

**AGENDA  
PUBLIC WORKS  
COMMITTEE**

**MONDAY, AUGUST 20, 2012  
ROOM 202  
5:00 P.M.**

**Eric Haugaard, Chairman  
Jan Michalski, Vice Chairman  
Steve Bostrom**

**Scott N. Gordon  
Patrick Juliana  
G. John Ruffolo**

**A. APPROVAL OF MINUTES**

A-1 Approval of minutes of regular meeting held on August 6, 2012.

**C. REFERRED TO COMMITTEE**

- C-1 Request from Ronald Straszewski (3325 27<sup>th</sup> Avenue) and Keri & Anthony Martin (3319 27<sup>th</sup> Avenue) to pave lawn park area between their driveway approaches. **(District 6)**
- C-2 Approval of Agreement By and Between the City of Kenosha and Veolia ES Solid Waste Midwest, LLC for Recycling Processing and Marketing Services for Recyclable Materials. *(also referred to Finance Committee)*
- C-3 Award of Contract for Project 12-1019 Joint, Crack Cleaning and Sealing (Citywide Locations) to Behm Pavement Maintenance (Crystal Lake, Illinois) in the amount of \$250,000.00. **(All Districts)**
- C-4 Resolution to Amend the City of Kenosha Capital Improvement Program for 2012 By Increasing PK12-001 "Anderson Pool" by \$160,500 and Decreasing PK03-001 "Park Renovations" by \$30,000; Decreasing PK11-001 "Outdoor Recreational Plan Implementation – Forest Park" by \$66,500 and Creating Outside Funding of \$64,000 from Anderson Cell Tower Collections and Anderson Park Impact Fees for a Net Change of \$0. *(also referred to Finance Committee and Park Commission)*
- C-5 Award of Contract for Project 12-1414 Anderson Pool Splashpad Construction (8730 22<sup>nd</sup> Avenue) to Scherrer Construction Co. (Burlington, Wisconsin) in the amount of \$300,000.00. **(District 9)** *(also referred to Park Commission)*
- C-6 Acceptance of Project 11-1208 Sidewalk & Curb Gutter Program (Citywide Locations) which has been satisfactorily completed by A.W. Oakes & Son (Racine, Wisconsin) in the amount of \$635,012.58. **(All Districts)** *(also referred to Stormwater Utility Committee)*
- C-7 Resolution – Intent to Assess for Project 77-1104 Sump Pump Drain Connections into Storm Sewers (82<sup>nd</sup> Street – 62 ft to 805 ft west of 17<sup>th</sup> Avenue, 17<sup>th</sup> Avenue - 81<sup>st</sup> Street to 83<sup>rd</sup> Street). **(District 12)** *(also referred to Stormwater Utility Committee)*

INFORMATIONAL: Project Status Report

CITIZENS COMMENTS RELATED ONLY TO JURISDICTION OF PUBLIC WORKS COMMITTEE

ALDERMAN COMMENTS

IF YOU ARE DISABLED AND IN NEED OF ASSISTANCE CALL 653-4050 BEFORE NOON ON THE DATE INDICATED FOR THIS MEETING.

NOTICE IS HEREBY GIVEN THAT A MAJORITY OF THE MEMBERS OF THE COMMON COUNCIL MAY BE PRESENT AT THE MEETING, AND ALTHOUGH THIS MAY CONSITUTE A QUORUM OF THE COMMON COUNCIL, THE COUNCIL WILL NOT TAKE ANY ACTION AT THIS MEETING.

PUBLIC WORKS COMMITTEE  
- MINUTES -

MONDAY, AUGUST 6, 2012  
5:00 P.M.

Eric Haugaard, Chairman  
Jan Michalski, Vice Chairman  
Steve Bostrom

Scott N. Gordon  
Patrick Juliana  
G. John Ruffolo

The regular meeting of the Public Works Committee was held on Monday, August 6, 2012 in Room 202 of the Municipal Building. The following members were present: Chairman Eric Haugaard, Vice Chairman Jan Michalski, Aldermen Scott N. Gordon and Patrick Juliana. Aldermen Steve Bostrom and G. John Ruffolo were excused. The meeting was called to order at 5:04 PM. Staff member in attendance was Mike Lemens.

- A-1 Approval of minutes of regular meeting held on July 16, 2012.  
*It was moved by Alderman Michalski, seconded by Alderman Juliana to approve. Motion passed 4-0.*
- C-1 Approval of request for use of HarborPark (Parcel A) by Kenosha Lakeshore Business Improvement District on August 11, 2012 for a special event titled Dog Days of Summer. **(District 2)**  
*A public hearing was held, Grace Grooms, 26714 104<sup>th</sup> Place, Joe Kutera, 8870 106<sup>th</sup> Avenue, and Alderman Chris Schwartz, 402 65<sup>th</sup> Street, spoke. It was moved by Alderman Michalski, seconded by Alderman Juliana to approve. Motion passed 4-0.*
- C-2 Request from Ron's Place (3301 52<sup>nd</sup> Street) to pave the lawn park area abutting 33<sup>rd</sup> Avenue. **(District 11)**  
*A public hearing was held, no one spoke. It was moved by Alderman Michalski, seconded by Alderman Juliana to approve paving with paving bricks over concrete base, color and blend to be consistent with surrounding properties and subject to review and approval of Public Works Department. Motion passed 4-0.*
- C-3 Request from Tenuta's (3203 52<sup>nd</sup> Street) to pave the lawn park area abutting 32<sup>nd</sup> Avenue. **(District 11)**  
*A public hearing was held, no one spoke. It was moved by Alderman Juliana, seconded by Alderman Gordon to approve paving with paving bricks over concrete base, color and blend to be consistent with surrounding properties and subject to review and approval of Public Works Department. Motion passed 4-0.*
- C-4 Approval of Electric Transmission Line Easement with the City of Kenosha, a Wisconsin Municipal Corporation and American Transmission Company, LLC, a Wisconsin Limited Liability Company.  
*It was moved by Alderman Juliana, seconded by Alderman Gordon to approve. Motion passed 4-0.*
- C-5 Resolution to a Special Tax Upon Certain Parcels of Land Within the City of Kenosha Pursuant to §5.11F of the Code of General Ordinances, Entitled "Sidewalks and Alleys to be Kept Clean by Responsible Party – Emergency Enforcement" (Snow Removal from Sidewalk). **(Districts 4 & 9)** *(also referred to Finance Committee)*

*It was moved by Alderman Gordon, seconded by Alderman Michalski to approve. Motion passed 4-0.*

- C-6 Resolution – Intent to Assess for Project 12-1208 Sidewalk & Curb/Gutter Program (Citywide Locations) for Hazardous Sidewalk and Driveway Approach Only. **(All Districts)**

*It was moved by Alderman Juliana, seconded by Alderman Michalski to approve. Motion passed 4-0.*

- C-7 Award of Contract for Project 12-1013 CDBG Resurfacing (67<sup>th</sup> Street - 22<sup>nd</sup> Avenue to 18<sup>th</sup> Avenue, 65<sup>th</sup> Street - 24<sup>th</sup> Avenue to 22<sup>nd</sup> Avenue, 57<sup>th</sup> Street - 23<sup>rd</sup> Avenue to 22<sup>nd</sup> Avenue, 67<sup>th</sup> Street - 27<sup>th</sup> Avenue to 22<sup>nd</sup> Avenue, 68<sup>th</sup> Street - 24<sup>th</sup> Avenue to 22<sup>nd</sup> Avenue) to Cicchini Asphalt, LLC, (Kenosha, Wisconsin) in the amount of \$801,634.30. **(Districts 2, 8, 12)**

*It was moved by Alderman Juliana, seconded by Alderman Michalski to approve. Motion passed 4-0.*

- C-8 Award of Contract for Project 12-1014 Concrete Street Repairs (Citywide Locations) to Zignego Company (Waukehsa, Wisconsin), in the amount of \$250,000.00. **(All Districts)**

*It was moved by Alderman Juliana, seconded by Alderman Gordon to approve. Motion passed 4-0.*

- C-9 Award of Contract for Project 12-2032 Underground Storage Tank Area Interim Action at Kenosha Engine Plant (5555 30<sup>th</sup> Avenue) to Veit & Company (New Berlin, Wisconsin), in the amount of \$258,000. **(District 7)**

*It was moved by Alderman Gordon, seconded by Alderman Juliana to approve. Motion passed 4-0.*

- C-10 Award of Contract for Project 12-2032 Underground Storage Tank Area Interim Action at Kenosha Engine Plant (Disposal Only) (5555 30<sup>th</sup> Avenue) to Republic Services, Inc., (Racine, Wisconsin), in the amount of \$157,000. **(District 7)**

*It was moved by Alderman Juliana, seconded by Alderman Michalski to approve. Motion passed 4-0.*

#### INFORMATIONAL:

1. Sump Pump Nuisance (82<sup>nd</sup> Street – 62 ft to 805 ft west of 17<sup>th</sup> Avenue)
2. Project Status Report – *Mike updated the committee on DOT and County projects.*

*It was moved, seconded and unanimously approved to receive and file informational items.*

#### DIRECTORS COMMENTS:

Mike mentioned FEMA Hazardous Preparedness training he went to at APWA. He feels it is valuable training to understand what roles are played during a disaster. The training is grant funded and with enough attendance a presentation can be made locally.

#### ALDERMAN COMMENTS:

- Alderman Juliana would like the minutes of the July 16, 2012 reviewed for errors.
- Alderman Michalski complimented Mike on the ways he is improving the city's relationship with citizens like his participation in APWA and doing things on his own time.

