AGENDA
PUBLIC WORKS COMMITTEE

MONDAY, SEPTEMBER 27, 2010
ROOM 204
4:30 P.M.

G. John Ruffolo, Chairman
Anthony Nudo, Vice Chairman
Steve Bostrom
Patrick Juliana
Jan Michalski
Ray Misner

A. APPROVAL OF MINUTES

A-1 Approval of minutes of regular meeting held on September 13, 2010 and the meeting held on September 20, 2010.

B. DEFERRED BY COMMITTEE

B-1 A Mutual Agreement and Release by and between RBC Real Estate Finance, Inc., and the Kenosha Water Utility and the City of Kenosha regarding Strawberry Creek property. **(District 17)** *(City Plan Commission approved 6:0) (deferred from September 13, 2010 meeting)*

B-2 Letter of Credit Termination Agreement for Property located in Strawberry Creek. **(District 17)** *(City Plan Commission approved 6:0) (deferred from September 13, 2010 meeting)*

INFORMATIONAL:

1. Lawn Park Area at 40th Avenue south of 75th Street
2. Fall Yardwaste Collection
3. 22nd Avenue Resurfacing
4. 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 MEMEBERS 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, SEPTEMBER 13, 2010
4:30 P.M.

G. John Ruffolo, Chairman
Anthony Nudo, Vice Chairman
Steve Bostrom
Patrick Juliana
Jan Michalski
Ray Misner

The regular meeting of the Public Works Committee was held on Monday, September 13, 2010 in Room 204 of the Municipal Building. The following members were present: Chairman G. John Ruffolo, Vice Chairman Anthony Nudo, Aldermen Steve Bostrom, and Jan Michalski. Alderman Ray Misner arrived during discussion of Informational Item 1. Alderman Patrick Juliana was excused. The meeting was called to order at 4:34 PM. Staff members in attendance were Ron Bursek and Mike Lemens.

A-1 Approval of minutes of regular meeting held on August 30, 2010 and special meeting held on September 8, 2010.

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

C-1 Resolution for special assessments for hazardous walk and driveway approach repair only for Project 10-1012 Resurfacing Phase I (33rd Avenue - 75th Street to Roosevelt Rd, 40th Avenue - 65th Street to Taft Rd, 45th Avenue - 87th Place to 86th Street, 38th Avenue - 73rd Street to 71st Street) in the total amount of $10,822.59 to be levied against the respective parcels of property as shown by a report of the City Engineer and filed in the office of the City Clerk of the City of Kenosha. **(Districts 12, 13, 14, 15)** *(also referred to Finance Committee)*

It was moved by Alderman Michalski, seconded by Alderman Nudo to approve items C-1 and C-2. Motion passed 4-0.

C-2 Resolution for special assessments for hazardous walk and driveway approach repair only for Project 10-1015 Resurfacing Phase II (43rd Street - 17th Avenue to 22nd Avenue, 55th Street - 49th Avenue to 51st Avenue) in the total amount of $8,560.11 to be levied against the respective parcels of property as shown by a report of the City Engineer filed in the office of the City Clerk of the City of Kenosha. **(Districts 6 & 16)** *(also referred to Finance Committee)*

C-3 Easement Agreement for the 39th Avenue Right-of-Way Project at 3905 24th Street. (James & Dortha Childers) **(District 5)**

Alderman Nudo requested to have a summary with the appraisal for future agreements.

It was moved by Alderman Nudo, seconded by Alderman Bostrom to approve. Motion passed 4-0.

C-4 Permanent Limited Easement for storm water drainage at 1338 20th Avenue. (Kent & Angela Morton) **(District 1)**

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

C-5 A Mutual Agreement and Release by and between RBC Real Estate Finance, Inc., and the Kenosha Water Utility and the City of Kenosha regarding Strawberry Creek property. **(District 17)** *(City Plan Commission approved 6-0)*

Alderman Bogdala, Alderman for the 17th district, spoke in favor of the deferral.

It was moved by Michalski, seconded by Alderman Bostrom to defer items C-5 and C-6 and asks that all exhibits be included with the back up. Motion passed 4-0.

C-6 Letter of Credit Termination Agreement for property located in Strawberry Creek. **(District 17)** *(City Plan Commission approved 6-0)*

INFORMATIONAL:

1. Seawall along Harbor – *Joseph Fitzgerald, 6800 3rd Avenue #817, and Linda Trispal, 6800 3rd Avenue #1017, spoke. There are three holes approximately three feet with a gate cut into the wall and the wall does not have handicap accessibility to go fishing. The residents were told the Committee will look into it.*
2. Project Status Report

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 5:17 pm.*

PUBLIC WORKS COMMITTEE
- MINUTES -

MONDAY, SEPTEMBER 20, 2010
6:45 P.M.

G. John Ruffolo, Chairman
Anthony Nudo, Vice Chairman
Steve Bostrom
Patrick Juliana
Jan Michalski
Ray Misner

A special meeting of the Public Works Committee was held on Monday, September 20, 2010 in Room 202 of the Municipal Building. The following members were present: Chairman G. John Ruffolo, Vice Chairman Anthony Nudo, Aldermen Steve Bostrom, Jan Michalski and Ray Misner. Alderman Patrick Juliana was excused. The meeting was called to order at 6:47 PM. Staff member in attendance was Ron Bursek.

C-1 To Repeal Ordinance 47-10 and to Create Section 1.05 Q. of the Code of General Ordinances, Entitled "Aldermanic Notice".

It was moved by Alderman Michalski, seconded by Alderman Nudo to approve. Motion passed 5-0.

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 6:50 PM.*

B-1

City Plan Division 625 52nd Street Kenosha, WI 53140 262.653.4030	***Kenosha City Plan Commission***	Action Sheet	September 9, 2010

A Mutual Agreement and Release by and between RBC Real Estate Finance, Inc., and the Kenosha Water Utility and the City of Kenosha regarding Strawberry Creek property, District #17.

ACTION TAKEN	***AYES***	***NOES***	***ABSTAIN***
APPROVE	6	0	
DENY			
RECEIVE AND FILE			

FORWARD TO	***MEETING DATE***	***INFO FORWARDED***
COMMON COUNCIL	09/20/10	1 copy/1 email copy
FINANCE	09/20/10	1 copy/1 email copy
LEGAL		
PUBLIC WORKS	09/13/10	1 email copy
PARKS		
PUBLIC SAFETY & WELFARE		
WATER UTILITY	09/27/10	

Rich Schroeder
Assistant City Planner

/u2/acct/cp/csusans/CPC/2010/Sept 9 Mtg/action-agree-rbc-strawcreek.odt

City Plan Division 625 52nd Street Kenosha, WI 53140 262.653.4030	Kenosha City Plan Commission FACT SHEET	September 9, 2010	Item 6

A Mutual Agreement and Release by and between RBC Real Estate Finance, Inc., and the Kenosha Water Utility and the City of Kenosha regarding Strawberry Creek property, District #17.

LOCATION/SURROUNDINGS:

Site: Strawberry Creek Subdivision, Neighborhoods 5 - 10

NOTIFICATIONS/PROCEDURES:

The alderman of the district, Alderman Bogdala, has been notified. This item will also be reviewed by the Public Works Committee, Finance Committee and Board of Water Commissioners before final approval by the Common Council.

ANALYSIS:

- The Agreement is between the City of Kenosha, Kenosha Water Utility and RBC Real Estate Finance Inc., which assumed certain Agreements and obligations of Neumann Wisconsin under bankruptcy proceedings.
- Under the Agreement, RBC will be paying outstanding inspection fees to the City of Kenosha and the Kenosha Water Utility. Public improvements which are not done on the undeveloped future development areas of Strawberry Creek will be addressed under a separate developers Agreement at a later date when development is approved.
- The Agreement acknowledges that improvements in Neighborhoods 5 and 6 are completed and acceptable to the City of Kenosha and the Kenosha Water Utility upon approval of this Agreement and payment of the noted fees.

RECOMMENDATION:

A recommendation is made to approve the Agreement.

Rich Schroeder, Assistant City Planner
/u2/acct/cp/csusans/CPC/2010/Sept 9 Mtg/fact-agree-rbc-strawcreek.odt

Jeffrey B. Labahn, Director of City Development

MUTUAL AGREEMENT AND RELEASE

By and Between

RBC REAL ESTATE FINANCE, INC.,
A Delaware Corporation

And

THE CITY OF KENOSHA WATER UTILITY,
A Wisconsin Water Utility

And

THE CITY OF KENOSHA, WISCONSIN,
A Wisconsin Municipal Corporation

THIS AGREEMENT ("AGREEMENT") made and entered into by and between the **CITY OF KENOSHA, WISCONSIN**, a municipal corporation organized and existing under the laws of the State of Wisconsin with its principal offices at 625 52nd Street, Kenosha, Wisconsin (hereinafter **"CITY"**), the **CITY OF KENOSHA WATER UTILITY**, a Wisconsin Water Utility with its principal office at 4401 Green Bay Road, Kenosha, Wisconsin (hereinafter "**KWU**") and **RBC REAL ESTATE FINANCE, INC.**, a Delaware Corporation operating in the State of Wisconsin, with its principal offices at 1101 Richmond Avenue, Suite 850, Houston, Texas 77042 (hereinafter "**RBC REFI**").

WHEREAS, CITY, KWU and Neumann Homes of Wisconsin, LLC (**"Neumann Wisconsin"**), on October 4, 2005, entered into a Developer's Agreement for Strawberry Creek Subdivision (**"Developer's Agreement"**) for the subdivision and development of approximately 46.6 acres of real property (**"Strawberry Creek Property"**); and,

WHEREAS, Neumann Wisconsin filed for bankruptcy protection underChapter 11 in the case captioned 07-20416 (jointly administered) in the Northern District of Illinois; and,

WHEREAS, at the time of filing, Neumann Wisconsin was obligated to **CITY** and **KWU** pursuant to the terms of the Developer's Agreement; and,

WHEREAS, pursuant to court order in the Neumann Wisconsin bankruptcy proceeding, **RBC REFI** assumed certain agreements and obligations of Neumann Wisconsin including the Developer's Agreement; and,

WHEREAS, pursuant to court order in the Neumann Wisconsin bankruptcy proceeding **RBC REFI** became the legal title holder of certain lots and condominium units within the Strawberry Creek Property, which lots and condominium units now owned by RBC REFI ("**RBC REFI Property**") are depicted on **Exhibit A** attached hereto as Neighborhood 5, Neighborhood 6, Neighborhood 7, Neighborhood 8, Neighborhood 9 and Neighborhood 10: and,

WHEREAS, Neighborhood 5 and Neighborhood 6 of the RBC REFI Property (the "**Fully Developed RBC REFI Property**") have been substantially developed and are considered "Fully Developed" and Neighborhood 7, Neighborhood 8, Neighborhood 9 and Neighborhood 10 of the RBC REFI Property (the "**Partially Developed RBC REFI Property**") have not yet been fully developed and are considered "Partially Developed" ; and,

WHEREAS, it is the intention of the parties hereto to enter into an agreement which resolves all outstanding issues as between the parties relating to any obligations **RBC REFI** may have pursuant to the terms of the Developer's Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the receipt and sufficiency of which is acknowledged by each of the parties to this Agreement, the parties agree as follows:

1. **Monetary Obligation**. Not later than ten (10) days following execution and delivery of this Agreement by all parties, **RBC REFI** shall pay to **CITY** the sum of Eleven Thousand Twenty-Nine Dollars and 21/100 ($11,029.21) and to **KWU** the sum of Twenty-Three Thousand Eight Hundred Fifty-Five Dollars and 12/100 ($23,855.12), for a total of Thirty-Four Thousand Eight Hundred Eighty-Four and Dollars 33/100 ($34,884.33).

