

Agenda
Stormwater Utility Committee Meeting
625 52nd Street, Room 202
Monday, June 13, 2016
5:30 PM

Chairperson Jesse Downing
Vice Chairperson Kevin E. Mathewson
Aldersperson David F. Bogdala

Aldersperson John Fox
Aldersperson Mitchell Pedersen
Aldersperson G. John Ruffolo

Call to Order
Roll Call
Citizens Comments

Approval of the Minutes of the Meeting Held on May 16, 2016.

1. Ordinance by the Mayor – To Repeal and Recreate Subsection 29.04, To Recreate Subsection 29.05 and to Repeal and Recreate Subparagraph 29.06 D. (of the Code of General Ordinances) Regarding the Statement of Economic Interest. (also referred to PSW, L/P and PW)
2. Stormwater Drainage Facilities Maintenance Agreement Between the City of Kenosha, First Park 94, LLC and the Village of Somers.
3. Change Order (Contract Deadline Only) for Project 15-1120 Detention Basin Dredging (Heritage Heights North of 69th Street & East of 152nd Avenue and White Caps E – East of 93rd Court & 68th Street) (Districts 16 & 17) (referred to PW)
4. Award of Contract for Project 16-1018 7th Avenue Resurfacing (7th Avenue – 65th Street to 68th Street) to Cicchini Asphalt, LLC (Kenosha, Wisconsin) in the amount of \$414,500.00. (\$46,000.00 Storm Sewer Funds) (District 3) (referred to PW)

ALDERPERSONS' COMMENTS

IF YOU ARE DISABLED AND NEED ASSISTANCE, PLEASE CALL 653-4050 BY NOON BEFORE THIS MEETING TO MAKE ARRANGEMENTS FOR REASONABLE ON-SITE ACCOMMODATIONS.

STORMWATER UTILITY COMMITTEE
- MINUTES -

MONDAY, MAY 16, 2016
5:30 PM

Chairperson Jesse Downing
Vice Chairperson Kevin E. Mathewson
Aldersperson David F. Bogdala

Aldersperson John Fox
Aldersperson Mitchell Pedersen
Aldersperson G. John Ruffolo

The regular meeting of the Stormwater Utility Committee was held on Monday, May 16, 2016 in Room 202 of the Municipal Building. The following members were present: Chairperson Jesse Downing, Vice Chairperson Kevin E. Matheson, Alderspersons David F. Bogdala, John Fox, Mitchell Pedersen and G. John Ruffolo. The meeting was called to order at 6:06 PM. Staff member in attendance was Shelly Billingsley, Director of Public Works.

Approval of minutes of regular meeting held on May 2, 2016.

It was moved by Aldersperson Mathewson, seconded by Aldersperson Bogdala to approve. Motion passed 6-0.

1. Award of Contract for Project 16-1208 Sidewalk & Curb/Gutter Program (Citywide Locations) to A.W. Oakes & Son, Inc. (Racine, Wisconsin) in the amount of \$695,000.00. (\$78,500.00 Stormwater Funds) (All Districts) (referred to PW)
It was moved by Aldersperson Ruffolo, seconded by Aldersperson Mathewson to approve. Motion passed 6-0.
2. Disbursements for the month of April 2016.
It was moved by Aldersperson Ruffolo, seconded by Aldersperson Mathewson to receive and file. Motion passed 6-0.

ALDERPERSONS' COMMENTS

ADJOURNMENT - *There being no further business to come before the Stormwater Utility Committee, it was moved, seconded and unanimously approved to adjourn the meeting at 6:09 PM.*

ORDINANCE NO.

SPONSOR: THE MAYOR

TO REPEAL AND RECREATE SUBSECTION 29.04, TO RECREATE SUBSECTION 29.05 AND TO REPEAL AND RECREATE SUBPARAGRAPH 29.06 D. OF THE CODE OF GENERAL ORDINANCES REGARDING THE STATEMENT OF ECONOMIC INTEREST

The Common Council of the City of Kenosha, Wisconsin, do ordain as follows:

Section One. Subparagraph 29.04 of the Code of General Ordinances

for the City of Kenosha, Wisconsin, is hereby repealed and recreated as follows:

29.04 TIME FOR FILING

All City officers, employees, candidates and nominees required to file a completed Statement of Economic Interest pursuant to this Chapter shall do so within the following time limits:

- A. New officers and employees within thirty (30) days after taking their office or position. **The Mayor or an Alderperson who has filed a completed Statement of Economic Interest as a candidate for the City office to which they have been elected shall not be required to file a Statement of Economic Interest unless the information contained in the Statement of Economic Interest on file with the City Clerk/Treasurer is no longer true, correct and complete in which case the Mayor or Alderperson shall be required to file a completed Statement of Economic Interest within the time provided in this Section 29.04 A.**
- B. Current officers and employees within thirty (30) days after the effective date of this Ordinance.
- C. Candidates for elective City office by 4:30 P.M. on the next working day following the last day for the filing of nomination papers.
- D. Nominees for a City board, commission, authority or committee ~~within ten (10) business days prior to consideration of the nomination by the Common Council~~ **assuming the position to which they have been nominated. Nominees serving on the Common Council, a City board, commission, authority or committee who have filed a completed Statement of Economic Interest shall not be required to file a Statement of Economic Interest in order to be considered for nomination to another City board, commission, authority, or committee unless the information contained in the Statement of Economic Interest on file with the City Clerk/Treasurer is no longer true, correct and complete in which case the nominee shall be required to file a completed Statement of Economic Interest within the time provided in this Section 29.04 D.**