ADJOURNMENT - *There being no further business to come before the Public Works Committee, it was moved, seconded and unanimously approved to adjourn the meeting at 5:53 pm.*



**Engineering Division**  
Michael M. Lemens, P.E.  
Director/City Engineer  
**Fleet Maintenance**  
Mauro Lenci  
Superintendent  
**Parks Division**  
Jeff Warnock  
Superintendent

**Street Division**  
John H. Prijic  
Superintendent  
**Waste Division**  
Rocky Bednar  
Superintendent

C-1

**DEPARTMENT OF PUBLIC WORKS**  
**Michael M. Lemens, P.E., Interim Director**

Municipal Building · 625 52<sup>nd</sup> ST · RM 305 · Kenosha, WI 53140  
Telephone (262) 653-4050 · Fax (262) 653-4056

August 17, 2012

To: Eric Haugaard, Chairman  
Public Works Committee

From: Michael M. Lemens, P.E.  
Director of Public Works

Subject: ***Requests to pave Lawn Park Area for Resurfacing Phase I - Project 12-1012***  
***3319 27<sup>th</sup> Avenue - Keri and Anthony Martin***  
***3325 27<sup>th</sup> Avenue - Ronald Straszewski***

**BACKGROUND/ANALYSIS**

As part of the Resurfacing Phase I (Project 12-1012) the plans call for the removal and replacement of various sections of curb and gutter and replacement of several driveway approaches. With the replacement of the driveway approaches at the above addresses, both property owners approached the project engineer and asked that the very small area between the two approaches be concrete instead of grass. Both driveways are only one car wide, and it is nearly impossible for cars going in and out of the driveways to stay off the small triangular shaped area. Sod in this area is ruined by the tire tracks and the snow piles.

In accordance with the policy directive from the Public Works Committee, all paved lawn park areas removed are required to be replaced with grass as called for in the ordinances. However, since the area is only about 10 square feet, the owners would like to just put plain concrete back, especially since there is no decorative concrete to match. As provided for in Section 5.051 of the Code of General Ordinances, the two property owners have submitted a joint written petition to the Public Works Committee to allow paving in the lawn park area between their driveway approaches.

**RECOMMENDATION**

Recommend that the petition from the two property owners be approved for replacing the existing triangular shaped grassy area with concrete. As usual, staff recommends that the abutting property owner be responsible for the incremental cost of the paving treatment in the lawn park area.

Cc: Ald. Ohnstad, District 6  
mml

August 3, 2012

ATTN: Chase Kuffel

**RE: Request for Approval to Replace Landscape on the Parkway with Concrete.**

I, Ronald Straszewski, owner of 3325 27<sup>th</sup> Avenue and we, Keri & Anthony Martin, owners of 3319 27<sup>th</sup> Avenue are requesting for approval to replace the parkway landscape between our driveways on 27<sup>th</sup> Avenue with concrete. Having a concrete parkway will be convenient to maintain, and will improve the aesthetics between the driveways.

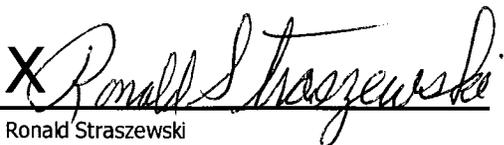
We homeowners would prefer to replace the parkway landscape between the driveways of 3325 and 3319 27<sup>th</sup> Avenue, as shown on the sketch. If you have any questions or need more information, please feel free to call us at:

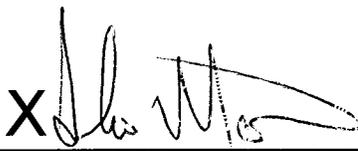
Ronald Straszewski  
3325 27<sup>th</sup> Avenue  
(262) 652-5929

Keri & Anthony Martin  
3319 27<sup>th</sup> Avenue  
(262) 515-4037

Thank you for taking the time to review this request.

Respectfully Yours,

X   
\_\_\_\_\_  
Ronald Straszewski

X   
\_\_\_\_\_  
Keri & Anthony Martin

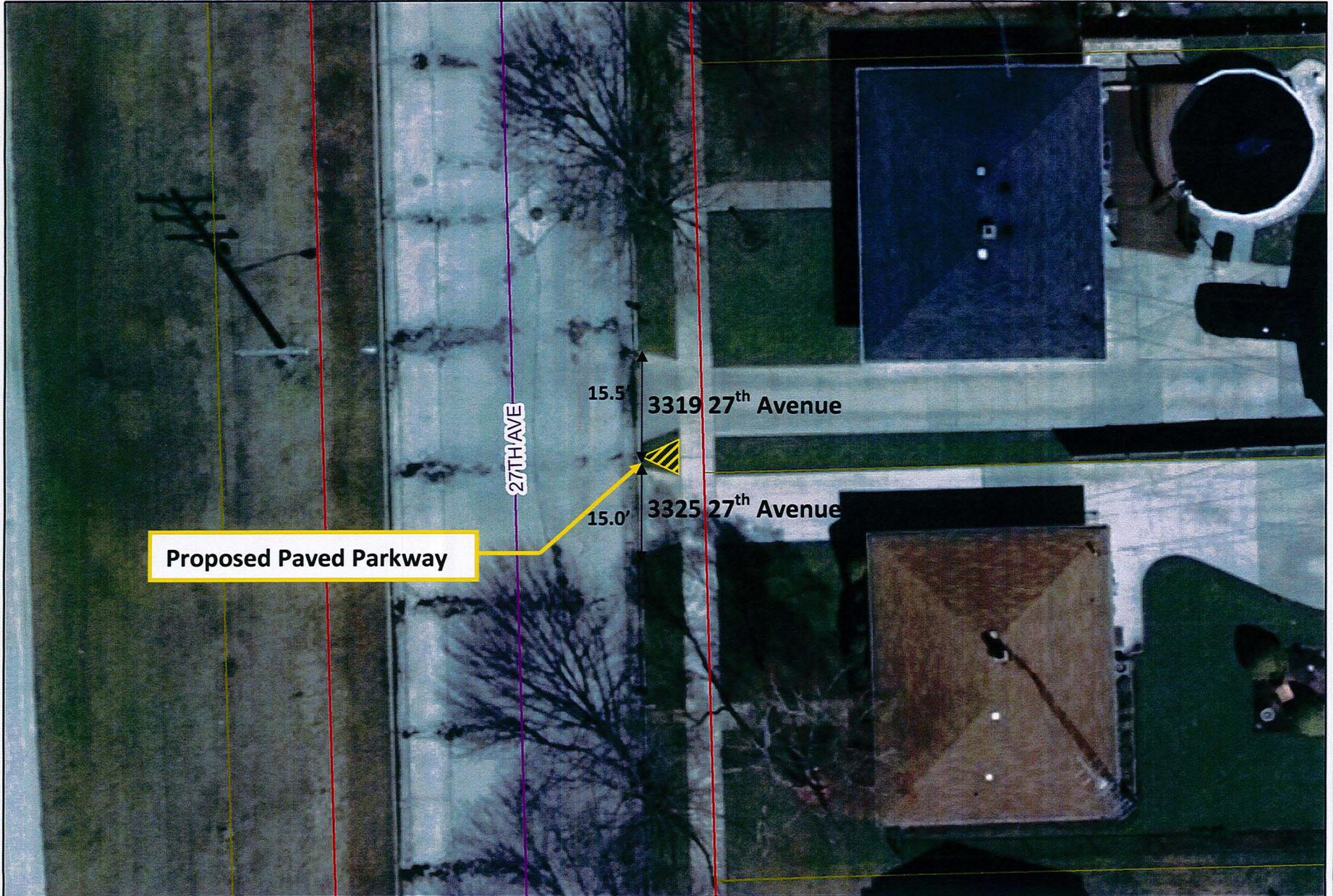
# 27th Avenue Paved Parkway

1 inch = 20 feet  
Map Printed: 8/3/2012



THIS MAP IS NEITHER A LEGALLY RECORDED MAP NOR A SURVEY AND IS NOT INTENDED TO BE USED AS ONE. THIS DRAWING IS A COMPILATION OF RECORDS, DATA AND INFORMATION LOCATED IN VARIOUS STATE, COUNTY AND MUNICIPAL OFFICES AND OTHER SOURCES AFFECTING THE AREA SHOWN AND IS TO BE USED FOR REFERENCE PURPOSES ONLY. KENOSHA COUNTY IS NOT RESPONSIBLE FOR ANY INACCURACIES HEREIN CONTAINED. IF DISCREPANCIES ARE FOUND, PLEASE CONTACT THE LAND INFORMATION DIVISION OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT.

Kenosha County Interactive Mapping Site



**Proposed Paved Parkway**

27TH AVE

15.5' 3319 27<sup>th</sup> Avenue

15.0' 3325 27<sup>th</sup> Avenue



# **AGREEMENT**

**BY AND BETWEEN**

**CITY OF KENOSHA**

**AND**

**VEOLIA ES SOLID WASTE  
MIDWEST, LLC**

**FOR RECYCLING, PROCESSING AND MARKETING  
OF RECYCLABLE MATERIALS**

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AGREEMENT BY AND BETWEEN  
CITY OF KENOSHA  
AND  
VEOLIA ES SOLID WASTE MIDWEST, LLC  
FOR RECYCLING PROCESSING AND MARKETING  
SERVICES OF RECYCLABLE MATERIALS

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2012 by and between the City of Kenosha (hereafter referred to as the “CITY”) and Veolia ES Solid Waste Midwest, LLC, (hereafter, the “CONTRACTOR”).

WITNESSETH

WHEREAS the CONTRACTOR, owns and operates a Solid Waste Material Recovery Facility - “MRF”, located at 5421 46<sup>th</sup> St., Kenosha, WI 53144, for the receiving, sorting, processing and marketing of recyclable waste materials for the City; and,

WHEREAS, CITY provides its residents with a program for the recycling of certain materials.