2. Release/Return of Letters of Credit. As security for certain of the obligations of Neumann Wisconsin under the Developer's Agreement, **CITY** is currently holding and is the beneficiary of the letters of credit listed issued by RBC Bank (USA) ("**RBC BANK**") on **Exhibit B-1** attached hereto (the "**CITY LOCs**") and KWU is currently holding and is the beneficiary of the letters of credit listed issued by **RBC BANK** on **Exhibit B-2** attached hereto (the "**KWU LOCs**"; the CITY LOCs and the KWU LOCs are sometimes herein referred to individually as a "**LOC**" and collectively as the "**LOCs**"). Upon and in exchange for payment of the sums pursuant to Paragraph 1 hereinabove, **CITY** shall immediately release and return the CITY LOCs to **RBC BANK** and **KWU** shall immediately release and return the KWU LOCs to **RBC BANK** currently in their possession or control. Neither **CITY** nor **KWU** shall submit any further draws on any of the **LOCs** and neither of **RBC REFI** or **RBC BANK** shall have any obligation to fund any such draw. Further, **CITY** and **KWU** represent and warrant that none of the **LOCs** have been assigned or delivered to any third party and **CITY** and **KWU** shall indemnify **RBC REFI** and **RBC BANK** in the event that any future draws are made on any of the **LOCs**.

3. Release from Obligations. Following payment of the sums pursuant to Paragraph 1 hereinabove, **CITY** and **KWU** shall, for **CITY** and **KWU**, together with their respective officers, agents, employees, successors, and assigns fully release, acquit and forever discharge **RBC REFI** , its officers, agents, employees, successors and assigns of and from any and all obligations, responsibilities, and duties which **RBC REFI** ever had, now has or may hereafter have pursuant to the terms of the Developer's Agreement. Such release shall be and become effective immediately upon payment by **RBC REFI** to **CITY** and **KWU** of the sums pursuant to Paragraph 1 hereinabove, without further action of the parties and/or execution of additional documents. Further, following release and delivery of the **LOCs** to **RBC BANK** as provided in Paragraph 2 hereinabove, **RBC REFI** shall, for **RBC REFI** , together with its

officers agents, employees, successors, and assigns fully release, acquit and forever discharge **CITY** and **KWU**, together with their respective officers, agents, employees, successors from any and all obligations, responsibilities, and duties which **CITY** and **KWU** ever had, now have, or may have pursuant to the terms of the Developer's Agreement. Such release shall be and become effective immediately upon release and delivery by **CITY** and **KWU** of the **LOCs** to **RBC BANK** as provided in Paragraph 2 hereinabove, without further action of the parties and/or execution of additional documents.

4. Future Development of and Residential Construction on the Fully Developed RBC REFI Property. The parties hereto acknowledge and agree that the Fully Developed RBC REFI Property has been substantially developed, and the public improvements servicing the Fully Developed RBC REFI Property have either been: (i) dedicated to and accepted for maintenance by **CITY** and **KWU**, as applicable, or (ii) completed to the extent required for such public improvements to be dedicated to and accepted for maintenance by **CITY** and **KWU**, as applicable. No further public improvement of any portion of the Fully Developed RBC REFI Property shall be required by **CITY** or **KWU** of **RBC REFI** or any party, or parties, constructing residential units upon the Fully Developed RBC REFI Property. Likewise, neither **RBC REFI** nor any party, or parties, constructing residential units upon the Fully Developed RBC REFI Property shall be required to provide any letter of credit, bond, financial assurance or other development security to **CITY** or **KWU** in connection with the public improvements and sale of residential units upon the Fully Developed RBC REFI Property. **CITY** and **KWU** agree to process and issue building permits, without unreasonable delay, to **RBC REFI** or any other party, or parties, seeking to construct residential units upon the Fully Developed RBC REFI Property, without the need for any further development thereof, provided that the plans for such residential construction comply with the standards and requirements for the issuance of building permits set forth in applicable **CITY** and State laws, rules or regulations. Further, **CITY** and **KWU** agree to process and issue occupancy permits, without unreasonable delay, to **RBC REFI** and to any other party, or parties, that has constructed a

residential unit in accordance with the building plans submitted in connection with such building permit(s), without the need for any further public improvement of the Fully Developed RBC REFI Property.

5. Dedication/Acceptance of the Public Improvements that Serve the RBC REFI Property. **RBC REFI** agrees to promptly execute and deliver to **CITY** and/or **KWU**, as appropriate, such conveyance documents as may be reasonably requested by **CITY** and/or **KWU** in order to cause any as yet undedicated/unaccepted public improvements that serve any or all of the RBC REFI Property to be dedicated to and accepted for maintenance by **CITY** and/or **KWU**, as appropriate. Such agreement and obligation of **RBC REFI** extends only to the execution and delivery of necessary conveyance documents, if any. In no event shall **RBC REFI** have any further obligations with respect to any public improvements serving the Strawberry Creek Property, including, without limitation, any obligation to: (i) construct, install, repair and/or maintain such public improvements, or (ii) provide any letter of credit, bond, financial assurance or other development security to **CITY** or **KWU** to secure the completion, maintenance and/or repair of any such public improvements, all of which are hereby released and discharged by **CITY** and **KWU** as set forth in Paragraph 3 hereinabove. Not later than thirty (30) days following execution and delivery of this Agreement by all parties, **CITY** and **KWU** each agree to take such actions as are necessary to cause any as yet undedicated/unaccepted public improvements that serve the RBC REFI Property to be dedicated to and accepted for maintenance by **CITY** and/or **KWU**, as appropriate. All of such as yet undedicated/unaccepted public improvements that serve the RBC REFI Property are listed on **Exhibit C-1 and Exhibit C-2** attached hereto.

6. Future Development of the Partially Developed RBC REFI Property. The parties hereto acknowledge and agree that the Partially Developed RBC REFI Property has not been fully developed and that any future development of the Partially Developed RBC REFI Property shall be the obligation of the party, or parties, developing the Partially Developed RBC REFI Property and/or may be subject to a

new developer's agreement and/or conditional use permit with said third party, or parties, as the case may be. The development obligations of any party, or parties, developing the Partially Developed RBC REFI Property shall be subject to the agreement of **CITY**, **KWU** and such party, or parties.

7. Successors and Assigns of RBC REFI. **CITY** and **KWU** acknowledge that they have each been advised by **RBC REFI** that it is the intention of **RBC REFI** to do no further development on the RBC REFI Property, but to sell the RBC REFI Property to one or more parties for the purpose of the construction of residential units on the Fully Developed RBC REFI Property and for the purpose of development and construction on the Partially Developed RBC REFI Property. In order to facilitate such sale(s), which will benefit **CITY** and **KWU,** the parties agree that although this Agreement is not intended as an amendment of the Developer's Agreement, the terms of Paragraph 3, Paragraph 4, and Paragraph 5 hereof shall inure to the benefit of the successors and assigns of **RBC REFI** in title to any or all of the RBC REFI Property, and such express terms shall be and remain binding upon **CITY** and **KWU** and enforceable against **CITY** and **KWU** by such successors and assigns. **CITY** and **KWU** each agree that **RBC REFI** shall have the right to record this Mutual Agreement and Release or a Memorandum thereof to reflect the subject matter contained herein.

8. Construction of Agreement. Each party to this Agreement and their respective legal counsel acknowledge that they have had the opportunity to participate equally in the drafting of this Agreement and that in the event of a dispute, no party shall be treated, for any purpose as the author of this Agreement nor have any ambiguity resolved against it on account thereof.

9. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Wisconsin. Further the parties agree that any action brought to enforce or interpret the terms of this Agreement shall be filed in the Circuit Court for the County of Kenosha, State of Wisconsin.

10. Invalidity. If any term or condition of this Agreement, or the application of this Agreement to any person or circumstance, shall deemed invalid or unenforceable, the remainder of this Agreement,

or the application of the term or condition to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each term and condition shall be valid and enforceable to the fullest extent permitted by law.

11. Authority. None of the parties to this Agreement need to further investigate the authority of the undersigned signators to enter into this Agreement and to bind their principals as it is hereby represented by **RBC REFI** , that the undersigned has full authority to execute this Agreement on behalf of that entity; by the **CITY**, that the undersigned have full authority to bind the **CITY** following duly-noticed and convened proceedings of the City Council and/or its committees to authorize the **CITY** to enter in this Agreement; and by **KWU**, that the undersigned have full authority to bind it following duly-noticed and convened proceedings of the Board of Water Commissioners.

12. Counterparts; Facsimile/Electronic. This Agreement may be executed in one or more counterparts, each of which constitutes an original, and all of which together constitute one and the same instrument. A facsimile or electronic copy of this Agreement and any signatures thereon will be considered for all purposes as an original.

(Signature pages follow)

IN WITNESS WHEREOF, the parties hereto have hereunto executed this Agreement on the dates below given.

CITY OF KENOSHA, WISCONSIN,
A Wisconsin Municipal Corporation

By: _____
KEITH G. BOSMAN, Mayor

Date: _____

By: _____
MICHAEL K.HIGGINS,
City Clerk/Treasurer/Assessor

Date: _____

STATE OF WISCONSIN)
:SS.
COUNTY OF KENOSHA)

Personally came before me this _____ day of _____, 2010, **KEITH G. BOSMAN, Mayor**, and **MICHAEL K. HIGGINS, City Clerk/Treasurer/Assessor** of **THE CITY OF KENOSHA, WISCONSIN**, a Wisconsin municipal corporation, to me known to be such Mayor and City Clerk/Treasurer/Assessor 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: _____

IN WITNESS WHEREOF, the parties hereto have hereunto executed this Agreement on the dates below given.

CITY OF KENOSHA WATER UTILITY
A Wisconsin Water Utility

BY: _____
G. JOHN RUFFOLO, Chairman, Board of Water Commissioners

Date: _____

BY: _____
EDWARD ST. PETER,
General Manager

Date: _____

STATE OF WISCONSIN)
:SS.
COUNTY OF KENOSHA)

Personally came before me this _____ day of _____, 2010, **G. JOHN RUFFOLO, Chairman**, of the **CITY OF KENOSHA, BOARD OF WATER COMMISSIONERS**, and **EDWARD ST. PETER, General Manager**, of the **CITY OF KENOSHA WATER UTILITY a Wisconsin water utility**, to me known to be such Chairman and General Manager of said water utility, and acknowledged to me that they executed the foregoing instrument as such officers as the agreement of said water utility, by its authority.

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

IN WITNESS WHEREOF, the parties hereto have hereunto executed this Agreement on the dates below given.

RBC REAL ESTATE FINANCE, INC.