Section Two: Subsection 29.05 of the Code of General Ordinances for the

City of Kenosha, Wisconsin, is hereby recreated as follows:

29.05 INCOMPLETE STATEMENT OF ECONOMIC INTEREST

The completed Statement of Economic Interest may be filed with the City Clerk/Treasurer electronically. All information sought by the Statement of Economic Interest must be provided or alternatively contain an affirmative statement that the information sought does not apply. Failure to do so shall render the Statement of Economic Interest incomplete. The City Clerk/Treasurer shall refuse to accept for filing an incomplete Statement of Economic Interest. The City Clerk/Treasurer shall not be responsible for determining or verifying the accuracy of any of the information provided on the Statement of Economic Interest. Submission of any incomplete Statement of Economic Interest for filing with the City Clerk/ Treasurer shall not satisfy the requirements of this Ordinance.

Section Three: Subparagraph 29.06 D. of the Code of General Ordinances

for the City of Kenosha, Wisconsin, is hereby repealed and recreated as follows:

D. Any nominee for a City board, commission, authority or committee subject to this Chapter who fails to file a Statement of Economic Interest within the time provided in Section 29.04 shall be precluded from ~~having their nomination considered by the Common Council~~ assuming the position to which they have been nominated.

Section Four: This Ordinance shall become effective upon passage and publication.

ATTEST: _____ City Clerk/Treasurer
DEBRA L. SALAS

APPROVED: _____ Mayor Date: _____
JOHN M. ANTARAMIAN

Passed:

Published:

Drafted By:
JONATHAN A. MULLIGAN
Assistant City Attorney

ORDINANCE NO.

SPONSOR: THE MAYOR

TO REPEAL AND RECREATE SUBSECTION 29.04, TO RECREATE SUBSECTION 29.05 AND TO REPEAL AND RECREATE SUBPARAGRAPH 29.06 D. OF THE CODE OF GENERAL ORDINANCES REGARDING THE STATEMENT OF ECONOMIC INTEREST

The Common Council of the City of Kenosha, Wisconsin, do ordain as follows:

Section One. Subparagraph 29.04 of the Code of General Ordinances

for the City of Kenosha, Wisconsin, is hereby repealed and recreated as follows:

29.04 TIME FOR FILING

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- A. New officers and employees within thirty (30) days after taking their office or position. The Mayor or an Alderperson who has filed a completed Statement of Economic Interest as a candidate for the City office to which they have been elected shall not be required to file a Statement of Economic Interest unless the information contained in the Statement of Economic Interest on file with the City Clerk/Treasurer is no longer true, correct and complete in which case the Mayor or Alderperson shall be required to file a completed Statement of Economic Interest within the time provided in this Section 29.04 A.
- B. Current officers and employees within thirty (30) days after the effective date of this Ordinance.
- C. Candidates for elective City office by 4:30 P.M. on the next working day following the last day for the filing of nomination papers.
- D. Nominees for a City board, commission, authority or committee prior to assuming the position to which they have been nominated. Nominees serving on the Common Council, a City board, commission, authority or committee who have filed a completed Statement of Economic Interest shall not be required to file a Statement of Economic Interest in order to be considered for nomination to another City board, commission, authority, or committee unless the information contained in the Statement of Economic Interest on file with the City Clerk/Treasurer is no longer true, correct and complete in which case the nominee shall be required to file a completed Statement of Economic Interest within the time provided in this Section 29.04 D.

Section Two: Subsection 29.05 of the Code of General Ordinances for the

City of Kenosha, Wisconsin, is hereby recreated as follows:

29.05 INCOMPLETE STATEMENT OF ECONOMIC INTEREST

The completed Statement of Economic Interest may be filed with the City Clerk/Treasurer electronically. All information sought by the Statement of Economic Interest must be provided or alternatively contain an affirmative statement that the information sought does not apply. Failure to do so shall render the Statement of Economic Interest incomplete. The City Clerk/Treasurer shall refuse to accept for filing an incomplete Statement of Economic Interest. The City Clerk/Treasurer shall not be responsible for determining or verifying the accuracy of any of the information provided on the Statement of Economic Interest. Submission of any incomplete Statement of Economic Interest for filing with the City Clerk/ Treasurer shall not satisfy the requirements of this Ordinance.

Section Three: Subparagraph 29.06 D. of the Code of General

Ordinances for the City of Kenosha, Wisconsin, is hereby repealed and recreated as follows:

D. Any nominee for a City board, commission, authority or committee subject to this Chapter who fails to file a Statement of Economic Interest within the time provided in Section 29.04 shall be precluded from assuming the position to which they have been nominated.