NOW, THEREFORE, in consideration of the promises, agreement, undertakings and understandings hereinafter set forth, the CITY and the CONTRACTOR do agree as follows:

**1.0 Definitions**

- 1.1 “AGREEMENT” means the Contract for Recycling Services, including Schedules “A”, “B” and “C”, attached thereto and incorporated therein by reference.
- 1.2 “Authorized Representative” for the CONTRACTOR means the officer, manager or employee, authorized by the CONTRACTOR to act with the authority of the CONTRACTOR; with respect to the CITY, “Authorized Representative” for the CITY shall mean the Director of Public Works.
- 1.3 “Hazardous Waste” or “Hazardous Substances” means a substance which is included in the list published by the Administrator of the United States Environmental Protection Agency (EPA) under 42 U.S.C. 11002 (a) (2) or a hazardous substance as defined under 42 U.S.C. 9601 (14) or designated by the Administrator of the U.S. EPA under 42 U.S.C. 9602 (a), including flammable liquids or any substance listed or characterized as hazardous under any applicable law or regulation.
- 1.4 “MRF” means the Solid Waste Material Recovery Facility, which is owned and operated by the CONTRACTOR, for the receipt, storage, processing and marketing of recyclable materials, located at 5432 46<sup>th</sup> Street, Kenosha, WI 53144.
- 1.5 “Toxic Waste” or “Toxic Substance” means a substance which contains a toxic chemical covered under 42 U.S.C. 11023 ( c ).
- 1.6 “USER” means any other person, corporation, or entity, other than the CITY, who delivers recyclable material to the MRF, and who has executed a contract with the CONTRACTOR for the processing and marketing of recyclable materials.

- 1.7 “Infectious Waste” means solid waste, including containers, packages, and materials, that contains pathogens with sufficient virulence and in sufficient quantity that exposure of a susceptible human or animal to the solid waste could cause the human or animal to contract an infectious disease.
- 1.8 “Medical Waste” means infectious waste, as defined hereinabove, and other waste that may be mixed with infectious waste.
- 1.9 “Notice to Proceed” means an agreement executed by the CONTRACTOR and the CITY. CITY shall deliver recyclable materials as set forth in section A of Schedule A to the MRF. CONTRACTOR shall receive, , process and market said recyclable materials as more particularly set forth in Schedule A.

## **2. General Requirements**

CITY delivers recyclables or has program for residents whereby certain products are collected for purpose of recycling.

CONTRACTOR receives, processes and markets recyclable waste received by CITY.

## **3. Term**

The term of the Agreement shall be for a period of five (5) years effective January 1, 2012 and ending on December 31, 2016 and shall be extended for two (2) five year terms unless either party provides written notice of termination at least ninety (90) days in advance of the expiration date of the contract term then in effect. In the event there are enacted legislative changes in Wisconsin state law affecting the material delivery of services rendered or to be rendered by CONTRACTOR, or CITY terminates or makes material changes in its recycling program, then this AGREEMENT shall be subject to re-negotiation upon the party requesting re-negotiation providing at least thirty (30) days written notice to the other party of a commencement date for re-negotiation. The period for re-negotiation shall be no less than ninety (90) days. If agreement on material issues is not reached during the period for re-negotiation, this AGREEMENT may then be terminated by either party upon providing the other party with at least sixty (60) days written notice of the effective date of termination.

## **4. Assignment and Subletting**

Except for assignment to an affiliate (“affiliate” means another legal entity with 100% common ownership with CONTRACTOR), the CONTRACTOR shall not assign, sublet or transfer any interest or obligation in this AGREEMENT, whether by assignment or novation, without the prior written consent of CITY such consent not to be unreasonably withheld. CONTRACTOR may use non-managerial labor during the operation of the MRF without the approval of the CITY. The use of all other subcontractors must have prior approval of the CITY. All subcontractors shall comply with all provisions of this AGREEMENT. Claims for money due or to become due to the CONTRACTOR from the CITY under this AGREEMENT may be assigned to a bank, trust company or other financial institution without CITY’S approval. Notice of any such assignment or transfer shall be furnished promptly to the CITY.

## 5. Breach and Termination

### 5.1 Notice of Breach, Right to Cure and Notice of Termination

If through any cause either party shall fail to fulfill in timely and proper manner its material obligations under this AGREEMENT, or if either party shall fail to fulfill in a timely and proper manner any of the material covenants or stipulations of this AGREEMENT, then the non-defaulting party shall give written Notice of Breach to the defaulting party, identifying the breach and specifying the corrective action to be taken within a reasonable specific time. If the defaulting party fails to take such corrective action the non-defaulting party shall thereupon have the right to terminate this AGREEMENT by giving a thirty (30) day written Notice to the defaulting party of such termination and specifying the effective date thereof. Should the non-defaulting party waive its right to terminate this agreement for cause on one or more occasions, such waiver shall not preclude the non-defaulting party from exercising such right at any time in the future. Termination in the situations set forth in subsection 5.2 shall require compliance with the specific conditions set forth therein. There shall be no other termination or cancellation of this AGREEMENT during its term, without the prior written consent of both parties unless specifically permitted otherwise herein.

### 5.2 Specific Conditions

#### 5.2.1 Billing Disputes as to Fees

In the event of a dispute as to any bill for service fees, excluding obvious errors or miscalculations, the challenging party shall nevertheless pay the full amount of the disputed charges when due and shall, within (15) days from the date of the disputed bill, give written notice to the responding party, stating the amount in dispute and setting forth a full statement of the grounds on which the dispute is based. The responding party shall not be obligated to make any adjustments for disputed amounts until such notice is given. If amounts remain unresolved and unpaid fifteen (15) days after notice is received, the parties may litigate the dispute.

#### 5.2.2 Reports and Copies of Documents

##### 5.2.2.1 Monthly Operating Reports Required in Schedule C

If the CONTRACTOR does not submit timely and adequate Monthly Operating Reports required in Schedule "C", the CITY shall give the CONTRACTOR written Notice of the Delinquency requiring their submission within five (5) working days from the date of receipt of such Notice. The provisions of this subsection, affording the CONTRACTOR the opportunity to cure and submit delinquent Monthly Operating Reports, shall only be available to the CONTRACTOR three (3) times during any continuous 12-month period during the term of this AGREEMENT. In addition, if the CONTRACTOR fails to comply within the five (5) day Notice herein or continues to be delinquent after three (3) previous opportunities to cure within the same 12-month period, such failure shall constitute an incurable breach and the CITY may, but is not required to, proceed to

terminate this AGREEMENT on thirty (30) days advance notice, specifying the effective date thereof. In such event the CITY shall be entitled to the recoverable damages set forth in Schedule "A", paragraph I.F.1., and the CONTRACTOR shall have no further opportunity to cure.

#### 5.2.2.2 Other Reports Required in Schedule C

If the CONTRACTOR does not submit the other reports required in Schedule "C" in a timely and adequate fashion, the CITY shall give the CONTRACTOR written Notice to Submit Deliverables requiring their submission within five (5) working days from the date of receipt of such Notice. Failure to comply with the Notice shall result in the payment of charges according to the following schedule:

<u>Number of Days Elapsed After Receipt Date of Notice and City's Receipt of Submission</u>	<u>Late Charge</u>
5 days or less	No Charge
6 days but less than 20 days	\$150.00
20 days but less than 30 days	\$250.00
30 days but less than 45 days	\$500.00
45 days but less than 60 days	\$1,000.00
60 or more days	\$2,000.00 plus \$100.00 for each day after 70 days, with the option of termination.

Late charges shall be paid within 15 days of date of delivery (paragraph 17) of invoice which shall be submitted to the CONTRACTOR following each period set forth above, all such periods to be separate and cumulative.

Notwithstanding anything to the contrary herein, the CITY shall be entitled to terminate this AGREEMENT if at any time during the term of this AGREEMENT the CONTRACTOR shall fail to file with the CITY the required annual affirmative action report more than 90 days after a Notice to Submit Affirmative Action Plan is received by CONTRACTOR, and such termination remedy is in addition to the late charges provided for in this subsection.

#### 5.2.3 Violations in Acceptance and Receipt of Materials

This subsection is intended to address instances and practices wherein the CONTRACTOR accepts materials in contravention of this AGREEMENT; each such instance shall constitute a violation. If the CITY makes a determination that on three (3) occasions during the same continuous 12-month period the CONTRACTOR has violated

the same provision of schedule "A" in the acceptance and handling of deliveries, whether as to acceptability of materials, contamination, weighing, unloading, material storage or otherwise, the CITY shall send written Notice of Noncompliance to the CONTRACTOR. Such Notice shall contain a description of the violation(s), corrective action to be taken and a reasonable time for the CONTRACTOR to rectify and remedy its operations so that subsequent violation(s) do not occur. During the term of this AGREEMENT, the CONTRACTOR shall not have the above- described right to rectify and remedy, upon Notice of Noncompliance, a subsequent violation of the same provision more than twice during the same continuous 12-month period, unless at least twelve (12) months have elapsed since the prior violation, or, in the reasonable opinion of the CITY, the violation is minor, in which case the CITY shall issue additional Notices requiring corrective action. The CONTRACTOR'S failure to comply with the Notice to cure breach or subsequent violation(s) by the CONTRACTOR under this subsection shall constitute a breach of this AGREEMENT and the CITY shall thereupon have the right to terminate this AGREEMENT on thirty (30) days advance written notice, and the CONTRACTOR shall have no opportunity to rectify and remedy future violations. In addition to termination, the CITY shall be entitled to the recoverable damages set forth in Schedule "A", paragraph 1.F.1.