BY: _____ CHAD BOTKIN VICE PRESIDENT
CHAD BOTKIN, Vice President

Date: 8/12/10

STATE OF Texas)
:SS.
COUNTY OF Harris)

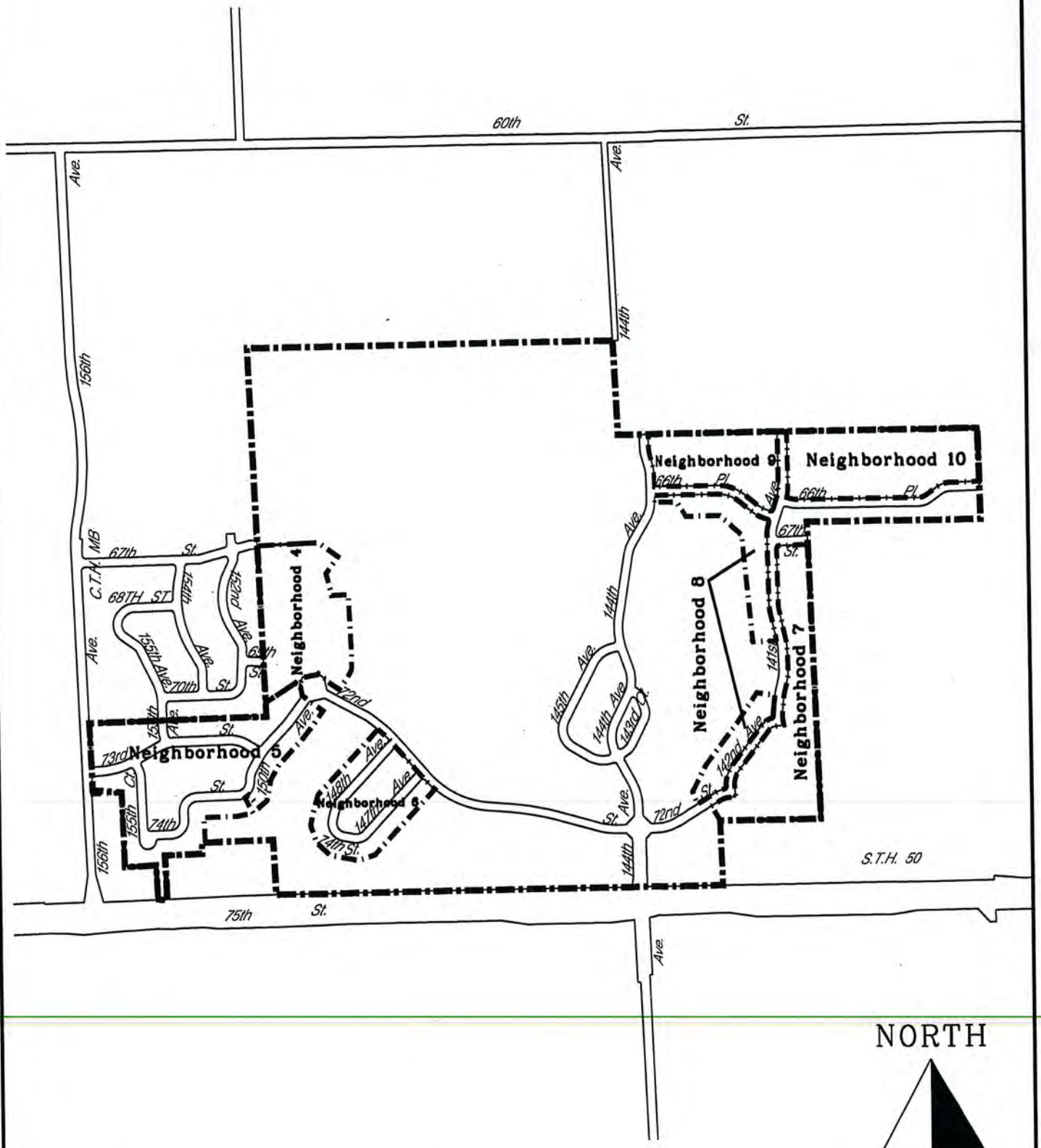
Personally came before me this 12th day of August, 2010, **CHAD BOTKIN**, of **RBC REAL ESTATE FINANCE, INC.**, a Delaware Corporation, to me known to be such **Vice President** of **RBC REAL ESTATE FINANCE, INC.**, and acknowledged to me that he executed the foregoing instrument as such officer as the agreement of said corporation, by its authority.

AVAN BLAIR
Notary Public
STATE OF TEXAS
My Comm. Exp. Jan. 28, 2014

Notary Public Avan Blair
My Commission expires/is: 1-28-14

City of Kenosha

Exhibit "A"



NORTH

Strawberry Creek Subdivision

0 1000'

DCD ~ City Plan Division ~ JBL ~ RPS ~ 8-31-2010 ~ mc

EXHIBIT B-1

CITY LOCs

	Original	Current		
L/C Number	**L/C Amount**	**L/C Amount**	**Neighborhood**	**Beneficiary**
SB002712	$ 684,000.00	$ 201,000.00	5 & 6	City of Kenosha
SB002814	$ 630,699.74	$ 130,500.00	5	City of Kenosha
SB002812	$ 334,288.35	$ 86,350.00	7 & 8	City of Kenosha
SB002811	$ 250,450.09	$ 80,600.00	10	City of Kenosha
SB003304	$ 229,000.00	$ 229,000.00	8 & 9	City of Kenosha

Strawberry Creek Subdivision
Water and Sanitary Sewer
Infrastructure

Water Infrastructure

Device	Water Main (ft)			Mainline Valves			Services				Hydrants
Diameter	16"	12"	8"	16"	12"	8"	12"	8"	6"	1"	
Phase 1	5190	4220	825	22	15	6	1	6	7	2	22
Neighborhood 1	~	~	4585	~	~	14	~	~	~	62	8
Neighborhood 5	~	~	3910	~	~	14	~	~	~	83	9
Neighborhood 6	~	~	1800	~	~	4	~	~	~	37	4
Neighborhood 8	~	~	~	~	~	~	~	~	~	44	~
Totals	***5190***	***4220***	***11120***	***22***	***15***	***38***	***1***	***6***	***7***	***228***	***43***

EXHIBIT C-2

Sanitary Infrastructure

Device	Sewer Main (ft)							Laterals		MH's	
Diameter	24"	18"	16"	15"	12"	10"	8"	8"	6"		
Phase 1	90	1153	15	763	1543	998	3359	6	7	38	
Neighborhood 1	~	~	~	~	~	~	3884	~	62	20	
Neighborhood 5	~	~	~	~	~	~	3681	~	83	19	
Neighborhood 6	~	~	~	~	~	~	1583		37	8	
Neighborhood 8	~	~	~	~	~	~	~	~	44	~	
Totals	***90***	***1153***	***15***	***763***	***1543***	***998***	***12507***	***6***	***233***	***85***	

City Plan Division 625 52nd Street Kenosha, WI 53140 262.653.4030	***Kenosha City Plan Commission***	Action Sheet	September 9, 2010

Letter of Credit Termination Agreement for Property located in Strawberry Creek, District #17.

ACTION TAKEN	***AYES***	***NOES***	***ABSTAIN***
APPROVE	6	0	
DENY			
RECEIVE AND FILE			

FORWARD TO	***MEETING DATE***	***INFO FORWARDED***
COMMON COUNCIL	09/20/10	1 copy/1 email copy
FINANCE	09/20/10	1 copy/1 email copy
LEGAL		
PUBLIC WORKS	09/13/10	Email copy
PARKS		
PUBLIC SAFETY & WELFARE		
WATER UTILITY	09/27/10	

Rich Schroeder
Assistant City Planner

/u2/acct/cp/csusans/CPC/2010/Sept 9 Mtg/action-LOTerm-strawcreek.odt

City Plan Division 625 52nd Street Kenosha, WI 53140 262.653.4030	Kenosha City Plan Commission FACT SHEET	September 9, 2010	Item 7

Letter of Credit Termination Agreement for Property located in Strawberry Creek, District #17

LOCATION/SURROUNDINGS:

Site: Strawberry Creek Subdivision, Neighborhoods 5 - 10

NOTIFICATIONS/PROCEDURES:

The alderman of the district, Alderman Bogdala, has been notified. This item will also be reviewed by the Public Works Committee, Finance Committee and Board of Water Commissioners before final approval by the Common Council.

ANALYSIS:

- The Agreement is tied to the previous item Mutual Agreement and Release.
- Upon execution of the previous Agreement and payment of noted fees to the City of Kenosha and Kenosha Water Utility, the Letters of Credit can be terminated and released.

RECOMMENDATION:

A recommendation is made to approve the attached Agreement.

Rich Schroeder, Assistant City Planner
/u2/acct/cp/csusans/CPC/2010/Sept 9 Mtg/fact-LOTerm-strawcreek.odt

Jeffrey B. Labahn, Director of City Development

LETTER OF CREDIT TERMINATION AGREEMENT

THIS TERMINATION AGREEMENT ("Termination Agreement") is made and entered into as of _____ ___, 2010 by and between the **CITY OF KENOSHA, WISCONSIN**, a municipal corporation organized and existing under the laws of the State of Wisconsin with its principal offices at 625 52nd Street, Kenosha, Wisconsin (the "City"), the **CITY OF KENOSHA WATER UTILITY**, a Wisconsin Water Utility with its principal office at 4401 Green Bay Road, Kenosha, Wisconsin ("KWU"), **RBC REAL ESTATE FINANCE INC.**, a Delaware Corporation operating in the State of Wisconsin with its principal offices at 1101 Richmond Avenue, Suite 850, Houston, Texas 77042 ("RBC REFI") and **RBC BANK (USA)** ("RBC Bank") a North Carolina state bank with its principal offices at 301 Fayetteville Street, Suite 1400, Raleigh, North Carolina 27601.

RECITALS

WHEREAS, on October 4, 2005, City, KWU and Neumann Homes of Wisconsin, LLC ("Neumann Wisconsin") entered into a Developer's Agreement for Strawberry Creek Subdivision (the "Developer's Agreement") related to the subdivision and development of approximately 46.6 acres of real property ("Strawberry Creek Property");

WHEREAS, on November 1, 2007, Neumann Wisconsin filed for bankruptcy protection before the Northern District of Illinois under Chapter 11 of Title 11 of the United States Code in the jointly-administered cases captioned *In re Neumann Homes, Inc., et al.*, Case No. 07-20416;

WHEREAS, at the time of filing, City and KWU alleged that Neumann Wisconsin had certain obligation pursuant to the terms of the Developer's Agreement;

WHEREAS, pursuant to court order in the Neumann Wisconsin bankruptcy proceeding, RBC REFI, as successor fee title holder to the Strawberry Creek Property, was subject to certain agreements and obligations of Neumann Wisconsin running with the Strawberry Creek Property, including the Developer's Agreement;

WHEREAS, as security for certain of the obligations of Neumann Wisconsin under the Developer's Agreement, City is the beneficiary of the letters of credit issued by RBC Bank and listed on **Exhibit A** attached hereto (the "City LOCs") and KWU is the beneficiary of the letters of credit issued by RBC Bank and listed on **Exhibit B** attached hereto (the "KWU LOCs"; and together with the City LOCs, the "LOCs");

WHEREAS, the parties have entered into that certain Mutual Agreement and Release ("Mutual Agreement and Release") of even date herewith pursuant to which RBC REFI shall be released from any and all obligations, responsibilities, and duties which RBC REFI ever had, now has or may hereafter have pursuant to the terms of the Developer's Agreement;

WHEREAS, pursuant to the terms of the Mutual Agreement and Release, the City and KWU are obligated to return and release the LOCs upon satisfaction by RBC REFI of conditions precedent. Notwithstanding the foregoing, the City and KWU are currently unable to locate and return each of the LOCs to RBC Bank as required under the Mutual Agreement and Release; and

WHEREAS, it is the intention of the parties hereto to terminate the LOCs in satisfaction of the obligations of the City and KWU under the Mutual Agreement and Release.

NOW, THEREFORE, in consideration of the terms, covenants, conditions and mutual promises set forth in this Termination Agreement, the City, KWU, RBC REFI and RBC Bank hereby agree as follows:

1. **Recitals**. The recitals set forth above are hereby incorporated herein and made a part hereof.

2. **Termination of LOCs**. The City, KWU, RBC REFI and RBC Bank agree that the LOCs shall be terminated as of the date first written above. Neither the City nor KWU, nor any party claiming through or on behalf of the City of KWU, shall make any further draws on any of the LOCs, and neither of RBC REFI or RBC Bank shall have any obligation to fund any draw under any of the LOCs, notwithstanding any language to the contrary contained in the LOCs or any obligation under the Developer's Agreement.

3. **Representations and Warranties**. The City and KWU each represent and warrant that none of the LOCs have been assigned or otherwise delivered to any third party.