Section Four: This Ordinance shall become effective upon passage and publication.

ATTEST: _____ City Clerk/Treasurer
DEBRA L. SALAS

APPROVED: _____ Mayor Date: _____
JOHN M. ANTARAMIAN

Passed:

Published:

Drafted By:
JONATHAN A. MULLIGAN
Assistant City Attorney

SHELLY BILLINGSLEY, MBA, PE

Director of Public Works
sbillingsley@kenosha.org
625 52nd Street, Room 305
Kenosha, WI 53140



CATHY AUSTIN, PE

Deputy Director of Public Works/City Engineer
caustin@kenosha.org
T: 262.653.4050
F: 262.653.4056

June 10, 2016

To: Jesse Downing, Chairperson, Stormwater Utility Committee

From: Shelly Billingsley, MBA, PE
Director of Public Works

Shelly Billingsley KB

Subject: Stormwater Drainage Facilities Maintenance Agreement Between the City of Kenosha, First Park 94, LLC and the Village of Somers

BACKGROUND INFORMATION

Staff has worked with the City Attorney's office on the agreement.

RECOMMENDATION

Staff recommends approval.

SAB/kjb

STORMWATER DRAINAGE
FACILITIES MAINTENANCE
AGREEMENT BETWEEN THE CITY
OF KENOSHA, FIRST PARK 94, LLC,
AND THE VILLAGE OF SOMERS

Document Number

Document Title

Recording Area

This Document was drafted by and
should be returned to:

Jonathan A. Mulligan
Office of the City Attorney
625 52nd Street, Room 201
Kenosha, Wisconsin 53140

82-4-222-282-0111

82-4-222-282-0112

Parcel Identification Number (PIN)

STORMWATER DRAINAGE FACILITIES
MAINTENANCE AGREEMENT

Between

THE CITY OF KENOSHA
A Municipal Corporation

And

FIRST PARK 94, LLC
A Delaware Limited Liability Company

And

THE VILLAGE OF SOMERS
A Municipal Corporation

This Agreement, effective as of the last date of execution, is entered into between the City of Kenosha, a municipal corporation duly organized and existing under the laws of the State of Wisconsin with offices located at 625 52nd Street, Kenosha, Wisconsin 53140 (“City”), First Park 94, LLC, a Delaware limited liability company with principal offices located at 311 South Wacker, #3900, Chicago, Illinois 60606, (“Owner”), and the Village of Somers, a municipal corporation duly organized and existing under the laws of the State of Wisconsin with offices located at 7511 12th Street, Somers, Wisconsin 53171 (“Village”), collectively referred to as the Parties.

W I T N E S S E T H:

Whereas, First Park 94, LLC is the owner of the real estate legally described on Exhibit A situated in the Village of Somers, County of Kenosha, State of Wisconsin, hereinafter referred to as the “Real Estate”; and

Whereas, pursuant to Sections 66.23 and 114.136 of the Wisconsin Statutes, the City adopted Section 13 of the Zoning Ordinance for the City of Kenosha providing for various Airport Overlay Districts, the intent and purpose of which is to impose land use controls to protect Kenosha Regional Airport operations and to ensure a compatible relationship between Airport operations and other land uses in the vicinity of Airport operations; and

Whereas, the jurisdiction of Section 13 of the Zoning Ordinance for the City of Kenosha extends over all lands and waters within the boundaries set forth in Section 13 of the Zoning Ordinance, but not to exceed three miles of the boundaries of the Kenosha Regional Airport depicted on the Airport Overlay Zoning Map attached as Exhibit B; and

Whereas, the Real Estate is located within Airport Overlay District Noise Cone (AIR-2), Airport Overlay District Approach (AIR-3), and Airport Overlay District Overflight (AIR-4); and

Whereas, Section 13.08 of the Zoning Ordinance prohibits the development of land or the construction of any building in any Airport Overlay District(s) contrary to the requirements of Section 13 of the Zoning Ordinance; and

Whereas, Section 13.08 of the Zoning Ordinance prohibits the issuance of any building, land use or zoning permits or approvals by the City, County or any Village or Town permitting any development or land use contrary to the requirements of Section 13 of the Zoning Ordinance; and

Whereas, pursuant to Section 13.10 of the Zoning Ordinance a Site Plan Review is required by the City to ensure that proposed development within designated Airport Overlay Districts complies with the requirements of any applicable Airport Overlay District; and

Whereas, pursuant to Section 13.10 of the Zoning Ordinance no building, land use or zoning permits or approvals are to be issued by the City, County or any Village or Town for a building located within Airport Overlay Districts AIR-2, AIR-3 and AIR-4 until a Site Plan has been submitted to and approved by the City Director of the Department of Community Development and Inspections as being in compliance with Section 13 of the Zoning Ordinance; and

Whereas, the Owner has proceeded with the development of the Real Estate and the construction of improvements on the Real Estate without submitting a Site Plan to the City and without obtaining the approval of the Site Plan by the City contrary to the requirements of Section 13 of the Zoning Ordinance; and