#### 5.2.4 Delivery of Infectious or Medical Wastes and Toxic or Hazardous Substances

The CITY shall make every attempt to prevent the delivery of Toxic and Hazardous Substances, including Infectious or Medical Wastes, at the MRF by the CITY employees, agents and subcontractors. The CITY shall not be responsible for the delivery of Infectious or Medical Waste and Toxic and Hazardous Substances at the MRF by other USERS. The CONTRACTOR will reject the delivery and notify the USER and the CITY within 2 hours in the event of an attempted or completed delivery of an Infectious or Medical Waste and Toxic or Hazardous Substance to the MRF, so that the USER may remove and dispose of the Infectious or Medical Waste and Toxic or Hazardous Substance. If the CONTRACTOR is unable to identify the USER that delivered such waste, CONTRACTOR shall properly handle all Toxic and Hazardous Substances which are delivered to the MRF. Such handling will be in compliance with all applicable laws, regulations and requirements. Willful acceptance of Infectious or Medical Wastes and Toxic or Hazardous Substances by the CONTRACTOR shall constitute breach and the CITY shall thereupon have the right to terminate this AGREEMENT, without notice and without opportunity to cure. The CITY shall also be entitled to recoverable damages including those set forth in Schedule "A", paragraph 1.F.1., subject to the right of CONTRACTOR to challenge the CITY'S determination that CONTRACTOR'S acceptance was willful. The CITY, including officers and employees, shall not be responsible or liable for any liability, claim, attorney fees, loss, damages or expenses, by whomever incurred or sustained, in connection with the delivery, acceptance, or handling of any Infectious or Medical Waste and Toxic or Hazardous Substances by any other USERS, and the CITY and its officers and employees shall be indemnified and held harmless against same, except to the extent such loss of damage relates from the acts or omissions of the CITY, its Agents, employees and subcontractors.

### 5.3 Compensation and Liability

In the event the CITY terminates this AGREEMENT for reason of breach by the

CONTRACTOR, the CONTRACTOR shall be entitled to receive just and equitable compensation, subject to any recoverable damages or charge, for any satisfactory work completed. Notwithstanding the above, the CONTRACTOR shall not be relieved of liability to the CITY for damages sustained by the CITY by virtue of any breach of this AGREEMENT by the CONTRACTOR, and the CITY may withhold any payments to the CONTRACTOR for the purpose of set-off of such payments against unsatisfied obligations of CONTRACTOR or damages sustained by CITY.

**6. Payment for Services**

The CITY agrees to make such payments for services rendered under this AGREEMENT as and in the manner specified in the attached Schedule "B" , incorporated herein by reference.

**7. Reports required by Schedule "C"**

The CONTRACTOR agrees to make such reports as are required in the attached Schedule "C", incorporated herein by reference. With respect to such reports it is expressly understood that time is of the essence and that the failure of the CONTRACTOR to comply with the time limits shall be governed by subsection 5.2.2.1 and 5.2.2.2 of the AGREEMENT.

**8. Diligence and Competence**

The CONTRACTOR shall diligently commence, carry on and complete its obligations under this AGREEMENT with all deliberate speed and in a professional, competent, sound, economical and efficient manner, in accordance with this AGREEMENT and all applicable laws. In providing the recycling facility and services under this AGREEMENT, the CONTRACTOR agrees to cooperate with the various departments, agencies, employees and officers of the CITY and with any agencies of the Federal and State governments having jurisdiction thereof.

**9. Employees**

The CONTRACTOR agrees to secure at the CONTRACTOR'S own expense all personnel necessary and adequate to carry out the CONTRACTOR'S obligations under this AGREEMENT, in accordance with the CITY oversight provisions for key personnel in Schedule "A". Such personnel shall not be deemed to be employees of the CITY.

**10. Indemnification**

10.1 To the fullest extent permitted by law, the CONTRACTOR shall indemnify, defend, and hold harmless the CITY, its boards, commissions, agencies, officers, employees and representatives from and against any and all liability, judgments or claims for damages, losses, expenses, death or injury to persons, or property, relating to, or resulting from:

- (1) Any violation of any provision of this AGREEMENT by the CONTRACTOR or its agents, employees, officers, directors, consultants and shareholders;
- (2) any act, neglect, omission or conduct, whether negligent, willful or otherwise, of the CONTRACTOR or its agents, employees, officers, consultants, directors and shareholders in connection with the CONTRACTOR'S furnishing the MRF and services required under this AGREEMENT;
- (3) any event or occurrence related to or connected with the CONTRACTOR furnishing

the MRF recycling facility and the services required under this AGREEMENT. The provisions of this section shall not apply to any liabilities, losses, charges, costs, or expenses to the extent caused by or resulting from the willful acts or willful omissions or neglect of the CITY, its agencies, boards, commissions, officers, employees or representatives. The expenses recoverable as a part of the CONTRACTOR'S indemnity obligations under this section shall include, without limitation, all reasonable attorneys fees and any cost incurred by the CITY in the enforcement of the provisions of the CONTRACTOR'S indemnity obligations. All of CONTRACTOR'S indemnity obligations in this agreement shall survive the expiration or earlier termination of this AGREEMENT.

10.2 The CONTRACTOR expressly releases the CITY, its boards, commissions, agencies, officers, employees and representatives from any and all responsibility, liability or claims for any damages, losses, costs, expenses, arising out of, relating to, or resulting from any delivery, acceptance, or handling of Infectious or Medical Waste and Toxic or Hazardous Substances at the MRF except to the extent such loss or damage relates from the acts or omissions of the CITY, its Agents, employees and subcontractors. This release shall survive the expiration or earlier termination of this AGREEMENT.

10.3 In addition, the CONTRACTOR shall indemnify, defend, and hold harmless the Municipal Agents, employees and subcontractors, their boards, commissions, agencies, offices, employees and representatives from and against any and all liability, judgments, claims for damages, losses, expenses, death or injuries to persons, damage to or loss of property, arising out of Infectious or Medical Waste and Toxic or Hazardous Substances at the MRF except to the extent such loss or damage results from the acts or omissions of the Municipal Agents, employees and subcontractors.

## **11. Insurance**

### **11.1 Coverage**

The CONTRACTOR agrees that it will at all times during the term of this AGREEMENT keep in full force and effect comprehensive general liability, contractual liability, and auto liability insurance policies, issued by a company or companies authorized to do business in the State of Wisconsin and licensed by the Wisconsin Office of the Commissioner of Insurance, with liability coverage provided in the amounts of at least \$5,000,000.00 CSL (Combined Single Limits). The CONTRACTOR also agrees that at all times during the term of this AGREEMENT it will keep in full force and effect environmental impairment insurance coverage and sudden and accidental pollution insurance coverage in the amounts of \$1,000,000.00 per occurrence and \$1,000,000.00 aggregate for each type of environmental insurance policy. All coverage afforded shall apply as primary, with the CITY, its boards, commissions, agencies, officers, employees and representatives as an additional insured. The policy shall also contain a clause that, in the event the policy is canceled for any reason or material changes are made therein, the Department of Public Works shall be notified, in writing, by the insurer at least thirty (30) days before any cancellation of change takes effect. The CITY reserves the right to reasonably increase the minimum liability insurance requirements set forth herein upon furnishing sixty (60) days advance written notice to CONTRACTOR, and CONTRACTOR shall comply with said request. Failure to keep in full force and effect the insurance coverage required herein shall constitute breach of this AGREEMENT and the CITY may terminate this AGREEMENT by giving CONTRACTOR a thirty (30) day written notice of termination specifying the effective date

thereof. In the event of termination, the CITY shall be entitled to recover its damages, including those damages specifically set forth in Schedule "A", paragraph 1.F.1.

## 11.2 Notice

### 11.2.1 Notice of cancellation or non-renewal of insurance

The CITY Director of Public Works shall be given thirty (30) days advance notice of cancellation or non-renewal of the insurance coverage during the term of this AGREEMENT. The CONTRACTOR shall seek appropriate insurance required herein to become effective at the expiration of the canceled or non-renewed policy. In the event that the CONTRACTOR is unable to secure such coverage, the CITY shall be notified and shall be entitled to terminate the AGREEMENT by giving CONTRACTOR written notice of termination effective on the date insurance coverage will lapse. In the event of termination, the CITY shall be entitled to recover its damages, including those damages specifically set forth in Schedule "A", paragraph 1.F.1.

### 11.2.2 Failure of City to furnish notice

In the event any action, suit or other proceeding is brought against the CITY upon any matter, failure of the CITY to furnish notice shall not result in any loss or waiver of the CITY'S rights under this AGREEMENT, if the CONTRACTOR otherwise has actual or constructive notice.

## 11.3 Proof of insurance

Upon execution of this AGREEMENT, the CONTRACTOR shall furnish the CITY Director of Public Works with certificates of insurance, and, upon request, certified copies of the required insurance policies. If the CONTRACTOR'S insurance is underwritten on a Claims-Made basis, the Retroactive Date shall be prior to or coincide with the date of this AGREEMENT and the Certificate of Insurance shall state that coverage is Claims-Made and indicate the Retroactive Date. The CONTRACTOR shall maintain coverage for the duration of this AGREEMENT. The CONTRACTOR shall furnish the CITY, annually, proof of payment and a Certificate of Insurance as evidence of compliance with its obligations hereunder. The CONTRACTOR expressly understands and agrees that any insurance protection required by this AGREEMENT shall in no way limit the CONTRACTOR'S obligations assumed in this AGREEMENT, and shall not be construed to relieve the CONTRACTOR from liability in excess of such coverage, including but not limited to its obligation of indemnity and hold CITY harmless, nor shall it preclude the CITY from taking such other actions as are available to it under any provisions of this AGREEMENT or otherwise by law.

## 11.4 Waiver

Both parties do hereby expressly agree that the CITY, acting at its sole option and through the Director of Public Works, may waive any and all requirements contained in Section 12 below respecting subcontractors, such waiver to be in writing only. Such waiver may include or be limited to a reduction in the amount of coverage required above.