4. **Indemnification**. To the fullest extent permitted by law, the City and KWU each hereby agree to protect, indemnify, defend and save harmless RBC REFI and RBC Bank, and their respective directors, officers, agents and employees, from and against any and all liability, expense or damage of any kind or nature and from any suits, claims or demands, including legal fees and expenses, arising from or on account of any matter or thing or action, whether or not in litigation, arising out of any draw requests made on any of the terminated LOCs.

5. **Further Assurances**. The City and KWU agree to perform such other acts, and to execute, acknowledge, and/or deliver such other instruments, documents and other materials as RBC REFI and RBC Bank may reasonably request in order to effectuate the consummation of the transactions contemplated herein.

6. **Binding Effect**. This Termination Agreement shall be binding upon, and will inure to the benefit of, the parties hereto and their respective predecessors, successors, legal representatives, administrators, subsidiaries, agents and assigns and other representatives.

7. **Authority**. The City, KWU, RBC REFI and RBC Bank represent to each other that they have full power and authority, including any requisite ordinance, to execute and perform this Termination Agreement and to perform their obligations under this Termination Agreement. This Agreement shall not be construed more strictly against one party than against another merely by virtue of the fact that it may have been prepared primarily by counsel for one of the parties, it being recognized that the City, KWU, RBC REFI and RBC Bank each have been represented by counsel in connection herewith.

8. **Time of Essence**. Time is of the essence of this Termination Agreement.

9. **Counterparts; Facsimile/Electronic**. This Termination Agreement may be executed in one or more counterparts, each of which constitutes an original, and all of which together constitute one and the same instrument. A facsimile or electronic copy of this Termination Agreement and any signatures thereon will be considered for all purposes as an original.

[Signature page follows

EXHIBIT B

to

LETTER OF CREDIT TERMINATION AGREEMENT

KWU LOCs

	Original	Current		
L/C Number	**L/C Number**	**L/C Number**	**Neighborhood**	**Beneficiary**
SB002711	$605,000.00	$54,835.00	5 & 6	Water Utility of Kenosha
SB002813	$339,465.00	$30,860.50	5	Water Utility of Kenosha
SB002810	$176,088.00	$16,008.00	7 & 8	Water Utility of Kenosha
SB002809	$115,328.00	$10,484.00	10	Water Utility of Kenosha
SB003303	$115,804.00	$15,094.00	8 & 9	Water Utility of Kenosha

ENGINEERING DIVISION
MICHAEL M. LEMENS, P.E.
DIRECTOR/CITY ENGINEER

FLEET MAINTENANCE
MAURO LENCI
SUPERINTENDENT

PARK DIVISION
JEFF WARNOCK
SUPERINTENDENT

STREET DIVISION
JOHN H. PRIJIC
SUPERINTENDENT

WASTE DIVISION
ROCKY BEDNAR
SUPERINTENDENT

ADMINISTRATION SUPERVISOR
JANICE D. SCHROEDER

DEPARTMENT OF PUBLIC WORKS
RONALD L. BURSEK, P.E., DIRECTOR

MUNICIPAL BUILDING • 625 - 52ND ST.• RM. 305 • KENOSHA, WI 53140
TELEPHONE (262) 653-4050 • FAX (262) 653-4056

September 24, 2010

To: G. John Ruffolo, Chairman
Public Works Committee

From: Michael M. Lemens, P.E. 9-24-10
Director of Engineering/City Engineer

Subject: **** * * INFORMATIONAL ITEM * * ****
Restoration of Paved Lawn Park Areas
40th Avenue south of 75th Street

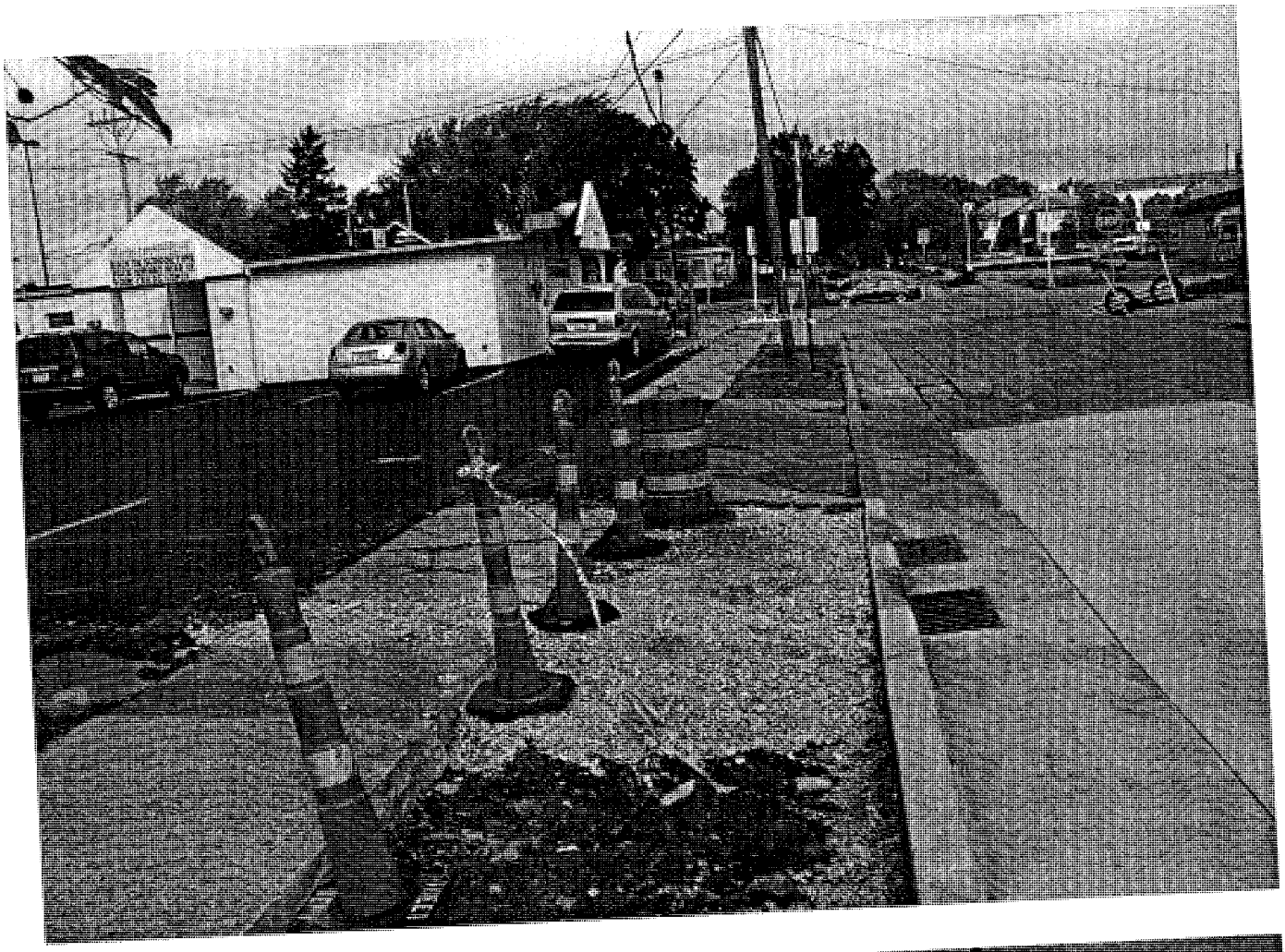
BACKGROUND/ANALYSIS

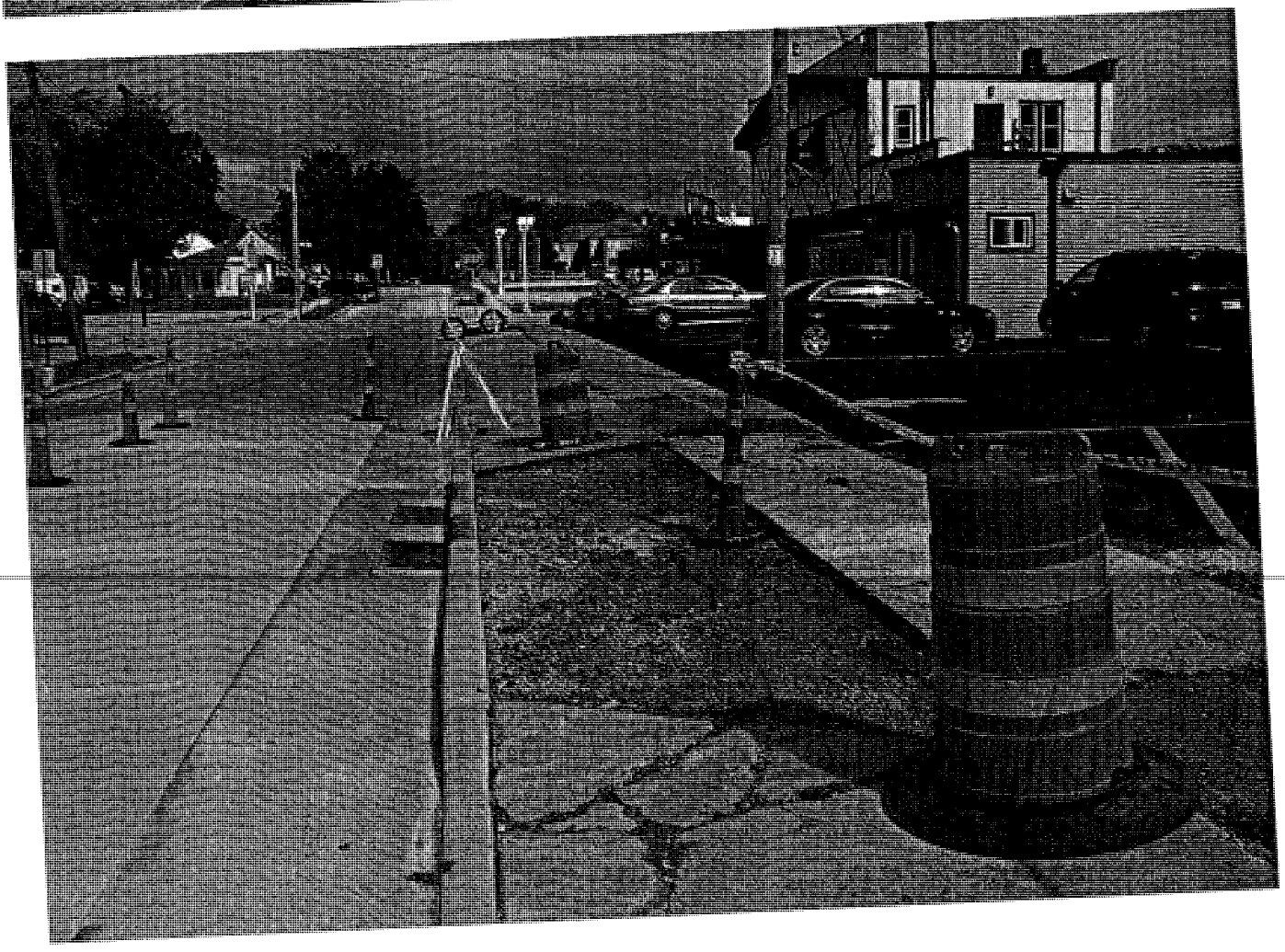
The Street Division recently repaired a deteriorated inlet lead on 40th Avenue south of 75th Street. This location is very near a house that was flooded in the storms that occurred last year, so the SWU engineer directed Street Division crews to improve the inlet capacity at this location by removing a small (2' x 2') barrel inlet on each side of the road and replacing it with 2 – box inlets (2'x3') on each side of the road.

The inlets are directly abutting to two long-time restaurants, and the lawn park areas on both sides of the street are currently paved with asphalt, and have been for a long time. The asphalt was disturbed with the catch basin construction, but only in a very limited area. Street Division crews are planning to restore the areas disturbed in-kind to match what is currently there and to stay within the project limits.

