by the Americans with Disabilities Act, please contact the City Clerk twenty-four (24) hours in advance of the meeting.**

# City of Moberly City Council Agenda Summary

Agenda Number: #1.  
 Department: Utilities  
 Date: July 22, 2019

**Agenda Item:** A resolution approving execution of a Cooperative Agreement with the Missouri Department of Natural Resources

**Summary:** Industrial operations at the Orbco facility in Moberly have previously been identified as the source of TCE pollutants. The state now wishes to sample our sewer system to determine if any vapor emissions of TCE are present near the Orbco facility. The state has requested access to the sewer and cooperation in their sampling process from city staff. The Cooperative Agreement provides for the manner in which sewer access will be allowed, an expiration date and for the sharing of information derived from the sampling.

**Recommended Action:** Approve the Agreement and pass the accompanying Resolution

**Fund Name:** N/A

**Account Number:** N/A

**Available Budget \$:** N/A

ATTACHMENTS:		Roll Call	Aye	Nay
<input type="checkbox"/> Memo	<input type="checkbox"/> Council Minutes	<b>Mayor</b>		
<input type="checkbox"/> Staff Report	<input type="checkbox"/> Proposed Ordinance	M__ S__ <b>Jeffrey</b>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Correspondence	<input checked="" type="checkbox"/> Proposed Resolution	<b>Council Member</b>		
<input type="checkbox"/> Bid Tabulation	<input type="checkbox"/> Attorney's Report	M__ S__ <b>Brubaker</b>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> P/C Recommendation	<input type="checkbox"/> Petition	M__ S__ <b>Kimmons</b>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> P/C Minutes	<input type="checkbox"/> Contract	M__ S__ <b>Davis</b>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Application	<input type="checkbox"/> Budget Amendment	M__ S__ <b>Kyser</b>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Citizen	<input type="checkbox"/> Legal Notice			
<input type="checkbox"/> Consultant Report	<input type="checkbox"/> Other _____		Passed	Failed

**BILL NO:** \_\_\_\_\_

**RESOLUTION NO.** \_\_\_\_\_

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A COOPERATIVE AGREEMENT FOR SITE ACCESS WITH THE MISSOURI DEPARTMENT OF NATURAL RESOURCES.**

**WHEREAS**, the Missouri Department of Natural Resources previously identified an industrial site within the City of Moberly as a site where TCE was present; and

**WHEREAS**, the Missouri Department of Natural Resources has made a request to city staff that it be allowed access to the city sewer system to investigate for the presence of TCE vapor near the industrial site; and

**WHEREAS**, attached hereto is a Cooperative Agreement between the city and the Missouri Department of Natural Resources permitting access to the city sewer system and further identifying the rights and liabilities of the parties with respect to such agreement.

**NOW, THEREFORE**, the Moberly, Missouri, City Council hereby directs the City Manager to execute the Cooperative Agreement for Site Access/Permission to Enter Property and take such other measures as may be necessary to effectuate the terms of said Agreement.

**RESOLVED** this 22<sup>nd</sup> day of July, 2019, by the Council of the City of Moberly, Missouri.

\_\_\_\_\_  
Presiding Officer at Meeting

**ATTEST:**

\_\_\_\_\_  
City Clerk

## Cooperative Agreement for Site Access/Permission to Enter Property

This Site Access Agreement (“Agreement”) is made by and between the City of Moberly (“Owner”), and the Missouri Department of Natural Resources (MDNR) regarding the Owner’s property located at [in close proximity to the Orbc facility along Morley Street] (“Site”). The MDNR requests permission to enter the Site for the exclusive purposes of conducting TCE environmental investigation activities. The site is comprised of sewer lines and city owned utility right-of-ways within the area shown on Figure 1.

1. Owner hereby gives permission to the MDNR’s agents or assigns (including, but not limited to, MDNR employees, authorized environmental consultants and/or contractors, or other designees authorized by the MDNR (collectively, “Authorized Parties”) to enter upon the Site to perform investigation activities at the Site. This permission is effective immediately upon the execution of this Agreement by Owner and the MDNR.
2. The permission granted by Owner under this Agreement is contemplated to be used for the following activities that may be performed by Authorized Parties:
  - a. Investigation of soil and groundwater for TCE and its degradation products and no other parameters, including, but not limited to, the installation of soil borings, the use of drilling equipment for collection of soil and sediment samples, videotaping, preparation of site sketches, taking photographs, any testing or sampling of groundwater, soil, air, and soil vapor.
  - b. Disclosure of environmental information as required by law.
3. Upon completion of the investigation, Authorized Parties will restore the property as near as practicable to its condition immediately prior to the commencement of such activities.
4. The granting of this permission by the Owner is not intended, nor should it be construed, as an admission of liability on the part of the Owner or the Owner’s successors and assigns for any contamination discovered on the Site.
5. Authorized Parties may enter the Site during normal business hours and may also make special arrangements to enter the Site at other times after agreement from the Owner.
6. Authorized Parties shall enter upon the Site at their own risk, and Owner shall not be held responsible or liable for injury, damage, or loss incurred by any Authorized Party arising out of or in connection with activities under this Agreement.
7. Each Authorized Party severally hereby indemnifies and holds Owner harmless from any and all claims or causes of action arising out of or related to the acts or omissions of said Authorized Party in connection with the performance of activities under this Agreement.

8. The Program will supply to Owner all information derived from the environmental investigation conducted at the Site. The MDNR may use such information for any purpose at the MDNR’s sole discretion. Information will be held in confidence except as instructed by the Owner, MDNR, the Program, or as required by law.

9. In exercising its access privileges, Authorized Parties will take reasonable steps not to interfere with the Owner’s operations or other property owners on the Site.

10. Authorized Parties will give notice to the Owner at least one (1) week in advance of the start of field activities on the Site.

11. Any party to this Agreement may terminate this Agreement by giving one (1) week advanced written notice, or all parties may terminate the Agreement at any time by written agreement.

12. This Agreement shall expire on October 1, 2019 unless an extension is granted in writing by Owner.

**City of Moberly**

\_\_\_\_\_  
Brian Crane, City Manager  
101 West Reed Street  
Moberly, Missouri 65270  
660-269-7659

\_\_\_\_\_  
Date

Accepted by the **Missouri Department of Natural Resources:**

\_\_\_\_\_  
Martin Kator  
Site Assessment Unit Chief  
Hazardous Waste Program

\_\_\_\_\_  
Date