**12. Worker's Compensation**

During the term of this AGREEMENT, the CONTRACTOR shall furnish evidence of and maintain adequate Worker's Compensation Insurance as required by law for all of its employees engaged in work at the project site under this AGREEMENT, and, in case of any sublet of such work, the CONTRACTOR shall similarly require the subcontractor to provide Worker's Compensation Insurance for all the latter's employees engaged in such work, unless such employees are covered by the protection afforded by the CONTRACTOR'S Worker's Compensation Insurance. The CONTRACTOR shall provide evidence that each and every subcontractor similarly has in force adequate Worker's Compensation Insurance. Adequacy of coverage shall be determined solely by the CITY'S Director of Public Works taking into account the nature of the work and other factors relevant to the CITY'S exposure, if any, under this AGREEMENT.

Employer's Liability Limits:	\$100,000 each accident
Employer's Liability Limits: Disease:	\$100,000 per employee
Employer's Liability Limits: Disease:	\$500,000 Total

**13. No Waiver**

In no event shall the making or receipt of any payment or the performance of an obligation of the other party or un-remediated nonperformance of any other obligation required of a party to this AGREEMENT constitute or be construed as a waiver by the other party of any of the covenants of this AGREEMENT or of a waiver of any default of the other party. The making or receipt of any such payment or any such performance or nonperformance while any such default or breach shall exist, shall in no way impair or prejudice the right of the other party with respect to recovery of damages or other remedy.

**14. Nondiscrimination**

During the term of this AGREEMENT, the CONTRACTOR agrees not to discriminate against any person, whether a recipient of services (actual or potential), an employee, or an applicant for employment on the basis of race, religion, sex, handicap, national origin, age, cultural differences, sexual preference, marital status, or physical appearance. Nondiscrimination will include equal opportunity employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, training, rates of pay, or any other form of compensation. The CONTRACTOR agrees to post in conspicuous places, available to all employees and applicants for employment, notices setting forth the provisions of this AGREEMENT as they relate to affirmative action and nondiscrimination policies of CONTRACTOR.

**15. Affirmative Action**

15.1 Affirmative Action Plan/Non-Discrimination Policy

The CONTRACTOR shall file an Affirmative Action Plan/Nondiscrimination Policy with the City of Kenosha Director of Public Works. The plan must be filed within fifteen (15) days of the effective date of this AGREEMENT and failure to do so by such date shall constitute grounds for immediate termination of this AGREEMENT by the CITY. The CONTRACTOR shall also, during the term of the contract, annually update the Plan.

## 15.2 Notice of Equal Opportunity Employer

The CONTRACTOR shall, in all solicitations for employment placed on the CONTRACTOR'S behalf, state that the CONTRACTOR is an "Equal Opportunity Employer".

## 15.3 Reports

The CONTRACTOR agrees to furnish all information and reports required by the CITY'S Director of Public Works as the same may relate to affirmative action and nondiscrimination, which may include any books, records, or accounts deemed appropriate and the provisions of this AGREEMENT.

## 16. Authorized Representative or Agents

The CONTRACTOR warrants that it has complied with all necessary requirements to do business in the State of Wisconsin and that the persons executing this AGREEMENT on its behalf are authorized to do so. The CONTRACTOR shall notify the CITY immediately, in writing, of any change in its registered agent, his or her address, and the CONTRACTOR'S legal status.

## 17. Notices, Records, Invoices, Billings and Reports

All notices required to be sent by this AGREEMENT shall be in writing and delivered by hand or by certified mail-return receipt requested to the following persons:

For the CONTRACTOR:

William Neve, Site Manager  
Veolia ES Solid Waste Midwest, LLC  
5421 46 Street  
Kenosha, WI 53144  
(262) 652-6967 Telephone  
(262) 652-7106 Facsimile

For the CITY:

Michael Lemens  
Director of Public Works  
City of Kenosha  
625 52 Street  
Kenosha, WI 53140  
(262) 653-4050 Telephone  
(262) 653-4056 Facsimile

***with a copy to:***

City Attorney  
City of Kenosha  
625 52<sup>nd</sup> Street  
Kenosha, WI 53140

Notice shall be effective as of the date of delivery, if by hand, or mailing, if by certified mail. It shall be the duty of any party changing its contact person or address to notify the other party in writing within a reasonable time. A violation of this requirement is not material, absent a showing of actual prejudice by the other party.

**18. Applicable Law**

It is expressly understood and agreed to by the parties hereto that in the event of any disagreement or controversy between the parties, Wisconsin law shall be controlling.

**19. Force Majeure**

If EITHER PARTY shall be delayed or interrupted in the performance or completion of its obligations under this AGREEMENT by an embargo, war, fire, flood, earthquake, epidemic or other calamity, act of God or of the public enemy, or any change in law, regulation or ruling which materially increases the time for performance of any obligation of this AGREEMENT, then this AGREEMENT shall be extended as mutually agreed upon by the parties at the time of the interruption. IN THE EVENT THE PARTIES ARE NOT ABLE TO REACH AN AGREEMENT ON SUCH EXTENSION WITHIN THIRTY (30) DAYS OF THE EVENT, EITHER PARTY MAY ADVANCE THE MATTER TO LITIGATION.

**20. Construction of AGREEMENT**

The entire AGREEMENT of the parties is contained herein and this AGREEMENT supersedes any and all agreements and negotiations between the parties, whether written or verbal, relating to the subject matter hereof. For the avoidance of doubt, this AGREEMENT specifically supersedes and replaces that certain agreement of similar nature by and among CITY and CONTRACTOR dated September 7, 2005 the "PRIOR AGREEMENT". The PRIOR AGREEMENT is therefore hereby made null and void and of no further force or effect upon execution of this AGREEMENT.

This AGREEMENT is intended to be solely between the parties hereto. No part of this AGREEMENT shall be construed to add, supplement, amend, abridge, or repeal existing rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties. The parties expressly agree that this AGREEMENT shall not be amended in any fashion except in writing, executed by both parties.

**21. Severability**

The invalidity of one or more of the phrases, sentences, clauses, or Sections contained in this AGREEMENT shall not affect the validity of the remaining portion of the AGREEMENT so long as the material purposes of this AGREEMENT can be determined and effectuated.

**22. Drafting of AGREEMENT**

This AGREEMENT for purposes of interpretation is deemed drafted by both parties, and it shall be fairly construed in accordance with its terms and shall not be construed against either party on the basis that the party is the drafter of this AGREEMENT.

**23. Approvals**

Wherever in this AGREEMENT, including the attached Schedules, certain “approval”, “consent” or “agreement”, or variations thereof or the like, is required by either CITY or CONTRACTOR for the subsequent action of either CITY or CONTRACTOR, the phrase “which shall not be unreasonably withheld or delayed” shall be deemed to follow each reference to “approval”, “consent”, “agreement”, or variations thereof or the like.

**24. Authorization**

24.1 The CITY enters into this agreement by authority of action taken by its Common Council at a duly noticed and convened meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2012.

24.2 The CONTRACTOR enters into this AGREEMENT by \_\_\_\_\_ who is authorized to execute this AGREEMENT under CONTRACTOR’S BY LAWS or resolution of the Board of Directors of CONTRACTOR.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed and approved on the date written by their authorized officers or representatives.

**CITY OF KENOSHA, WISCONSIN,  
A Wisconsin Municipal Corporation**

By: \_\_\_\_\_  
KEITH G. BOSMAN, Mayor

Date \_\_\_\_\_

By: \_\_\_\_\_  
DEBRA L. SALAS,  
City Clerk/Treasurer

Date \_\_\_\_\_

STATE OF WISCONSIN )  
  :SS.  
COUNTY OF KENOSHA )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2012, **KEITH G. BOSMAN**, and **DEBRA L. SALAS**, of the City of Kenosha, Wisconsin, a Wisconsin municipal corporation, to me known to be such **Mayor** and **City Clerk/Treasurer** of said municipal corporation, and acknowledged to me that they executed the foregoing instrument as such officers as the agreement of said municipal corporation, by its authority.

\_\_\_\_\_  
Notary Public, Kenosha County, WI.  
My Commission expires/is: \_\_\_\_\_

VEOLIA ES SOLID WASTE MIDWEST, LLC

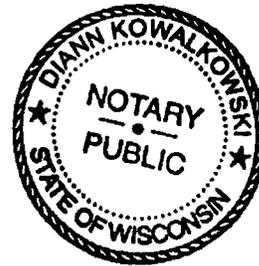
By: Ann Romul  
~~WILLIAM NEVE, Site Manager~~  
Chris Rooney, Region Manager

Date July 17, 2012

STATE OF WISCONSIN )  
                                  :SS.  
COUNTY OF KENOSHA )

Personally came before me this 17<sup>th</sup> day of July, 2012, WILLIAM NEVE, of VEOLIA ES SOLID WASTE MIDWEST, LLC, a Wisconsin limited liability company, to me known to be such Site Manager of said limited liability company, and acknowledged to me that he executed the foregoing instrument as such officer as the agreement of said limited liability company, by its authority.

Diann Kowalkowski  
Notary Public, Kenosha County, WI.  
My Commission expires/is: 9-20-2015



## Schedule A

### I. MRF Capability and Capacity

#### A. Type and Quantity of Material to be Received and Processed at the MRF

The CITY shall guarantee that all recyclable materials covered by this AGREEMENT that are collected by the CITY or its subcontractors shall be delivered to the MRF for processing by the CONTRACTOR unless the CITY and CONTRACTOR agree in writing otherwise.