RECOMMENDATION

For information only. No action needed at this time.





ENGINEERING DIVISION
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TELEPHONE (262) 653-4050 · FAX (262) 653-4056

September 27, 2010

TO: G. John Ruffolo, Chairman
Public Works Committee

FROM: Jan Schroeder

SUBJ: ***2010 Fall Yardwaste Collection Season***

BACKGROUND/ANALYSIS

The Fall 2010 Yardwaste Collection Season is Monday, October 4 – Saturday, November 27, 2010. Yardwaste is collected on residents' garbage collection day, and it must be contained in city-approved biodegradable bags to be collected curbside. City-approved bags are Bag To Nature, BioBag and Ecoguard, which are sold in many Kenosha stores.

The $2 Yardwaste Coupon program is on-going. Residents may get these coupons at Public Works, City Clerk, Kenosha Water Utility and the city's website, www.kenosha.org, for a savings of $2 off the cost of a box of city-approved yardwaste bags.

One manufacturer of city-approved biodegradable bags, BioBag, has met with city staff to discuss and better understand the issues of this program. BioBag is domestically-produced and has been lower priced, when compared to the other two city-approved bags during recent yardwaste collection seasons. In response to consumer recommendations to remove confusion about which bag is approved by the City of Kenosha, BioBag has produced a new box for its biodegradable bags with pictures of Kenosha and "City of Kenosha Lawn & Leaf Bags" printed on the front. Information on the city's yardwaste program and its yardwaste drop-off site is on the back, and a $2 coupon is glued to the top of the box. These new boxes of BioBag yardwaste bags are now available in most Kenosha stores that carry BioBag.

Zimbra

mlemens@kenosha.org

± Font size -

Re: 22nd Ave

From : Michael Lemens <mlemens@kenosha.org> Fri, Sep 24, 2010 10:02 AM

Subject : Re: 22nd Ave

To : [redacted] ALD. RUFFOLO

OK

M. Lemens

----- Original Message -----
From: [redacted]
To: "Michael Lemens" <mlemens@kenosha.org>
Sent: Friday, September 24, 2010 8:33:29 AM
Subject: Re: 22nd Ave

MIKE PLACE THIS ITEM ON FOR MONDAY AND COPY OF CONTRACT

From: Michael Lemens <mlemens@kenosha.org>
To: gjohnruffolo@kenosha.org
Cc: Kevin Risch <krisch@kenosha.org>; Ron Bursek <rbursek@kenosha.org>
Sent: Fri, September 24, 2010 7:25:59 AM
Subject: 22nd Ave

Ald. Ruffolo:

Per your request to be kept informed.

I spoke with Jim Cicchini this morning regarding 22nd Avenue, because it appeared that they were getting ready to detour traffic again. Mr. Cicchini reported that he had talked to Mayor Bosman last night, and that in the interest of safety for both motorist and worker he was going to proceed with shutting down the road. He said all adjustments would be finished today, and that the road would be open by 3:00 pm. Mr. Cicchini reported that he will be on-site all day.

M. Lemens

City of Kenosha

Keith G. Bosman, Mayor

FILE

RESURFACING PHASE III

PROJECT #10-1016

BID DATE: JUNE 23, 2010

PUBLIC WORKS COMMITTEE

G. John Ruffolo, Chairman
Anthony Nudo, Vice Chairman
Steve Bostrom
Patrick Juliana
Jan Michalski
Ray Misner

NOTICE TO CONTRACTORS

Director of Engineering
Department of Public Works
625 - 52nd Street, Room 305
Kenosha, Wisconsin 53140

Sealed bids will be received by the Board of Public Works of the City of Kenosha, Wisconsin in the office of Department of Public Works, Room 305, 625 52nd Street, Room 305, until **2:00 PM., local time, Wednesday, June 23, 2010,** for furnishing all labor and materials necessary for the construction of:

Resurfacing Phase III
Project #10-1016

all in accordance with specifications on file in the office of the Director of Public Works. Work will consist of milling and salvaging 4,900 Tons of asphalt pavement, 5,200 SY of pulverizing, 2,000 CY Excavation Common, 15,400 SY of concrete pavement, 4,500 Tons of 1-1/4" aggregate base, repairing 1,500 SY of concrete walk, 3,100 FT of curb and gutter, 6,300 Tons of hot mix asphalt, 1,700 SY of site restoration and any incidental items necessary to complete said work. Bids will be publicly opened and read aloud immediately after **2:00PM**. Each bid must contain the full name of every person or company interested in the same and must be accompanied by a contract and bid bond, a certified check, or a bank cashier's check, in the sum of five per cent (5%) of the bid, payable to the City of Kenosha as a guarantee that if the bid is accepted, a contract will be entered into and its performance properly secured within fifteen (15) days of the award of contract. Should any bid be rejected, such check will be forthwith returned to the bidder, and should any bid be accepted, such check will be returned upon the timely and proper execution and securing of the contract. In case the successful bidder shall fail to execute the contract and performance bond, the amount of the bid bond or check shall be forfeited to the City as liquidated damages.

Plans and specifications will be furnished upon application, and a **NON REFUNDABLE DEPOSIT (CASH OR CHECK ONLY)** paid to the Department of Public Works, of Fifteen Dollars ($15.00).

Any contractor desiring plans and specifications **BY MAIL** shall submit, in addition, a separate check for $6.00 covering handling and mailing charges. This money will not be returned.

The form provided for "Bidder's Proof of Responsibility" shall be completed and returned to the Director of Engineering not less than five (5) days before the date of bid opening.

The successful bidder shall be required to furnish Worker's Compensation and Liability Insurance as enumerated in the specifications.

In the event that Section 66.0903 of the Wisconsin Statutes, applies, on the work here bid upon, the Contractor shall pay to each of his/her workers the wage prevailing in Kenosha at the time the contract is entered into and as listed and filed in the office of the Director of Public Works. A copy of such wage rates will be incorporated in the contract documents.

The City of Kenosha reserves the right to reject any or all bids, or to accept any bid considered most advantageous to the City of Kenosha.

BOARD OF PUBLIC WORKS
G. John Ruffolo, Chairman
Anthony Nudo, Vice Chairman
Steve Bostrom
Patrick Juliana
Jan Michalski
Ray Misner

Publish: June 4, 2010 and June 11, 2010

PLEASE NOTE:

Page 9 (List of Subcontractors) of the bid documents **MUST** be submitted at the time of the bid opening. See page 2 in the Instructions to Bidders

CITY OF KENOSHA

Resurfacing Phase III

Project #10-1016

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****

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Prevailing Wage Rates – Pink

CITY OF KENOSHA, WISCONSIN [CITY]
INSTRUCTIONS TO BIDDERS
PUBLIC CONSTRUCTION CONTRACTS

1. BID DOCUMENTS. Prospective bidders may obtain from the City Department of Public Works, Room 305, 625 - 52nd Street, appropriate bid documents, and project plans and specifications, upon depositing Fifteen ($15.00) Dollars nonrefundable. The successful bidder will retain plans and specifications and be reimbursed for the cost. Prospective bidders may obtain bid documents by mail upon payment of an additional Six ($6.00) Dollars nonrefundable fee to cover the mailing cost.

2. QUALIFICATIONS OF BIDDERS. Bids will only be received, opened and considered which are submitted by bidders who have been determined by City Public Works Committee to be **"competent and reliable"**. A bidder shall be deemed **"competent and reliable"** when having sufficient financial ability, equipment and experience in the proposed work to successfully perform the work. Bids may be rejected at any time in the bidding process whenever it comes to the attention of City that a bidder is not **competent and reliable**. Bidders have a continuing obligation to provide City with evidence which may affect their **competency and reliability**. A finding of **"competence and reliability"** for one project does not bind City on other projects and City expressly reserves the right to determine if a bidder is **competent and reliable** on a project by project basis.

A sworn Prequalification Statement must be submitted to City Engineer as a condition of bidding. No bid will be received from any prospective bidder who has not submitted the statement. City reserves the right to require additional information from bidder to determine whether bidder is **competent and reliable**.

City reserves the right to prequalify prospective bidders on an annual basis. However, in no event shall a sworn prequalification statement be received from bidder less than five (5) days prior to the time set for opening of bids. The contents of said statements shall be confidential and shall not be disclosed except upon the written order of the party furnishing the same, or for necessary use by City qualifying such party, or in cases of action against, or by such party or City. City Committee on Public Works shall properly evaluate the sworn statements filed relative to financial ability, equipment and experience in the work prescribed and shall find the maker of such statement either qualified or unqualified.

Whenever the City Committee on Public Works is not satisfied with the sufficiency of the answer contained in the questionnaire and financial statement, it may reject said bid, or disregard the same.

3. FULLY COMPLETED AND LEGIBLE BID DOCUMENTS. All bids must be submitted on the bid forms furnished by City. Bid documents must be signed by a duly authorized officer or employee in accordance with any applicable Articles of Incorporation/Organization, ByLaws or Partnership/Members Agreement. Bid documents which are not fully completed and legible shall be disqualified, unless the defect is waived as harmless by

City Public Works Committee. Bidders who do not understand the nature or scope of the proposed work have an obligation to obtain clarification, in writing, from City Engineer, prior to preparing their bid. Bidders may not rely upon the oral or written statements of any other person, or upon the oral statements of City Engineer in formulating their bid. Bidders, in formulating their bids, may rely only upon the bid documents and written interpretations thereof by City Engineer and upon their own site review and site testing.

Bidders must submit a bid price, in accordance with the plans and specifications, for each bidding unit specified therein. The bid documents shall be filled out and returned within the time specified. The following documents must be fully, accurately and neatly completed, signed and bound in order to qualify:

Bid
Affidavit of Organization and Authority and Careful Inspection of Site and Preparation of Bid
Disclosure of Ownership
List of Subcontractors and Major Suppliers
Bid Assurance or Bid Bond

4. BID ASSURANCE. Each bid must be accompanied by either a bid bond or a certified check (Bid Assurance) equal to at least five (5%) percent, but not more than ten (10%) percent, of the amount bid payable to City as a guaranty that if the bid is accepted, the bidder will execute and file the proper contract and bond within the time limited by City. Should bidder be awarded the contract, and for any reason refuse or fail to timely execute it, and file the proper performance assurance, the bid assurance shall be forfeited as liquidated damages. The bid assurances of all except the two (2) lowest qualified bidders will be refunded, returned, or released to bidder upon the lowest qualified bidder being determined. The bid assurances of the second lowest qualified bidder will be returned, refunded or released upon the lowest qualified bidder executing an appropriate contract and filing the proper performance assurance.

5. SITE INSPECTION. Each bidder has an obligation to examine the site upon which the work will be performed and assess site conditions, by both review of City furnished data and by independent testing at bidder's expense. Any bidder who waives the right to inspect the site or perform independent testing, shall do so at their own peril and shall not make claim against City for unknown or unforeseeable site conditions which may expand the scope of the effort or cost required to perform the work. Any bidder who performs independent testing shall do so with the permission of City Engineer upon taking reasonable safety precautions and control of the work site, during testing, for purposes of the Wisconsin Safe Place Statute.

6. QUANTITIES OF WORK. The City reserves the right to adjust the quantities of the work upward or downward after execution of the contract, as said right is provided for in said contract.

7. EXECUTION OF CONTRACT AND FILING PERFORMANCE ASSURANCE. Within fifteen (15) days following notice to the lowest qualified bidder that said bidder was awarded the contract to perform work, such bidder shall execute a contract, a copy of

which is received by the bidder as part of the bid documents, and shall execute and furnish a performance bond written by a bonding company or a cash performance bond, supported by a certified or cashiers check, which shall be subject to approval as to form by City Attorney.