Whereas, subsequent to the commencement of development of the Real Estate and the construction of improvements thereon, the Owner has submitted a Site Plan to the City for review and approval of the improvements constructed on the Real Estate as of the Effective Date of this Agreement; and

Whereas, as a condition of the Site Plan Review Approval of the improvements constructed on the Real Estate as of the Effective Date of this Agreement, the City, the Village, the Owner, and the Owner's successors and assigns, including any owner's association, agree that the on-site stormwater drainage facilities as shown on the plans approved as part of the Site Plan Review Approval of the improvements constructed on the Real Estate as of the Effective Date of this Agreement, hereinafter referred to as "Stormwater Management Facilities", be designed, constructed and maintained to protect Airport operations, avoid interference with aviation and properly manage the quantity and quality of stormwater runoff in accordance with the "Onsite Civil Engineering Infrastructure Plans for First Park 94-Pond Retrofit" prepared by Pinnacle Engineering with an original date of April 14, 2016 and a latest revision date of May 26, 2016, all applicable United States Department of Agriculture (USDA) requirements, all applicable Wisconsin Department of Natural Resources (WDNR) requirements, Section 13 of the Zoning Ordinance for the City of Kenosha, as may be amended from time to time, the Stormwater Facility Maintenance Agreement between the Owner and the Village, and all other applicable State and local laws, rules and regulations, collectively referred to as the Stormwater Drainage Requirements; and

Whereas, the Parties agree that any future development of the Real Estate, including the construction of any buildings, structures or stormwater drainage facilities, shall require a separate Site

Plan Review by the City pursuant to Section 13.10 of the Zoning Ordinance, and that no building, land use or zoning permit or approvals by the City, County or Village for any future development of the Real Estate shall be issued until a Site Plan has been submitted to and approved by the City Director of the Department of Community Development and Inspections as being in compliance with Section 13 of the Zoning Ordinance; and

Whereas, the City and the Village require that the on-site Stormwater Management Facilities are adequately maintained by the Owner and the Owner's successors and assigns, including any owner's association, in accordance with the Stormwater Drainage Requirements.

Now, Therefore, in consideration of the mutual agreements of the Parties, the City, the Village, and the Owner agree as follows:

SECTION ONE

Owner Inspection And Maintenance

1. The Owner and the Owner's successors and assigns, including any owners' association (all together, the "Owner"), shall regularly inspect the Stormwater Management Facilities on the Real Estate as often as conditions require, but in any event at least in accordance with the Stormwater Maintenance Standards attached as Exhibit C, hereafter referred to as the "Maintenance Standards." The Stormwater Inspection and Maintenance Checklist attached to this Agreement as Exhibit D, and by this reference made a part hereof, shall be used for the purpose of the inspections of the Stormwater Management Facilities on the Real Estate. The Owner shall keep the Stormwater Inspection and Maintenance Checklist from past inspections, as well as a log of maintenance activity with respect to the Stormwater Management Facilities indicating the date and type of maintenance completed ("Maintenance Log") for a period of three (3) years following such inspection or maintenance. The Stormwater Inspection and Maintenance Checklist and the Maintenance Log shall be made available upon request to the Village and to the City Stormwater Utility for review and copying. The purpose of the inspections is to assure the safe and proper functioning of the Stormwater Management Facilities on the Real Estate. The inspections shall cover all Stormwater Management Facilities on the Real Estate including, but not limited to, conveyance systems, berms, outlet structures, basin areas, vegetation, and access roads. Any deficiencies shall be noted in the Stormwater Inspection and Maintenance Checklist.
2. The Owner shall adequately maintain all Stormwater Management Facilities on the Real Estate, including, but not limited to, all pipes and channels built to convey stormwater to and from the Stormwater Management Facilities, as well as all structures, improvements and vegetation provided to control the quantity and quality of the stormwater. Adequate maintenance is herein defined as keeping the Stormwater Management Facilities in good working condition so that the Stormwater Management Facilities are performing their design functions and are maintained in accordance with the Maintenance Standards.

3. The Owner will perform the work necessary to keep the Stormwater Management Facilities on the Real Estate in compliance with the Stormwater Drainage Requirements. The minimal amount of maintenance required to be performed on the Stormwater Management Facilities shall be in accordance with the Maintenance Standards which may be amended by the City from time to time.