The MRF shall receive and process the following types of recyclable materials in unlimited quantities generated from residential collection services:

##### Material

Newsprint

Corrugated Cardboard

Mixed Paper

(includes magazines, flyers, telephone books, "paperback" books, catalogs, boxboard (i.e., unlined soda or merchandise boxes), untreated office papers (i.e., typing, copy or printer), stationery, envelopes, bills and invoices, brown or white paper bags and junk mail)

Glass Containers

(green, brown, clear and mixed to be returned to the recycling stream)

Steel Containers

Aluminum Cans

Plastic Containers #1-7

***Specifically excluded*** from collection at the drop-off center are waxed or coated papers or boxes (i.e., food containers, laminated papers, synthetic papers (i.e., Tyvec), wrapping papers (i.e., gift wrap), photographs, carbon paper, hardcover Books (i.e., bibles, novels, or binders), and glued papers (i.e., labels).

B. Drop-Off Center Operation

The CONTRACTOR shall operate a drop-off center at the MRF for the convenience of CITY residents. The drop-off center will accept all materials for processing by the MRF from 6:45a to 3:15p Monday through Friday, except holidays.

C. Improvements

For improvements of the system to facilitate better handling of materials that are being handled, the CONTRACTOR will be responsible for the redesign of the system to improve the receipt or processing of materials, with all cost to be paid for by the CONTRACTOR. For the acceptance of additional materials, the CITY Director of Public Works will negotiate with the CONTRACTOR as to the costs of these improvements. In all cases, the CONTRACTOR is to notify the CITY of the proposed changes.

Changes in the system shall be scheduled by the CONTRACTOR to avoid interruption of the operation of the MRF. The MRF and all equipment are owned by the CONTRACTOR.

D. Environmental and Aesthetic Standards/Laws

The CONTRACTOR shall maintain an environmentally sound and aesthetically attractive MRF, operate the MRF in a manner that minimizes aesthetically undesirable conditions, and complete improvements/modifications to the design that conforms to acceptable architectural design and landscaping standards. In fulfilling the obligations under this paragraph, the CONTRACTOR shall comply with all applicable Federal, State, and local laws, rules and regulations.

The CONTRACTOR is solely responsible for and shall bear the cost of determining and meeting all Federal, State and local laws, statutes, rules and regulations that apply or will apply in the future.

CONTRACTOR will honor all reasonable conditions, operations requirements and reporting requirements imposed by the Wisconsin Department of Natural Resources for single stream recycling.

E. Financial Assurance Mechanism.

CONTRACTOR will provide the CITY with an irrevocable letter of credit or performance bond, terms of which are acceptable to the CITY, in the amount of \$100,000. The letter of credit for the operation of the MRF shall be submitted to the CITY by January 1<sup>st</sup> of each year. The failure of Contractor to timely supply the letter of credit or bond shall be a material breach of this AGREEMENT capable of cure by providing such letter of credit or bond within five (5) days of notice from CITY.

F. Recoverable Damages

1. Breach and Termination

Upon receipt of Notice of Termination for failure of the MRF to comply with this AGREEMENT or failure of the CONTRACTOR to fulfill its recycling obligations under this AGREEMENT, the CONTRACTOR shall be obligated to pay the CITY'S damages including, but not necessarily limited to:

- a. The CITY'S cost of accepting, transporting, processing and marketing the materials;
- b. Either the CITY'S costs of obtaining a successor contract with another provider (including the costs of developing specifications, bidding, publishing bids, etc.) or the costs of creating a CITY MRF (including also architectural costs); and
- c. The excess of the CITY'S costs under a successor contract with another provider over the CITY'S costs under this AGREEMENT. In the event the CITY elects to develop its own MRF, the CONTRACTOR shall pay the CITY the excess of the CITY'S costs of operating the MRF over the CITY'S fixed and variable fees under this AGREEMENT.

II. Use of the MRF

Recyclable material may be delivered upon the following conditions:

A. Acceptable USERS

Acceptable USERS OF THE MRF are limited to those USERS that have contracted for the use of the MRF through the CONTRACTOR. The CITY recognizes that the MRF is owned and operated by the CONTRACTOR and that the CONTRACTOR will be using the MRF for the processing of its own commercial, industrial and multi-family residential recyclables outside of the terms of this AGREEMENT, including other single family residential recyclables from outside the boundaries of the City of Kenosha.

B. Acceptable Materials

1. Form of Delivery

Material shall be accepted via single stream delivery.

2. Material Preparation

Acceptable materials shall be prepared in accordance with the following standards:

- a. Newsprint shall be dry and not sunburned.

- b. Corrugated cardboard shall be dry, flattened, empty and free of food debris and other contamination material.
- c. Glass containers shall be empty and free of metal caps and rings, other contaminates such as window glass, ceramics and similar material and will be clean of food debris.
- d. Tin cans shall be empty and will be clean of food debris, and shall exclude all aerosol cans and cans that were used to hold chemicals.
- e. Bi-metal cans shall be empty and will be clean of food debris.
- f. Aluminum cans shall be empty and will be clean of food debris.
- g. Plastic containers shall be empty, have caps removed and be free of food debris, and shall exclude all containers that were used to hold chemicals, including motor oil.
- h. In lieu of processing, sorting and marketing the materials subject to the agreement at a materials processing facility owned and operated by Veolia, the parties agree that Veolia may transport such materials to a third party to perform such obligations at Veolia's discretion from time to time.

C. Quality

Acceptable material must be of such a quality and nature as not to:

1. Materially impair the strength or the durability of the MRF structures or equipment.
2. Create flammable or explosive conditions in the MRF.
3. Contain chemical or other properties which, in the opinion of the CITY and CONTRACTOR, are deleterious or capable of causing material damage to any part of the MRF, its personnel or the public.
4. Include any hazardous or toxic substance as defined by applicable Federal or State law, rule or regulation, except as expressly agreed to by both parties in writing. The MRF is not designed for or intended to be used in connection with the transportation, storage, recycling or disposal of toxic or hazardous waste.

III. Receipt of Materials

A. Receiving Schedule

1. Normal Hours and Days of Operations

The CONTRACTOR shall accept materials Monday through Friday from 6:45a to 3:15p, excluding the following holidays:

New Year's Day	Labor Day
Memorial Day	Thanksgiving Day
Independence Day	Christmas Day

MRF operation shall minimize the time for queuing, weighing and dumping of material. The MRF is designed to process all material on the day it is received.

2. Additional Hours/Days of Operation

a. Emergency/Exceptional Circumstances

In the event of an emergency or exceptional circumstances, and upon receipt of notice from the CITY Director of Public Works at least one-half hour prior to the posted closing time, the CONTRACTOR shall keep the MRF open for the receipt (not processing) of recyclable materials.

3. Saturdays

Saturdays following scheduled holidays the facility will be open.

B. Delivery Vehicles: Weighing and Unloading

1. Delivery Vehicles

The following are acceptable categories of delivery vehicles:

- a) All self-unloading vehicles, with a dumping height of less than 28 feet.
- b) Other vehicles as approved by CONTRACTOR and the CITY Director of Public Works. If special handling is required, the USER must prearrange an appointment at least 24 hours in advance.

2. Accepting and Weighing Material

The CONTRACTOR shall accept and weigh material delivered in the form specified in paragraph II.B.1 unless the material fails to meet standards established by the CITY Director of Public Works, including but not limited to those set forth in paragraph II.B.

3. Weighing System

The CONTRACTOR shall provide an automatic weighing system to adequately measure and record all incoming recyclable quantities and also quantities of materials leaving the MRF. The scale shall be certified for

accuracy at least quarterly by a private contractor, with the results to be submitted to the Wisconsin Department of Agriculture, Trade and Consumer Protection.

4. Minimizing the Weighing and Unloading Times of Delivery Vehicles

The CONTRACTOR shall operate the MRF in a manner as to minimize the time for queuing, weighing and unloading of material. If requested by either party, the CONTRACTOR and the CITY Director of Public Works shall jointly examine possible changes in operating procedures and the design of the MRF to expedite these processes.

5. Delivery Vehicle Servicing

All vehicles delivering material under this AGREEMENT shall be weighed on a "first-come, first-served" basis and shall be unloaded on the same basis.

C. Excessive Contamination

For loads that appear to have higher than normal levels of contamination of non-recyclable material, the CONTRACTOR may, at its choice, measure the amount of contamination and non-recyclable material in that load.

1. Rejection of Loads

For loads that have unacceptable contamination, the CONTRACTOR may reject the load, upon agreement with the CITY Director of Public Works. Rejected loads will be disposed of at the CITY'S expense.

2. Limits of Residues

The MRF shall be capable of processing all materials received and generate no more than 10% landfill residue. When hauling the material the CITY shall take care in handling the material and shall limit the truck compaction to avoid breaking materials thus generating excess residue.

D. Material Storage

The CONTRACTOR shall not store unprocessed material outside. Glass containers separated from other materials shall be deemed processed. The CONTRACTOR shall provide for the inside storage of two (2) days of unprocessed material.

IV. Residue Disposal

A. Responsibility of Disposal

The disposal of residues from the MRF is the responsibility of the CONTRACTOR and shall be disposed of in a licensed landfill. Under no conditions shall any residues and/or

recyclables be incinerated in the City of Kenosha.

B. Inspection of Residues Going to Landfill to Insure Maximum Recycling

The CITY shall have the right during normal business hours to inspect all materials from the recycling processing line being disposed of in a landfill in order to minimize the amount of potentially recoverable material being disposed of in landfill.

V. CITY Oversight

A. CITY Right of Inspection

The CITY Director of Public Works and designees thereof shall have the right to inspect the CONTRACTOR'S operating procedures of the MRF, including, but not limited to, scale record, maintenance records, training programs for employees, records of revenue from the sale of material, records to be kept under this contract and other similar information at any reasonable time.