The Contract shall be executed as follows:

a. **Corporations:** by the President and one other officer, preferably the secretary, with the corporate seal affixed, if any.

b. **Limited Liability Company:** by a manager if a manager managed limited liability company, or a member if a member managed limited liability company.

c. **Partnerships:** by each general partner, or managing partner (if any).

d. **Individuals:** by each named individual.

Any exception thereto must be approved by City Attorney, who may require submission of such documents as may be necessary to consider an exception.

8. PREVAILING WAGE RATE. Bidder shall pay no less than prevailing wage rates for public work as established by the State of Wisconsin, Department of Workforce Development, Equal Rights Division, Labor Standards Bureau, when applicable. Where work is not governed by State law, Section 5.10 of the Code of General Ordinances, entitled "Minimum Wage Scale For Certain Public Works Contracts" shall apply. Wage rates are on file at the office of the Department of Public Works and incorporated in the Contract by reference.

9. AWARD OF CONTRACT. In public construction contracts, the estimated cost of which exceeds $10,000.00, the contract shall be awarded to the lowest qualified **(competent and reliable)** bidder. However, City reserves the right to reject any and all bids, to reject the bids of any unqualified bidders, to accept the bid of the lowest alternative bid when alternative bids are permitted and the alternative bid is considered the most advantageous to the City, or to waive any defects found in bids submitted.

A bid will be disqualified because of gross errors in computations, which cannot be resolved by mathematical correction without resorting to information not contained in the bid. When the bid contains a conflict between words and numerals, the words shall govern. When an error occurs in multiplication, the unit prices shall govern. Errors in extension may be corrected, providing that the unit cost is legible and can be definitely identified as complying with plans and specifications. The total bid shall be adjusted in accordance with approved extension corrections. An extension may not be divided by the number of units specified to determine a unit cost, if such is omitted by the bidder.

10. WARRANTY. The successful bidder will guarantee labor and materials for one calendar (1) year following the date of acceptance of work by City Common Council.

11. CORRECTIONS OF ERRORS IN BIDS. Corrections of errors in bids is governed by Section 66.0901(5), Wisconsin Statutes, which states:

(5) CORRECTIONS OF ERRORS IN BIDS. If a person submits a bid or proposal for the performance of public work under any public contract to be let by the municipality, and the bidder claims that a mistake, omission or error has been made in preparing the bid, the bidder shall, before the bids are opened, make known the fact that an error, omission or mistake has been made. If the bidder makes this fact known the bid shall be returned to the bidder unopened and the bidder may not bid upon the public contract unless it is readvertised and relet upon the readvertisement. If a bidder makes an error, omission or mistake and discovers it after the bids are opened, the bidder shall immediately and without delay give written notice and make known the fact of the mistake, omission or error which has been committed and submit to the municipality, clear and satisfactory evidence of the mistake, omission or error and that it was not caused by any careless act or omission on the bidder's part in the exercise of ordinary care in examining the plans, or specifications, and in conforming with the provisions of this section. If the discovery and notice of a mistake, omission or error causes a forfeiture, the bidder may not recover the moneys or certified check forfeited as liquidated damages unless it is proven before a court of competent jurisdiction in an action brought for the recovery of the amount forfeited, that in making the mistake, error or omission the bidder was free from carelessness, negligence or inexcusable neglect.

12. SUBMISSION OF BIDS. Bids shall be submitted at the time and place indicated in the Invitation for Bids and shall be enclosed in an opaque sealed envelope. The sealed envelope should be marked with the Project title, the Project Number for which the Bid is submitted, and the name and address of the Bidder. If the Bid is sent through the mail or other delivery systems, the sealed envelope shall be enclosed in a separate envelope with the notation "Bid Enclosed."

Bids received after the official Bid closure time will be returned to the Bidder unopened.

BID FORM

RESURFACING PHASE III - 2010
PROJECT # 10-1016

22nd AVENUE - 38th STREET TO 35th STREET
33rd AVENUE - 60th STREET TO 55th STREET
50th AVENUE - 67th STREET TO 65th STREET
53rd STREET - 26th AVENUE TO 22nd AVENUE
104th AVENUE FROM SOUTH OF 69th STREET TO 1375 FEET NORTH
FIRE STATION NO. 2

BID ITEM NUMBER	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT
201.0120	Clearing	69.0	I.D.	8.00	552.00
201.0220	Grubbing	69.0	I.D.	8.00	552.00
204.0100	Removing Pavement	517.3	S.Y.	10.00	5,173.00
204.0115	Removing Asphaltic Surface Butt Joints	743.3	S.Y.	6.92	5,143.64
204.0125	Removing Asphaltic Surface Milling	4970.8	TON	14.00	69,591.20
204.0150	Removing Curb and Gutter	3133.0	L.F.	3.50	10,965.50
204.0155	Removing Concrete Sidewalk	1530.9	S.Y.	6.00	9,185.40
205.0100	Excavation Common (If needed)	2265.0	C.Y.	9.50	21,517.50
211.0200	Preparing foundation for Asphalt Pavement.	1.0	L.S.	18831.00	18,831.00
305.0120	Base Aggregate Dense 1 1/4-Inch	6361.5	TON	10.00	63,615.00
335.0100	Rubblizing	8987.1	S.Y.	1.95	17,524.85
416.0160	Concrete Driveway 6-Inch	526.8	S.Y.	36.60	19,280.88
416.0180	Concrete Driveway 8-Inch	59.2	S.Y.	42.75	2,530.80
455.0605	Tack Coat	613.9	GAL	1.00	613.90
460.1103	HMA Pavement Type E-3	5804.8	TON	63.75	370,056.00
601.0407	Concrete Curb & Gutter 18-Inch Type D	0.0	L.F.	Ø	Ø
601.0411	Concrete Curb & Gutter 30-Inch Type D	2196.0	L.F.	18.75	41,175.00
602.0405	Concrete Sidewalk 4-Inch	9918.0	S.F.	3.00	29,754.00
602.0415	Concrete Sidewalk 6-Inch	4441.3	S.F	3.40	15,100.42
602.0505	Curb Ramp Detectable Warning Field (Unpainted)	256.0	S.F.	30.00	7,680.00
611.8110	Adjusting Manhole Covers - Storm	17.0	E.A.	350.00	5,950.00
611.8115	Adjusting Inlet Covers	20.0	E.A.	185.00	3,700.00
621.0100	Landmark Reference Monument	1.0	E.A.	100.00	100.00
625.0100	Top Soil (If needed)	2650.0	S.Y.	4.00	10,600.00
627.0200	Mulching (If needed)	2650.0	S.Y.	.50	1,325.00
628.1504	Silt Fence	800.0	L.F.	1.00	800.00
628.1520	Silt Fence Maintenance	800.0	L.F.	.50	400.00
628.7020	Inlet Protection Type D	42.0	E.A.	50.00	2,100.00
629.0210	Fertilizer Type B (If needed)	7.5	CWT	45.00	337.50
630.0140	Seeding Mixture NO.40 (If needed)	49.0	L.B.	10.00	490.00
643.0100	Traffic Control Per Clement 1	~~12.0~~ 1.00	L.S.	35,831.00	35,831.00
646.0103	Pavement Marking Paint 4-Inch (Yellow)	162.0	L.F.	4.00	648.00
646.0109	Pavement Marking, Preformed Plastic, 4-Inch (White)	690.0	L.F.	4.05	2,794.50
647.0253	Pavement Marking Symbol Paint (Blue Handicap)	1.0	E.A.	8.00	8.00

650.4500	Construction Staking Subgrade	1380.0	L.F.	.90	1,242.00
650.5000	Construction Staking Base	1380.0	L.F.	.50	690.00
650.9920	Construction Staking Slope Stakes	1380.0	L.F.	.45	621.00
650.5500	Construction Staking Curb & Gutter	2722.0	L.F.	.75	2,041.50
650.8000	Construction Staking Resurfacing	3861.0	L.F.	.20	772.20
690.0200	Saw Concrete Pavement Full Depth	4653.0	L.F.	1.50	6,979.50
SPV.0035	Control Low Strength Material	94.0	C.Y.	25.00	2,350.00
SPV.0060A	Adjusting Water Valves.	14.0	E.A.	50.00	700.00
SPV.0060B	Adjusting Manhole Covers - Sanitary	33.0	E.A.	525.00	17,325.00
SPV.0060C	Remove, salvage and reinstall Curb Stops	9.0	E.A.	25.00	225.00
SPV.0060D	Remove and Replace Mailboxes	2.0	E.A.	50.00	100.00
SPV.0090A	Concrete Curb & Gutter 43-Inch Type D	937.0	L.F.	22.00	20,614.00
	TOTAL				$87,586.29

Name of Firm: Cicchini Asphalt LLC

By: Attilio J. Cicchini **Title:** Vice-President

Address of Firm: 4700-52nd Avenue Kenosha, WI **Zip:** 53144

Date: 6/23/2010 **Fax:** 262-654-8002

Telephone: 262-654-1929 **Signature** Attilio J. Cicchini

AFFIDAVIT OF ORGANIZATION AND AUTHORITY AND CAREFUL INSPECTION OF SITE AND PREPARATION OF BID

STATE OF WISCONSIN)
:SS.
COUNTY OF Kenosha **)**

Attilio J. Cicchini, being first duly sworn, on oath, deposes and says that the bidder submitting the attached bid is organized as indicated below and that all statements herein are made on behalf of such bidder, are true and correct, and that this affiant is authorized to make these statements on behalf of the bidder.

[Fill out applicable paragraphs.]

1. CORPORATION

The bidder is a corporation organized and existing under the laws of the State of _____, and its President is _____, its Secretary is _____, and it does/does not have a corporate seal. The President and/or _____ is authorized to sign bids and construction contracts and bids for the company by authority of its Board of Directors.

2. LIMITED LIABILITY COMPANY

The bidder is a limited liability company organized and existing under the laws of the State of Wisconsin. Pursuant to its articles of organization, the Bidder may be bound by action of its managing member/~~members~~ [strike one].

3. PARTNERSHIP

The bidder is a partnership consisting of _____, and, partners doing business under the name of _____. The following person(s) are authorized to sign bids and construction contracts for the partnership:

_____

4. SOLE TRADER

The bidder is an individual, and if operating under a trade name, such trade name is as follows:

_____

5. ADDRESS

The business address of the bidder is as follows:
4700 - 52nd Avenue
Kenosha, WI 53144
Its phone number is (262) 654-1929

6. STATUTORY SWORN STATEMENT

Affiant also deposes and says he or she has examined the Instructions to Bidders, has investigated site conditions or in the alternative has waived such inspection at bidder's peril, and has carefully prepared the bid proposal from the plans and specifications and checked the same in detail before submitting the bid.

[CORPORATE SEAL]

SIGNED: Attilio J. Cicchini
Attilio J. Cicchini
TITLE: Vice President + Manager

Subscribed and sworn to before me
this 23 day of June, 2016.
Michele S. Rue
Notary Public, Kenosha, County, WI.
My Commission expires/is 3-16-2014

State of Wisconsin
Department of Workforce Development
Equal Rights Division
Labor Standards Bureau

Disclosure of Ownership

Notice required under Section 15.04(1)(m), Wisconsin Statutes. The statutory authority for the use of this form is prescribed in Sections 66.0903(12)(d) and 103.49(7)(d), Wisconsin Statutes. The use of this form is mandatory. The penalty for failing to complete this form is prescribed in Section 103.005(12), Wisconsin Statutes. Personal information you provide may be used for secondary purposes

(1) On the date a contractor submits a bid to or completes negotiations with a state agency or local governmental unit, on a project subject to Section 66.0903 or 103.49, Wisconsin Statutes, the contractor shall disclose to such state agency or local governmental unit the name of any "other construction business", which the contractor, or a shareholder, officer or partner of the contractor, owns or has owned within the preceding three (3) years.