SECTION TWO

Village Inspection And Enforcement

1. The Owner grants permission to the Village, its authorized agents and employees, to enter upon the Real Estate to inspect the Stormwater Management Facilities whenever the Village deems necessary to investigate reported deficiencies, respond to complaints, and to determine compliance with the Stormwater Drainage Requirements. The Village shall provide the Owner copies of the inspection findings (“Inspection Reports”), specifically indicating any corrective actions required to bring the Stormwater Management Facilities into compliance with Stormwater Drainage Requirements and a directive to commence with corrective actions, if necessary. Corrective actions shall be taken within a reasonable time frame as established by the Village.
2. If the Owner fails to maintain the Stormwater Management Facilities on the Real Estate in good working condition such that the Stormwater Management Facilities are not in compliance with the Stormwater Drainage Requirements, and the Owner does not perform the required corrective actions in the specified time following notice from the Village, the Village may perform the corrective actions identified in the Inspection Report and charge the Owner for the cost of such work together with all administrative costs associated with performing such work. The cost of such work shall be assessed against the Real Estate as a special charge pursuant to Section 66.0627, Wisconsin Statutes, as may be amended from time to time, in accordance with Section 3 below.
3. In the event the Village, pursuant to this Agreement, performs work of any nature or expends any funds in performance of said work, the Owner shall reimburse the Village within thirty (30) days of receipt of written demand for payment of all actual costs incurred by the Village hereunder. Failure of the Owner to reimburse the Village within thirty (30) days shall result in the costs being assessed against the Real Estate as a special charge pursuant to Section 66.0627, Wisconsin Statutes, as may be amended from time to time.
4. The Village agrees to provide the City all documentation between the Village and the Owner in connection with the enforcement of this Agreement by the Village.
5. The Village agrees to assume the primary responsibility for the enforcement of this Agreement in accordance with its terms and conditions. If for any reason the Village does not exercise its primary responsibility for the enforcement of this Agreement such that the Stormwater Management Facilities are not in compliance with the Stormwater Drainage Requirements, the City may proceed to enforce the terms and conditions of

this Agreement as provided below.

SECTION THREE

City Inspection And Enforcement

1. The Owner grants permission to the City, its authorized agents and employees, to enter upon the Real Estate to inspect the Stormwater Management Facilities whenever the City deems necessary to investigate reported deficiencies, respond to complaints, and to determine compliance with the Stormwater Drainage Requirements. The Director of the City Stormwater Utility, or designee thereof, shall provide the Owner copies of the inspection findings ("Inspection Reports"), specifically indicating any corrective actions required to bring the Stormwater Management Facilities into compliance with Stormwater Drainage Requirements and a directive to commence with corrective actions, if necessary. Corrective actions shall be taken within a reasonable time frame as established by the Director of the City Stormwater Utility.
2. If the Owner fails to maintain the Stormwater Management Facilities on the Real Estate in good working condition such that the Stormwater Management Facilities are not in compliance with the Stormwater Drainage Requirements, and the Owner does not perform the required corrective actions in the specified time following notice from the Director of the City Stormwater Utility, the City may take one or more of the following actions:
 - a. Issue a citation to the Owner under Sections 13.11 and 11.02 of the Zoning Ordinance for the City of Kenosha, as may be amended from time to time. The Owner consents to the jurisdiction of the Municipal Court for the City of Kenosha with respect to any citation issued pursuant to this Paragraph 2.a.
 - b. Institute an action to enjoin or institute any other appropriate action or proceeding pursuant to Section 11.03 of the Zoning Ordinance for the City of Kenosha, as may be amended from time to time, to prohibit the use of the Stormwater Management Facilities contrary to the Stormwater Drainage Requirements.
 - c. Perform the corrective actions identified in the Inspection Report and charge the Owner for the cost of such work and all administrative costs associated with performing such work.
3. In the event the City, pursuant to this Agreement, performs work of any nature or expends any funds in performance of said work, the Owner shall reimburse the City within thirty (30) days of receipt of written demand for payment of all actual costs incurred by the City hereunder. Failure of the Owner to reimburse the City within thirty (30) days shall result in the City providing written notice of the Owner's default to the Village, whereupon the Village shall adopt a resolution within thirty (30) days imposing a special charge for such work performed by or at the request of the City pursuant to Section 66.0627, Wisconsin Statutes, as may be amended from time to time. Such special charge, when paid, shall be collected by the Village and shall be

paid to the City within thirty (30) days after collection. It is understood and agreed that the Village's obligation shall be limited only to the funds collected from such special charges. This Agreement shall not be construed as creating any financial obligation upon the Village or the Village of Somers Water Utility, or Sanitary Utility, for any reason whatsoever, to make payments from its general corporate funds or revenue from the operation of the Village of Somers, its utilities or otherwise.

4. The Owner shall be responsible for the payment of all actual reasonable attorney fees and expenses, including expert witness fees and expenses, incurred by the City in enforcing any of the terms and conditions of this Agreement or any other rights or remedies of the City provided for in this Agreement.

SECTION FOUR

Indemnification

Under this Agreement, the City assumes no responsibility or any liability in the event the Stormwater Management Facilities on the Real Estate fail to operate properly so as to protect Airport operations as required by Section 13 of the Zoning Ordinance for the City of Kenosha, as may be amended from time to time. The Owner shall indemnify, defend and hold harmless the City, its officers, employees and agents against any and all claims, liability, loss, charges, damages, costs, judgments, settlement expenses, and attorneys' fees, which any of them may hereafter sustain, incur or be required to pay arising out of, or related to, the design, construction, installation and maintenance of the Stormwater Drainage Facilities required by the Stormwater Drainage Requirements, the Site Plan Review Approval and this Agreement by reason of which any person suffers personal injury, death or property loss or damage. Upon the filing with the City of a claim for damages arising out of the acts which the Owner herein agrees to indemnify, defend and hold the City, its officers, employees, and agents harmless, the City shall notify the Owner of such claim, and in the event the Owner does not settle or compromise such claim, then the Owner shall undertake the legal defense of such claim both on behalf of the Owner and the City, its officers, employees and agents. It is specifically agreed that the City, at the Owner's cost and expense, may participate in the legal defense of any such claim. Any judgment, final beyond all possibility of appeal, which may be rendered against the City, its officers, employees or agents, for any cause for which the Owner is liable hereunder, shall be conclusive against the Owner as to liability and the amount of damages.