B. Key Personnel

The CONTRACTOR shall designate key personnel to be assigned to the MRF. The CONTRACTOR shall not be allowed to substitute key personnel without the prior written permission of the CITY Director of Public Works; such permission not to be unreasonably withheld.

VI. Public Information

A. Coordination of Public Information/Education for USERS of the MRF

The CONTRACTOR shall have the lead responsibility for providing information to the USERS of the MRF on MRF operation procedures. The CITY shall have the lead responsibility for all media contacts. Both parties shall attempt to provide prior notice to and approval from the other party for any representations to the media. The CITY Director of Public Works will also have the lead responsibility for promoting recycling within the City of Kenosha, including information on what materials are to be recycled, the type of preparation of the materials (such as cleaning containers and removing lids) and why people should participate in recycling.

B. Responsibility for Tours of the MRF

The CONTRACTOR will have the lead responsibility for all tours of the MRF. A minimum of twenty-four hour advance notice from the CITY Director of Public Works shall be provided. The CONTRACTOR reserves the right to cancel or prevent any tour if the CONTRACTOR determines that a tour would interfere or hamper the operation of the MRF. Permission for a tour shall not be unreasonably withheld.

Schedule B – Payment for Services

I. Payment for Services

1. Tipping Fee:  
\$16.29 per ton (subject to annual CPI change or 2.5% whichever is greater).
2. Revenue Sharing (\*Net Proceeds received by Veolia ES Solid Waste Midwest, LLC):

Value of Material	City Charge or Rebate
Below \$0.00 per ton	**City Pays All Charges
\$0.00-\$40.00 per ton	City Receives Rebate of 60% Net Proceeds
\$40.01-\$80.00 per ton	City Receives Rebate of 70% Net Proceeds
\$80.01 per ton and above	City Receives Rebate of 80% Net Proceeds

*\*Net proceeds are defined as:*

Sale Proceeds received from Recycler less: 1) processing fees; 2) transportation fees; 3) governmental fees or taxes.

*\*\* If Sale Proceeds is \$0 per ton then City responsible for any:*

1) tipping fees in addition to the fee in Section 1; 2) transportation fees; 3) governmental fees or taxes

3. City agrees to pay the Contractor \$113.44 for each load of recyclable material delivered to the Contractor by the Contractor hauling divisions from the City drop-off center for loads in excess of the first 144 loads per year.
4. During the term of the Agreement, the Contractor shall invoice on a monthly basis for services rendered in the prior month. The City shall pay all undisputed amounts no later than 20 days following receipt of invoice. If the City disputed any charges it shall do so in writing to the Contractor no later than the invoice due date and such notice shall specifically detail the nature of the dispute. A service charge of 1.5% per month or maximum allowed by law, if less, will be applied on past due balances. Contractor may suspend service if payment is late or in the event of any other breach by City, without prejudice to any of Contractor's other rights or remedies.

## Schedule C – Project Deliverables

### I. Requirements for Submitting Reports

#### A. Timeliness

The CONTRACTOR shall submit the reports listed in Table C-1 to the CITY Director of Public Works within the times indicated. All reports shall be at the expense of the CONTRACTOR unless otherwise indicated.

#### B. Reports Required

##### 1. Monthly Operating Report

##### a. Information to be Provided

The CONTRACTOR shall submit to the CITY the following information:

##### (1) Delivery of material by the CITY

- Name and account number
- Vehicle number, if any
- Date and time of each delivery
- Rejection of loads, if any
- Weight of material of each load

Table C-1 – Summary of Project Deliverables and Delivery Dates

<u>Deliverables</u>	<u>Scheduled Delivery Date</u>
Operating Schedule	At the beginning of each Contract year
Monthly Operating Reports	Within ten (10) working days of the end of each calendar month for items in paragraph I.B.1. Within thirty (30) days after the end of each calendar month for items in I.B.2.
Revisions to the Operating Plan	With each revision
Schedule of Major Equipment Replacements	As prepared or revised
Affirmative Action Plan	At the beginning of each contract year



**Engineering Division**  
 Shelly Billingsley, P.E.  
 Director/City Engineer  
**Fleet Maintenance**  
 Mauro Lenci  
 Superintendent

**Street Division**  
 John H. Prijic  
 Superintendent  
**Waste Division**  
 Rocky Bednar  
 Superintendent  
**Parks Division**  
 Jeff Warnock  
 Superintendent

C-3

**DEPARTMENT OF PUBLIC WORKS**

**Michael M. Lemens, P.E., Director**

Municipal Building · 625 52<sup>nd</sup> ST · RM 305 · Kenosha, WI 53140  
 Telephone (262) 653-4050 · Fax (262) 653-4056

August 15, 2012

To: Eric J. Haugaard, Chairman,  
 Public Works Committee

From: Shelly Billingsley, P.E. *Shelly Billingsley*  
 Director of Engineering / City Engineer

Subject: Project: 12-1019 Joint, Crack Cleaning and Sealing

Location: Citywide

The Department of Public Works, Engineering Division has opened bids for the above referenced project. Engineer's Estimate was \$250,000.00. Budget amount is \$250,000.00.

This project consists of routing, cleaning cracks and joints in asphalt or concrete pavements, and sealing prepared cracks and joints with an approved sealing material.

**Following is the list of bidders:**

Contractor	Class I Asphalt Bid	Class II Asphalt or Concrete Bid	Bid Total
Behm Pavement Maintenance, Crystal Lake, IL	\$352,800.00	\$58,800.00	\$411,600.00
Fahrner Asphalt Sealers, Waunakee, WI	\$571,200.00	\$84,000.00	\$655,200.00

It is recommended that this contract be awarded to Behm Pavement Maintenance, Crystal Lake, Illinois, for the amount of \$250,000.00. This is a quantities and unit cost contract. Actual work will be adjusted to commensurate with available funding and will not exceed the budgeted amount of \$250,000.00. Funding is from CIP Line Item IN-93-002.

SAB/kjb

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

BY: Finance Committee

To Amend the City of Kenosha Capital Improvement Program for 2012  
By Increasing PK12-001 "Anderson Pool" by \$160,500 and Decreasing PK03-001 "Park Renovations" by \$30,000; Decreasing PK11-001 "Outdoor Recreational Plan Implementation – Forest Park" by \$66,500 and Creating Outside Funding of \$64,000 from Anderson Cell Tower Collections and Anderson Park Impact Fees for a Net Change of \$0

WHEREAS, bids for the Anderson pool splash pad construction along with the need for outside inspection and engineering time came in higher than the funds appropriated; and

WHEREAS, the above amendment to the Capital Improvement Program has been approved by the Park Commission; Public Works Committee and the Finance Committee on August 20, 2012;

NOW, THEREFORE BE IT RESOLVED, by the Common Council of the City of Kenosha, Wisconsin that the Capital Improvement Program be, and hereby is amended as follows:

<i>Line Item</i>	<i>Description</i>	<i>Available Authorization</i>	<i>Authorization Adjustment</i>	<i>Amended Authorization</i>
PK12-001	Anderson Pool (2012)	450,000	160,500	610,500
	Outside Funding	-0-	(64,000)	(64,000)
PK03-001	Park Renovations (2012)	30,000	(30,000)	-0-
PK11-001	Outdoor Recreational Plan Implementation (2012)	1,995,831	(66,500)	1,929,331

Adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2012

Approved:

\_\_\_\_\_  
KEITH G. BOSMAN, MAYOR

Attest:

\_\_\_\_\_  
DEBRA SALAS, CITY CLERK/TREASURER

(RES12/cipPK12.001.8.9.12)



**Engineering Division**  
 Shelly Billingsley, P.E.  
 Director/City Engineer  
**Fleet Maintenance**  
 Mauro Lenci  
 Superintendent

**Street Division**  
 John H. Prijic  
 Superintendent  
**Waste Division**  
 Rocky Bednar  
 Superintendent  
**Parks Division**  
 Jeff Warnock  
 Superintendent

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**DEPARTMENT OF PUBLIC WORKS**

**Michael M. Lemens, P.E., Director**

Municipal Building · 625 52<sup>nd</sup> ST · RM 305 · Kenosha, WI 53140  
 Telephone (262) 653-4050 · Fax (262) 653-4056

August 15, 2012

To: Eric J. Haugaard, Chairman, Public Works Committee  
 Michael J. Orth, Chairman, Park Commission

From: Shelly Billingsley, P.E. *Shelly Billingsley*  
 Director of Engineering /City Engineer

Subject: Project: Anderson Pool Splashpad Construction  
 Location: 8730 22<sup>nd</sup> Avenue

The Department of Public Works, Engineering Division has opened bids for the above referenced project. Engineer's Estimate was \$220,000.00. Budget amount is \$610,500.00.

This project consists of demolition of existing intermediate swimming pool, concrete work, plumbing and electrical work for the installation of new interactive water features and landscaping.

**Following is the list of bidders:**

Contractor	Base Bid	Alternate 1 Landscaping	Total Bid Amount
Scherrer Construction, Burlington, WI	\$269,443.50	\$3,300.00	\$272,743.50
Platt Construction, Franklin, WI	\$283,873.50	\$5,700.00	\$289,573.50
Camosy Construction, Kenosha, WI	\$288,014.94	\$6,900.00	\$294,914.94

It is recommended that this contract be awarded to Scherrer Construction, Burlington, Wisconsin for the base bid amount of \$269,443.50 plus \$3,300.00 for Alternate 1 plus \$27,256.50 in contingency for unforeseen conditions (if needed), for total award amount of \$300,000.00. Funding is from CIP Line Item PK-12-001.