(2) The term "other construction business" means any business engaged in the erection, construction, remodeling, repairing, demolition, altering or painting and decorating of buildings, structures or facilities. It also means any business engaged in supplying mineral aggregate, or hauling excavated material or spoil as provided by Sections 66.0903(3), 103.49(2) and 103.50(2), Wisconsin Statutes.

(3) This form must ONLY be filed, with the state agency or local governmental unit that will be awarding the contract, if **both (A) and (B) are met.**

(A) The contractor, or a shareholder, officer or partner of the contractor:

(1) Owns at least a 25% interest in the "other construction business", indicated below, on the date the contractor submits a bid or completes negotiations.

(2) Or has owned at least a 25% interest in the "other construction business" at any time within the preceding three (3) years.

(B) The Wisconsin Department of Workforce Development (DWD) has determined that the "other construction business" has failed to pay the prevailing wage rate or time and one-half the required hourly basic rate of pay, for hours worked in excess of the prevailing hours of labor, to any employee at any time within the preceding three (3) years.

Other Construction Business

NONE

Name of Business	Street Address or P O Box	City	State	Zip Code

I hereby state under penalty of perjury that the information, contained in this document, is true and accurate according to my knowledge and belief.

Print the Name of Authorized Officer: Attilio J. Cicchini

Signature of Authorized Officer: Attilio J. Cicchini — Date Signed: 6-23-10

Name of Corporation, Partnership or Sole Proprietorship: Cicchini Asphalt LLC

Street Address	City	State	Zip Code
4700-52nd Avenue	Kenosha	WI	53144

If you have any questions call (608) 266-0028

ERD-7777 (R. 09/2003)

LIST OF SUBCONTRACTORS
AND MAJOR SUPPLIERS

NAME AND ADDRESS:	CLASS OF WORK TO BE PERFORMED:
Pavement Maintenance Inc.	Milling
D. C. Burbach, Inc.	Concrete
Payne + Dolan	Asphalt Material

Note: To qualify for inclusion in the Bidder's List, a **SUBCONTRACTOR** must first submit a bid in writing, to the general contractor at least forty-eight (48) hours prior to the time of the bid closing, which list shall not be added to, nor altered without the written consent of the City of Kenosha.

Dated this 23 day of June, 2010.

[Bidder] Attilio J. Cicchini

BID BOND

By CICCHINI ASPHALT, LLC (Principal), And

By WESTERN SURETY COMPANY (Surety), And

To And For The Benefit Of:
THE CITY OF KENOSHA, WISCONSIN

WHEREAS, Principal has bid on a public construction contract in the amount of $_____ to be awarded by the City of Kenosha, Wisconsin, to do certain work being a part of Project No. 10-1016; and,

WHEREAS, the furnishing of this Bid Bond is a condition of City of Kenosha opening and considering said bid; and,

WHEREAS, surety, for valuable consideration received from principal, enters into this agreement for the purpose of guaranteeing that if the bid is accepted, the bidder will execute and file the proper contract and bond within the time limited by the City of Kenosha.

NOW, THEREFORE, surety as of the date of execution of this agreement is held and firmly bound unto the City of Kenosha, Wisconsin, in the sum of Five percent of amount bid. ($ 5% of Amount Bid) Dollars, good and lawful money of the United States of America, through a commitment of its assets and the assets of its successors and assigns to secure the full, faithful, complete and timely performance of the obligations of the principal to execute a contract and file a performance bond or other assurance in a form approved by the City Attorney. Should the principal meet said obligations, then surety's obligation under this agreement shall be void. However, should principal default upon said obligation, then surety shall pay the amount of this bond to the City of Kenosha.

PRINCIPAL

PRINCIPAL: CICCHINI ASPHALT, LLC Mark E. Filmanowicz, Executive Vice-President

WITNESS: _____ Date: June 22, 2010

PRINCIPAL: _____

WITNESS: _____ Date: _____

[If principal is a partnership, individual partners must execute this bond.]

SURETY WESTERN SURETY COMPANY

WITNESS: _____ BY: _____

Trudy A. Szalewski Attorney-in-Fact

Date: June 22nd 2010

Examined and approved as to form this 10 day of August, 2010.

_____
City Attorney

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Jeffrey R Meisinger, Kelly Cody, Kent Arps, Roxanne Jensen, Individually, of Green Bay, Wisconsin
Trudy A Szalewski, Christopher H Kondrick, Brian Krause, Cheryl Siem, Individually, of Milwaukee, Wisconsin

its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Senior Vice President and its corporate seal to be hereto affixed on this 12th day of April, 2010.

WESTERN SURETY COMPANY

Paul T. Bruflat, Senior Vice President

State of South Dakota
County of Minnehaha } ss

On this 12th day of April, 2010, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Senior Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires
November 30, 2012

D. KRELL
NOTARY PUBLIC
SOUTH DAKOTA

D. Krell, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 22 day of June, 2010

WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary

Form F4280-09-06

CONTRACT FOR PROJECT NO. 10-1016

CITY OF KENOSHA, WISCONSIN,
A Municipal Corporation
And
Cicchini Asphalt, LLC

TOTAL CONTRACT AWARD NOT TO EXCEED $915,000.00

CONTRACT AMOUNT: $827,586.28 **CONTINGENCY: $87,413.72**
Only to be used with Engineer's approval

THIS AGREEMENT, Made and entered into by and between the **CITY OF KENOSHA, WISCONSIN**, a municipal corporation, duly organized and existing under the laws of the State of Wisconsin, hereinafter referred to as **"CITY"**, and **Cicchini Asphalt, LLC**, hereinafter referred to as **"CONTRACTOR"**.

W I T N E S S E T H:

WHEREAS, CONTRACTOR has submitted to the **CITY** a written bid to undertake and complete certain work; and,

WHEREAS, the Contract for doing said work has been awarded to **CONTRACTOR** by the Common Council of **CITY**, in a manner provided for and authorized by State law and the terms and conditions of said Contract are stated herein.

NOW, THEREFORE, in consideration of the mutual undertakings and agreements hereinafter set forth, **CITY** and **CONTRACTOR** agree as follows:

1. DEFINITIONS.

a. "ENGINEER" shall mean the Director of Public Works serving as the City Engineer or his/her designee.

b. "CITY" shall mean the City of Kenosha, Wisconsin.

c. "CONTRACT" - the following documents comprise the complete Contract:

- Notice to Contractors
- Instructions to Bidders
- Bid
- Plans, Specifications
- Special Provisions
- Disclosure of Ownership
- Prime Contractor Affidavit of Compliance with Prevailing Wage Rate Determination
- Executed Contract
- Bid Bond or Certified Check

- Performance Bond or other Assurance
- Certificates of Insurance
- Affidavit of Organization and Authority and Careful Inspection of Site and Preparation of Bid
- Determinations of Engineer
- Change Orders
- List of Subcontractors and Major Suppliers
- Warranties
- Affidavit Respecting Construction Lien Waivers/Releases
- Contract Notices and such other documents as are referenced herein

Any such documents which are not physically attached to the executed Contract are on file in **CITY** Department of Public Works and are incorporated into this Contract by reference.

"CONTRACTOR" shall mean the party who bid to do the work herein described and whose bid was accepted by the Common Council of **CITY**. **"CONTRACTOR"** shall include subcontractors thereof.

"PLANS" include all designs, drawings, details, profiles, reproductions and revisions thereof pertaining to work covered by this Contract.

"WORK" means the public works construction project upon which **CONTRACTOR** submitted a bid.

2. UNDERTAKINGS BY CONTRACTOR. CONTRACTOR, for the total sum of money, price and cost specified in **CONTRACTOR'S** bid, as accepted by **CITY** (plus a contingency for additional work not foreseen by either party), which is attached hereto and incorporated herein by reference, will perform and complete, or will cause to be performed and completed, all **WORK**, herein defined, in a good and sufficient workmanlike manner, and will do so in accordance with and subject to the provisions of this Contract, special provisions attached hereto, and in accordance with approved change orders, increasing or decreasing the scope of work and consideration. **CONTRACTOR** agrees that **CITY**, by change order, has the authority to expand the scope of **WORK**, up to an amount equal to fifteen (15%) percent of the Contract amount, or to modify the scope of **WORK** such that it results in a decrease of the Contract sum. A decrease in the scope of **WORK** shall not be deemed a violation of this Contract and shall not entitle **CONTRACTOR** to additional compensation. Payments from the contingency account must be authorized in writing by **CITY'S ENGINEER**. In the event of a Contract dispute, **CONTRACTOR** shall not refuse to perform and shall not delay the performance of **WORK** pending the resolution of said dispute.

3. SERVICES TO BE PROVIDED BY CITY. In the event that any information, date, surveys, reports, photographs, records and maps are existing and available and are useful for carrying out **WORK, CITY** through its **ENGINEER**, shall promptly furnish copies of these materials to **CONTRACTOR** for use during the Contract period. **CITY** designates **ENGINEER**, or designee, to act as its representative with respect to **WORK** to be performed under this Contract, and such person shall have authority to transmit instructions, receive information, interpret and define **CITY'S** policies and provide decisions in a timely manner pertinent to **WORK** covered by this Contract until **CONTRACTOR** has been advised in writing by **CITY** that such authority has been revoked.

4. PERFORMANCE BOND. **CONTRACTOR** has executed a performance bond or other assurance required by **CITY**, in the amount of the Contract award, ***including the Contract Amount and the Contingency***, in a form approved by the City Attorney, as a precondition of award of this Contract. **CITY** may make claim against this bond or assurance should **CONTRACTOR** fail to timely comply with the terms of this Contract, including, but not limited to honoring the specified warranty, paying the prevailing wage rate and securing lien waivers and releases.

Whenever there is a dispute between **CONTRACTOR** or surety or **CITY** as to the determination whether there is a compliance with the provisions of this Contract as to the hours of labor, wages, residence, character, and classification of workmen employed, the determination of **ENGINEER** shall be final, and in case of violation of said provisions, **CITY** may declare this Contract in default and request surety to perform or relet upon advertisement the remaining portion of this Contract.

5. COMMENCEMENT AND DILIGENT PROSECUTION OF WORK. **CONTRACTOR**, upon execution of Contract, will prosecute **WORK** diligently until fully complete in accordance with the following time schedule. **CONTRACTOR** shall commence **WORK** on or before the **6th** day of **July, 2010**, and complete **WORK** within **87** days of commencement or the **30th** day of **September, 2010**, (Contract Deadline); whichever is the earliest, time being of the essence.

Should **CONTRACTOR** fail to timely complete **WORK, CONTRACTOR** shall be liable to **CITY** in the amount of Three Hundred Fifty ($350.00) Dollars each and every day an inspection is performed for each inspector assigned by **CITY** to inspect **WORK**.

CONTRACTOR may request a Contract Deadline extension from **ENGINEER**, in writing, prior to the deadline for Contract completion (Contract Deadline), where the progress of **WORK** was delayed and **CONTRACTOR** was not responsible for such delay. Should **ENGINEER** grant an extension, **CONTRACTOR** will not be liable for payment of inspection fees during the period of said extension. Should **ENGINEER** determine that **WORK** will not be completed by Contract Deadline through normal methods and that no request for a Contract Deadline extension has been requested, or if requested, such request was not justified and denied, then **ENGINEER** shall provide **CONTRACTOR** with written notice requiring **CONTRACTOR** to take such extraordinary measures as may be required to complete **WORK**

or within a reasonable time. The failure of **CONTRACTOR** to take such extraordinary measures shall be grounds for **CITY** to suspend **WORK** by **CONTRACTOR** and take such other measures as will assure completion of **WORK** within Contract Deadline, or if that is impossible, within a reasonable time. However, nothing herein contained shall prevent **ENGINEER** from stopping **CONTRACTOR** from proceeding with **WORK** where **CONTRACTOR** is unwilling or unable to meet Contract Deadline through the use of extraordinary means.