SECTION FIVE

Other Provisions

1. This Agreement shall be attached as an exhibit to any document which creates an owners' association that is responsible for maintenance of the Stormwater Management Facilities on the Real Estate, shall be recorded at the Kenosha County Register of Deeds, shall constitute a covenant running with the land, and shall be binding on the Owner and the Owner's successors in interest, including any owners' association. The Owner shall be responsible for the cost of recording. The Owner shall provide the

Director of the City Stormwater Utility and the Village with a copy of any document which creates an owners' association that is responsible for maintaining the Stormwater Management Facilities on the Real Estate

2. All notices, requests, demands and other matters required to be given, or which may be given hereunder, shall be in writing and shall be deemed given when delivered in person or when deposited in the United States mail, certified, return receipt requested, postage prepaid, or equivalent private overnight delivery service, addressed to the respective Party at the addresses stated below:

- a. Owner:

First Park 94, LLC
Attn: Adam J. Moore
First Industrial Real Estate Trust, Inc.
1661 Feehanville Drive, Suite 400
Mount Prospect, Illinois 60056

With copies to:

First Industrial Real Estate Trust, Inc.
Attn: Corporate Counsel
1661 Feehanville Drive, Suite 400
Mount Prospect, Illinois 60056

- b. Village Clerk/Treasurer
Village of Somers
7511 12th Street
Somers, Wisconsin 53171

- c. City:

City Clerk/Treasurer
City of Kenosha
625 52nd Street, Room 305
Kenosha, Wisconsin 53140

With copies to:

Director, Stormwater Utility
City of Kenosha
625 52nd Street, Room 305
Kenosha, Wisconsin 53140

and

Office of the City Attorney
City of Kenosha
625 52nd Street, Room 201
Kenosha, Wisconsin 53140

3. This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin.
4. Nothing contained herein shall be deemed to be a dedication of the Stormwater Management Facilities on the Real Estate to the public. The Owner reserves all rights to use the Real Estate for all purposes not inconsistent with the rights granted to the City herein.

Signature pages follow

FIRST PARK 94, LLC
A Delaware Limited Liability Company,

By: FIRST INDUSTRIAL, L.P.
Its: Managing Member

By: FIRST INDUSTRIAL REALTY TRUST, INC.
Its: General Partner

By: _____

Its: _____

STATE OF)
 :SS
COUNTY OF)

Personally came before me this _____ day of _____, 2016, _____,
on behalf of First Park 94, LLC, to me known to be such person, and acknowledged to me that he
executed the foregoing instrument as such authorized signatory as the agreement of First Park 94,
LLC by its authority.

Print Name: _____
Notary Public, County of _____
My Commission expires/is: _____

VILLAGE OF SOMERS

BY: _____
GEORGE STONER, President

Date: _____

BY: _____
TIMOTHY L. KITZMAN, Clerk/Treasurer

Date: _____

STATE OF WISCONSIN)
:SS.
COUNTY OF KENOSHA)

Personally came before me this ___ day of _____ 2016, George Stoner, President, and Timothy L. Kitzman, Clerk/Treasurer, of the Village of Somers, Wisconsin, to me known to be such President and Clerk/Treasurer of said Village, and acknowledged that they executed the foregoing instrument as such officers as the agreement of said Village, by its authority.

Print Name
Notary Public, Kenosha County, WI .
My Commission expires/is: _____

Drafted By:

JONATHAN A. MULLIGAN
Assistant City Attorney
City of Kenosha
625 52nd Street, Room 201
Kenosha, Wisconsin 53140

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Description of Real Estate

Lots 1 and 2 of Certified Survey Map No. 2804, recorded with the Kenosha County Register of Deeds Office on February 22, 2016 as Document No. 1766458, part of the NW ¼ of Section 28, and the SW ¼ of Section 21, T 2 North, Range 22 East, in the Village of Somers, Kenosha County, Wisconsin.