*Note: The splashpad equipment will be acquired through direct purchase by the City. The cost of this purchase is \$201,465.00.*

SAB/kjb



**Engineering Division**  
Shelly Billingsley, P.E.  
Director/City Engineer  
**Fleet Maintenance**  
Mauro Lenci  
Superintendent

**Street Division**  
John H. Prijic  
Superintendent  
**Waste Division**  
Rocky Bednar  
Superintendent  
**Parks Division**  
Jeff Warnock  
Superintendent

C-6

## DEPARTMENT OF PUBLIC WORKS

**Michael M. Lemens, P.E., Director**

Municipal Building · 625 52<sup>nd</sup> ST · RM 305 · Kenosha, WI 53140  
Telephone (262) 653-4050 · Fax (262) 653-4056

August 14, 2012

To: Eric Haugaard, Chairman, Public Works Committee  
Patrick Juliana, Chairman, Stormwater Utility Committee

From: Shelly Billingsley, P.E. *Shelly Billingsley*  
Director of Engineering/City Engineer

Subject: Acceptance of Project 11-1208 Sidewalk & Curb/Gutter Program

Location: Citywide

Please be advised that the above referenced project has been satisfactorily completed by A.W. Oakes & Son, Racine, Wisconsin. This project consisted of hazardous sidewalk, driveway approach and curb/gutter repair, installation of new sidewalk, installation of handicapped ramps, excavation and landscaping.

It is recommended that the project be accepted in the final amount of \$635,012.58. The original contract amount was \$446,983 plus \$123,017 for additional quantities, if needed for a total contract amount of \$570,000. A change order increasing the contract by \$85,500 was approved by Common Council on October 3, 2011 for additional quantities due to the June 30, 2011 storm making the revised contract amount \$655,500. Funding was from CIP Line Items IN-93-004 and SW-93-005.

SAB/kjb

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

**BY: COMMITTEE ON PUBLIC WORKS**

**PRELIMINARY RESOLUTION DECLARING INTENT TO LEVY ASSESSMENTS  
FOR  
SUMP PUMP DRAIN CONNECTIONS INTO STORM SEWERS**

**PROJECT #77-1104**

WHEREAS, it is expedient, necessary and in the best interest of the City of Kenosha, and for benefit of the property affected thereby that improvements in street right-of-ways: sump pump drain connections into storm sewers.

**(82<sup>nd</sup> Street – 62 ft to 805 ft west of 17<sup>th</sup> Avenue, 17<sup>th</sup> Avenue - 81<sup>st</sup> Street to 83<sup>rd</sup> Street)**

NOW, THEREFORE, BE IT RESOLVED, By the Common Council of Kenosha, Wisconsin:

1. The Common Council hereby declares its intention to exercise its police power under Section 66.0703, Wisconsin Statutes, to levy special assessments on all property fronting upon both sides of the street within the above limits for benefits conferred upon property by improvement of the streets enumerated above.

2. Said public improvement shall include the improvements in street right-of-ways: sump pump drain connections into storm sewers.

3. The Common Council determines that the improvements constitute an exercise of the police power and the amount assessed against each parcel shall be based on a per front foot or per square foot rate.

4. The assessments against any parcel may be paid in a lump sum per Section 2.10.A.4 of the Code of General Ordinances.

5. The Board of Public Works is directed to prepare a report consisting of:

- a. Preliminary plans and specifications for said improvements.

- b. An estimate of entire cost of the proposed improvements and in street right-of-way.
- c. Schedule of proposed assessments.

6. Upon receiving the report of the Board of Public Works (Public Works Committee), the Clerk is directed to give notice of public hearings on such report, as specified in Section 66.0703 of the Wisconsin Statutes. The hearings shall be held at the Municipal Office Building at a time set by the Clerk, in accordance with Section 66.0703, Wisconsin Statutes.

Adopted this 20<sup>th</sup> day of August, 2012.

APPROVED:

\_\_\_\_\_  
MAYOR  
KEITH G. BOSMAN

ATTEST:

\_\_\_\_\_  
CITY CLERK/TREASURER  
DEBRA L. SALAS

TO: Michael M. Lemens, P.E.  
Director of Public Works

FROM: Shelly Billingsley, P.E.  
Director of Engineering/City Engineer



SUBJECT: Project Status Report

- Project #08-1443 – Bike Path Extensions** – Project design is nearly complete. City is waiting for WisDOT approval. (16)
- Project #11-1208 – Sidewalk Repair** – [Oakes] Work is complete except for punch list items. (City wide)
- Project #11-1211 – Windstorm Damage Walk**– [Gleason] Work is complete and is currently undergoing the approval process. (Citywide)
- Project #08-1021 – 39<sup>th</sup> Avenue from 18<sup>th</sup> Street to 24<sup>th</sup> Street** – [LaLonde] Project is complete. Contractor is completing the landscaping and sidewalk punch list items.
- Project #09-1011 – New Road Construction – 56<sup>th</sup> Street from 64<sup>th</sup> Ave to 68<sup>th</sup> Ave.** – [Reesmans] Project has been completed and finalizing punch list items.
- Project #09-1413 – Washington Park Valedrome Facility** – [Rasch] Building has temporary occupancy working on railing for retaining wall. (6)
- Project #11-1416 Petzke Park Mass Grading** – [BCF Construction] Final punchlist items are being completed. (1)
- Project #11-1131 –Curb and Gutter Repair** – [Marvin Gleason] Work is complete except for punch list items (City wide)
- Project #11-1133 – Windstorm C&G Replacement** – [Gleason] Work is complete except for punch list items. (Citywide)
- Project #09-1121 Forest Park Evaluation** – Staff is in the final phases of finalizing the report. Final comments are being drafted and will be submitted to Strand in May. (1)
- Project #10-1126 Wetland Mitigation Bank**– [Ruekert-Mielke] The consultant has gathered additional costs needed for the survey and additional data needed for completion of an alternative analysis for a permanent repair for the multi-plate system . (2 and 7)
- Project #10-1131 River Crossing Swale Restoration** – [Applied Ecological Services] Applied Ecological Services has begun the treatment of the invasive and non-native species. Future treatment times will occur again in August and October. (17)
- Project #11-1128 Multi-Plate Pipe Storm Sewer Inspection and Evaluation** – [Ruekert-Mielke] The consultant has gathered additional costs needed for the survey and additional data needed for completion of an alternative analysis for a permanent repair for the multi-plate system as proposed at the Feb. 1 meetings. (2 and 7)
- Project #11-1125 Pennoyer Beach Outfall Stormwater Infiltration Basin (GLRI Grant)** – Work has begun on the bioswales. Work is scheduled to begin on the infiltration basin beginning in late August due to better plant survival in August through September. (1 and 6)
- Project #11-1127 MacWhyte Water Quality Basin** – [Cicchini] The pond is complete but the contract will remain open until seed germination. Contractor has been notified that additional seeding will be required around the basin and until substantial grass growth the project will remain open. (1)
- Project #11-1135 Stormwater Management Plan Development** – Contract has been executed work has begun. (City wide)
- Project #11-1137 Pike River Monitoring (WI Coastal Management Grant)** – The City of Racine has begun monitoring. (1 and 4)
- Project #12-1136 Pike River Monitoring (Fund for Lake Michigan Grant)** – The City of Racine has begun monitoring (1 and 4)
- Project #12-1012 2012 Resurfacing** – (32<sup>nd</sup> Ave: 55<sup>th</sup> St to 52<sup>nd</sup> St; 33<sup>rd</sup> Ave: 55<sup>th</sup> St to 52<sup>nd</sup> St; 27<sup>th</sup> Ave: 35<sup>th</sup> St to 33<sup>rd</sup> St; 60<sup>th</sup> Ave: 82<sup>nd</sup> St to 80<sup>th</sup> St) –Storm sewer work will be funded by the SWU. (6,11,14)
- Project #12-1024 60<sup>th</sup> Street Resurfacing: 8<sup>th</sup> Ave to 22<sup>nd</sup> Ave** – Work is continuing. (2,8).
- Project #12-1015 Lincoln Road Resurfacing** - Work has begun. Storm Sewer Work will be funded by the SWU. (13)
- Project #12-1208 Sidewalk Repair Program** – [AW Oakes] Work has begun and Ruekert Mielke is inspecting the sidewalk program for the 2012 construction contract (City wide).
- Project #10-1415 Lakefront Water Feature** – [Camosy] Work is continuing (2).
- Project #12-1018 Intersection Warrant Study** – [Clark Dietz] Staff is working on designing the intersection geometric changes. (4)
- Project #11-2013 Harbor and Marina Dredging** – [Ruekert Mielke] Work has begun (2).
- Project #12-1420 Shagbark Trail Development** – [SAA] Design works has been started by SAA as outlined in the Stewardship Grant (10)
- Project #12-1410 Tree Removal** – [Droprite] The contract has been executed. (Citywide).
- Design Work** – Staff is working the following projects: Miscellaneous Bike Path projects, CDBG Resurfacing, Concrete Street Repairs , Street Division Yard Paving, Sidewalk Hazard Removal Program, GIS Survey City Wide, 122<sup>nd</sup> Ave from 71<sup>st</sup> Street to 75<sup>th</sup> Street, Sump Pump Priorities, SWPPP Updates, Website Design, GPS Data Forms, Storm Sewer Investigation for Roadway Projects, Permit Compliance, SWU Reporting, Pollution Prevention Structures, Stormwater Management Facility Inspections, Miscellaneous Storm Sewer projects for contractor and SWU crews, Southport Shoreline Repair, Parks Master Design Contract, Park Fee Study, Southport Beachhouse Restoration, Strawberry Creek Trail and Shelter Grant, Sunrise Park Trail Grant, Southport Park Trail Grant, Simmons Island Park Boardwalk Grant, Shagbark Basin Trail Grant, Washington Park Pool Stair Modifications, Strawberry Creek Mass Grading, Anderson Pool Modifications and Splash Pad, Museum Fountain.
- DOT Projects:** Staff will discuss at meeting.