Parcel No(s): 82-4-222-282-0111
82-4-222-282-0112

EXHIBIT B
AIRPORT OVERLAY ZONING MAP



EXHIBIT C

STORMWATER INSPECTION AND MAINTENANCE CHECKLIST

City of Kenosha - Stormwater Inspection and Maintenance

Owner: _____
 Parcel No.: _____
 City: _____
 Zip: _____

Phone No.: _____
 Address: _____
 State: _____
 Contact Name: _____

Date of Inspection (mm/dd/yy): _____ Inspection

Basin Identification Name, Number or Letter: _____
 (One Inspection should be completed for every basin on the site)

Time of Inspection Start: _____ Name of Individual Performing _____
 End: _____

Weather Conditions during Inspection: _____

Stormwater Facility Inspection

Condition	Good	Bad	Requires Maintenance	Notes: (Condition / Corrective)
General Basin Conditions				
Outlet Structure Condition			Elev. Field Verify	
Outlet Structure 3" Orifice Invert Elevation				East Pond North Outlet
Outlet Structure 18" Outlet Pipe Elevation				East Pond North Outlet
Outlet Structure 6" Orifice Invert Elevation				East Pond South Outlet
Outlet Structure 21" Orifice Invert Elevation				East Pond South Outlet
Outlet Structure 24" Orifice Invert Elevation				South Pond Outlet
Was or is the trash grate plugged	Yes	No		
Was or is their trash/debris passing trash grate	Yes	No		
Does trash grate need to be replaced	Yes	No		
Orifice Condition				
Was orifice plugged	Yes	No		
Inlet Pipe Condition				
Any Evidence of Waterfowl	Yes	No		
Any Evidence of Muskrats or similar	Yes	No		
Is Bird Fence / Grid Needed	Yes	No		
Bird Fence / Grid Installed	Yes	No		
If yes condition				
			Elev. Field Verify	
Average Height of Plantings in Ponds				
Is the Ave Height of Plantings above the 48 hour draw down Elev.				If no, the Bird Grid must remain at 48 hour draw down elevation
Overflow Spillway	Yes	No		
Does the basin drawdown in 48 hours	Yes	No		
If no what are the issues identified				
Has mowing of native buffer been completed	Yes	No		
If no what is the height of the weeds				
Is litter or debris evident	Yes	No		
			Sediment Level	
Sediment Level				
Does Basin Need to Be Dredged	Yes	No		When Dredged Replanting must occur as soon as

EXHIBIT D

STORM WATER MAINTENANCE STANDARDS

City of Kenosha Basin Maintenance Standards

1. City of Kenosha Conditions:
 - a. Outlet Structure, Orifice and Inlet Pipe Maintenance: Trash grates, orifices and inlet pipes shall be examined for debris accumulation after any storm that has significant runoff (observed flow in street gutters). Any debris on the trash grate shall be removed and disposed of offsite. If significant debris has passed the trash grates, it will be necessary to lift the grate to remove that debris. If debris is passing through the trash grate, the orifice(s) is/are plugging or vandals are attempting to plug the outlet, then revisions should be made to the outlet structure including the trash grate. Any blockage of the basin outlet must be addressed immediately. Blockage of the lower stages of the outlet structure must be cleared within 24 hours to avoid substantial die-off of the flooded plant areas. Any time a substantial portion of the planting areas become damaged, the entire area will need to be replanted. The elevation of all of the orifices must be checked. Any settling or damage of the outlet structure that would raise the elevation of the normal water level shall be corrected.
 - b. Downstream Stormwater Conveyance: Upon detection of storm water failing to completely drain down to the basin discharge elevation, an investigation shall be made to determine the cause. Any obstruction or sediment buildup in the downstream pipes or drainage-way must be removed within 30 days and any damage to the basin such as wave terraces or plant die-off due to the water back up shall be repaired.
 - c. Litter and Debris: Basins shall be examined for debris accumulation after any storm that has significant runoff (observed flow in street gutters). Any debris within the basin or at the overflow pipe or spillway shall be removed and disposed of offsite. Any blockage of the basin outlet must be addressed immediately. Blockage of the outlet structure or orifice must be cleared within 24 hours to avoid substantial die-off of the flooded plant areas. Any time a substantial portion of the planted area becomes damaged the entire area will need to be replanted.
 - d. Bird Fence/Grid: To prevent this area from being inhabited by waterfowl the entire basin(s) shall be covered by a fence both along the perimeter and overtop of the basin(s). The fence/grid shall be installed and maintained according to the plans and details approved for First Park 94. Anytime that the plants need to be replanted, burned, or the basin is dredged the bird fence / grid will need to be installed and maintained. The fence / grid shall remain in place until such time that the plants are determined by a licensed professional to be established and written documentation from that licensed professional is supplied to the City of Kenosha's City Engineer by email to swu@kenosha.org. The average

height of the plantings shall also be above the water level after the 48 hour drawdown. The plantings shall have be a minimum of 6 inches in height above this water level (drawdown time is in excess of 48 hours so protection from water fowl must extend to the height of the elevation after 48 hours for the bird fence/grid to be removed.

- e. Mowing: During the establishment of the plants during the first growing season the weeds shall be mowed at a height of 6-10 inches to enable the establishment of the native plants. This shall be completed as noted in the Tallgrass Restoration LLC report.
- f. Maintenance of Plantings: All plantings shall be maintained in good condition. An examination of the plantings shall be made a minimum of four times per year and all plants needed to be replaced shall be done within 30 days unless delay is authorized by the Kenosha Regional Airport and/or their designee. The replacement shall be in kind as listed on the approved plans and report by Tallgrass Restoration LLC. The area immediately around the plantings shall be kept free of weeds by pulling or method identified in Tallgrass Restoration LLC report.
- g. Erosion: Any area bare of suitable vegetation shall, within 15 days of discovery or the onset of suitable weather, have any erosion repaired to meet the approved plan.
- h. Invasive plant species: Invasive plant species such as but not limited to purple loosestrife, canary reed grass, curly leaf pondweed, flowering rush, garlic mustard or other invasive species shall not be allowed to become established in the basin. At the detection of such species a control program shall be established and progress in their control shall be included in the yearly report.
- i. Alterations to the Basin: No alterations may be made to the basin in the way of grading, additional discharges to the basin, plantings etc without permission from the Kenosha Regional Airport.
- j. Pesticides and Fertilizers: Chemicals shall be used in moderation and only as needed to promote healthy dense vegetation as outlined in the Tallgrass Restoration LLC.
- k. Sediment Removal: When the Village of Somers decides that dredging must take place within the basin the Kenosha Regional Airport must be notified and the bird fence / grid reinstalled until the approved plantings per the approved plans have established to the height listed under the Bird Fence/Grid above.

SHELLY BILLINGSLEY, MBA, PE

Director of Public Works
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Kenosha, WI 53140



CATHY AUSTIN, PE

Deputy Director of Public Works/City Engineer
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T: 262.653.4050
F: 262.653.4056

June 10, 2016

To: David F. Bogdala, Chairperson, Public Works Committee
Jesse Downing, Chairperson, Stormwater Utility Committee

From: Shelly Billingsley, MBA, PE Shelly Billingsley^{KB}
Director of Public Works

Subject: 15-1120 Detention Basin Dredging Change Order (Contract Deadline Only)

BACKGROUND INFORMATION

This change order is needed to extend the contract deadline due to the weather and drier conditions needed in July and August. Staff recommends delay for less disturbance to residents.

RECOMMENDATION

Approve the change order extending the contract deadline.

SAB/kjb

THE CITY OF KENOSHA

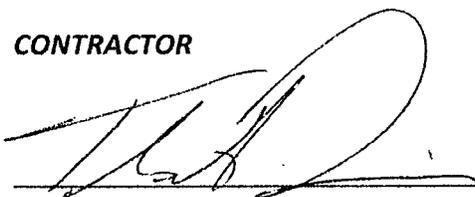
CHANGE ORDER #2

Project Name:	Detention Basin Dredging
Project Number:	15-1120
C.I.P. Line Item:	SW-11-003
Purchase Order #:	160716
Contractor:	Ray Hintz, Inc.
Park Commission Action:	N/A
Public Works Committee Action:	6/13/2016
Finance Committee:	N/A
Date of Common Council Action:	6/20/2016

City and contractor agree that the above contract is amended to specify that contract completion deadline will be extended 88 days. The project will be completed no later than **September 30,2016**.

This change order is approved by:

CONTRACTOR



DATE

6-9-2016

CITY OF KENOSHA MAYOR

DATE



SHELLY BILLINGSLEY, MBA, PE
Director of Public Works

June 8, 2016

To: David F. Bogdala, Chairperson, Public Works Committee
Jesse Downing, Chairperson, Stormwater Utility Committee

From: Shelly Billingsley, MBA, PE
Director of Public Works

Subject: Project: 16-1018 7th Avenue Resurfacing
Location: 7th Avenue – 65th Street to 68th Street

The Department of Public Works, Engineering Division has opened bids for the above referenced project. Engineer's Estimate was \$375,000.00. Budget amount is \$389,000.00.

This project consists of milling, removing and replacing storm sewer inlets, removing and replacing storm sewer pipe, removing and replacing damaged concrete curb and gutter, removing and replacing damaged concrete sidewalks and curb ramps, rubblizing concrete pavement, adjusting inlets and utility manholes, pavement markings, resurfacing with hot mixed asphalt, removing and replacing loop detectors, site restoration, construction staking curb and gutter and all incidental items necessary to complete the work.

Following is the list of bidders:

Contractor	Resurfacing Bid	Storm Sewer Bid	Bid Total
Cicchini Asphalt, LLC, Kenosha, WI	\$335,084.00	\$42,126.00	\$377,210.00
A.W. Oakes & Son, Inc., Racine, WI	\$351,883.00	\$39,116.00	\$390,999.00

It is recommended that this contract be awarded to Cicchini Asphalt, LLC, Kenosha, Wisconsin for total award amount of \$414,500.00. The bid breaks down as follows: resurfacing bid of \$335,084.00 plus \$33,416.00 in contingency for unforeseen conditions (if needed) for a resurfacing total of \$368,500.00 and funding is from CIP Line Item IN-14-002; storm sewer bid of \$42,126.00 plus \$3,874.00 in contingency for unforeseen conditions (if needed) for a storm sewer total of \$46,000.00 and funding is from CIP Line Item SW-14-003.

SAB/kjb