6. ENGINEER'S DECISION FINAL. Should any dispute arise between **CONTRACTOR** and **ENGINEER** as to the true meaning or requirements of this Contract, at any time, or as to the quantity or quality of **WORK**, or as to the timely completion of **WORK**, the decision of **ENGINEER** shall be final and conclusive.

CONTRACTOR agrees that should any decision of **ENGINEER** be challenged in Court, the Court may only set aside a decision of **ENGINEER** if it is wholly arbitrary and capricious and made in complete disregard of undisputed facts.

7. METHODS AND EQUIPMENT. CONTRACTOR shall select such methods and equipment for the performance of all operations connected with **WORK** as will assure professional quality of **WORK** and a rate of progress which will assure the completion of **WORK** by Contract Deadline. **CONTRACTOR** is responsible for furnishing all labor, equipment, material and supplies required to perform **WORK**.

8. SUSPENSION OF WORK BY ENGINEER. ENGINEER may suspend **WORK** where **ENGINEER** believes that there is faulty workmanship or use of defective or improper materials. **CONTRACTOR** shall have no right to additional compensation where **WORK** is suspended by **ENGINEER.**

9. INJUNCTIONS. Should a preliminary or temporary injunction suspend **WORK** for a period of time, the Contract Deadline for completion of **WORK** shall be extended by such time as the preliminary or temporary injunction was in effect. In the event a permanent injunction or Court order prohibits **WORK**, this Contract shall be null and void as of the date such injunction or Court order becomes final, although **CONTRACTOR** will be paid for **WORK** performed to that date. In the event a permanent injunction or Court order reduces the scope of **WORK**, this Contract shall be deemed modified in accordance therewith and compensation of **CONTRACTOR** shall be proportionately reduced to reflect the decrease in the scope of **WORK**.

10. CHANGE ORDERS, ADJUSTMENT IN PRICE. CONTRACTOR does not have the discretion to refuse to comply with a change order, where the Change order decreases the amount of the Contract sum or results in an increase of the Contract amount of no more than fifteen (15%) percent. Increases in the Contract amount by fifteen (15%) percent or less shall be determined by use of **CONTRACTOR'S** compensation based upon unit prices, where applicable, and otherwise by good faith negotiation. Change orders must be approved by **CITY** Common Council and signed by the Mayor, on behalf of **CITY**, and approved and signed by **CONTRACTOR**. Change orders will be filed in the **CITY** Department of Public Works and incorporated into this Contract by reference. Should **CONTRACTOR** refuse to sign a change order under circumstances where there is no discretion to do so, said change order will be in full

force and effect without said signature.

11. CONTRACTOR CLAIMS FOR ADDITIONAL COMPENSATION AND DEADLINES THEREFOR. The Instructions to Bidders notified bidders that: "...Each bidder has an obligation to examine the site upon which the work will be performed and assess site conditions by both review of City furnished data and by independent testing at bidder's expense. Any bidder who waives the right to inspect the site or perform independent testing shall do so at their own peril and shall not make claim against the City for unknown or unforeseeable site conditions which may expand the scope of the effort or cost required to perform the work." This provision is incorporated into this Contract.

Any request by **CONTRACTOR** for additional compensation shall be submitted, in written form, to **ENGINEER** within fourteen (14) calendar days of the event (excluding day of event) giving rise to or forming the basis for such request, or be deemed forever waived. When the request for additional compensation involves **WORK** which is obstructed and unable to be inspected within said fourteen (14) day period of time, **CONTRACTOR** must promptly provide **ENGINEER** with notice and an opportunity for inspection, prior to receiving additional compensation. **CONTRACTOR** further has a duty to, from time to time, notify **ENGINEER** of any facts or events which may lead to a claim for additional compensation as soon as **CONTRACTOR** is aware of such facts or events.

12. WAIVER. No failure to exercise, or delay in exercising, any right, power or remedy hereunder on the part of either party shall operate as a waiver thereof, nor shall any single or partial exercise of any other right, power or remedy preclude any other further exercise thereof or the exercise of any other right, power or remedy. No express waiver shall affect any event or default other than the event of default specified in such waiver, and any such waiver, to be effective, must be in writing and shall be operative only for the time and to the extent expressly provided therein. A waiver of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition.

13. SUBCONTRACTORS AND SUPPLIERS. CONTRACTOR has listed its subcontractors and major suppliers of materials, which list is attached to this Contract. Any changes in subcontractors and major suppliers must be approved by **ENGINEER. CONTRACTOR** is responsible for the quality and quantity of materials furnished by suppliers and **WORK** performed by subcontractors and for delays in **WORK** occasioned thereby.

CONTRACTOR has a duty to remove and replace subcontractors and all suppliers whose involvement in **WORK** will result in defective workmanship or the use of defective or improper materials, or unreasonable delay in **WORK** progress. Furthermore, should **ENGINEER**, in his sole discretion, determine that subcontractors and/or suppliers whose involvement in **WORK** will result in defective workmanship or the use of defective or improper materials or unreasonable delay in **WORK** progress, **ENGINEER** shall have the right, in writing, to compel **CONTRACTOR** to remove and replace said subcontractors and/or suppliers.

14. UNIT PRICES. Where unit prices are contained in **CONTRACTOR'S** bid, the payment of such prices shall constitute full compensation for the designated item.

15. PROTECTION OF WORK. **CONTRACTOR** shall be responsible for the protection of **WORK** from destruction, loss and damage until the acceptance thereof by **CITY** Common Council.

16. WARRANTY. CONTRACTOR will repair or replace any **WORK** which is defective or not in conformity with this Contract at no cost to **CITY** for a period of one (1) calendar year after the date of acceptance of **WORK** by **CITY** Common Council.

17. DEFECTIVE OR IMPROPER WORKMANSHIP OR MATERIALS. **ENGINEER** may refuse to accept defective or improper workmanship or materials, and will notify **CONTRACTOR** in writing of such action. **CONTRACTOR** has an obligation to take corrective action as soon as practical.

18. CITY COOPERATION. **CITY** and **ENGINEER** will reasonably cooperate with **CONTRACTOR** to facilitate **CONTRACTOR'S** performance of **WORK.** **CONTRACTOR** will provide reasonable notice to **ENGINEER** when such assistance is requested.

19. PERMITS, APPROVALS AND NOTICES. **CONTRACTOR** is fully responsible, at **CONTRACTOR'S** cost and expense, to procure such permits, and approvals, and give such notices as may be required from any governmental entity, including **CITY**, as a precondition to the performance of **WORK**.

20. LAWS, RULES AND REGULATIONS. **CONTRACTOR** shall comply with all Federal, State and local laws, rules and regulations which cover this Contract or **WORK**.

21. CONTRACTOR'S EMPLOYEES. **ENGINEER** shall have the right to request **CONTRACTOR** to remove from **WORK** site any of **CONTRACTOR'S** employees involved in **WORK** when said employee does not furnish quality workmanship or is uncooperative with or disrespectful to any **CITY** personnel associated with **WORK.** **CONTRACTOR**, at all times **WORK** is being performed, shall assign an employee to be the person to whom **ENGINEER** may transmit instructions, Contract interpretations and information, or make inquiries of at all times when **WORK** is being performed. The name of such employee shall be submitted to **ENGINEER,** in writing, in advance of **WORK** being performed and such employee assuming responsibilities hereunder.

22. WATER SERVICE. **CONTRACTOR** has the obligation of arranging with the Kenosha Water Utility for temporary water service and for permits for use of fire hydrants. **CONTRACTOR** shall be responsible for making deposits and paying fees, and complying with the rules and regulations specified in Chapter 32 of the **CITY** Code of General Ordinances.

23. SANITATION, HEALTH. CONTRACTOR has the obligation of arranging for potable drinking water and sanitary conveniences for employees, subcontractors, suppliers, and agents thereof, and taking such precautions as will deter the spread of infectious diseases.

CONTRACTOR shall not create a health hazard on the **WORK** site. **CONTRACTOR**, with respect to **WORK** site, shall obey all lawful orders received from a County Health Department Sanitarian, or from any duly authorized employee of any Federal or State agency having jurisdiction over **WORK** site.

24. INSPECTION. CITY has the right, at its expense, to assign inspectors to determine that **WORK** is in conformance with this Contract. However, only **ENGINEER** can reject **WORK**. The use of inspectors by **CITY** shall not relieve **CONTRACTOR** of **CONTRACTOR'S** duty of making its own inspections, and of itself rejecting improper or defective **WORK**, by its employees, subcontractors, suppliers or agents. The failure of a City Inspector to notice or object to improper or defective **WORK** shall not waive any rights of **ENGINEER** to have **CONTRACTOR** take corrective action at **CONTRACTOR'S** expense to remedy such deficiencies or defects, when discovered. The use of inspectors by **CITY** shall also not relieve **CONTRACTOR** of its duty to maintain a safe workplace. Neither **ENGINEER** or City Inspectors accept responsibility for any obligations of **CONTRACTOR** under this Contract.

25. WORKMANSHIP. Workmanship shall conform to the best standard practice of a given trade in Southeastern Wisconsin. Materials used must be suitable to and compatible with the nature of **WORK, WORK** site and prevailing year round weather conditions which affect the **WORK** site.

26. UTILITIES. CONTRACTOR has the obligation of obtaining utility locations, clearances, hookups or cutoffs directly from the relevant utility, including **CITY** Water Utility.

27. CLEANUP. CONTRACTOR shall at all times keep **WORK** site and sites of easements related to **WORK,** and all right-of-ways, streets, highways, alleys and private or public property in or adjacent to **WORK** site, in a clean and sanitary condition, free from any rubbish, debris, surplus or waste materials that have been generated or accumulated as a result of **WORK**.

Within ten (10) days after the completion of **WORK, CONTRACTOR** shall remove all surplus materials, tools, equipment or plant, leaving **WORK** site, and sites of easements related to **WORK**, unobstructed, clean and sanitary, and ready for their intended use and as safe as the nature of the premises will reasonably permit. The finished **WORK** shall be left or made clean. Should **CONTRACTOR** neglect any such duty, **ENGINEER** may cause any such **WORK** to be performed at **CONTRACTOR'S** expense.

28. EXCAVATIONS. CONTRACTOR assumes all risks and costs and expenses associated with excavations, including collapse, damage to abutting public or private property and problems associated with subsurface or surface water, ice or snow.

29. PREVAILING WAGE RATE. CONTRACTOR, in accordance with Section 66.0903, Wisconsin Statutes, and Section 5.10 of **CITY** Code of General Ordinances, as applicable, shall not pay its employees less than the applicable prevailing wage rate, which is on file in the Office of **CITY** Department of Public Works, and incorporated herein by reference. One copy of the prevailing wage rate, when and as applicable, shall be posted by

CONTRACTOR on **WORK** site.

Upon completion of **WORK** and prior to final payment therefor, **CONTRACTOR** must file with **ENGINEER** the Prime Contractor Affidavit of Compliance with Prevailing Wage Rate Determination or similar document where **CITY** Ordinance is applicable. **CONTRACTOR**, within five (5) working days of written request, shall furnish City Engineer with payroll data, certified under oath, showing the wage rate paid for every position engaged in **WORK**.

30. PAYMENT OF EMPLOYEES, SUBCONTRACTORS AND MATERIAL SUPPLIERS. CONTRACTOR shall promptly pay all employees, subcontractors and material suppliers for all labor, service, supplies or materials which they may directly or indirectly furnish in the fulfillment of this Contract and **CONTRACTOR** shall secure, as soon as possible, a waiver of liens or the release of any and all liens which may attach as a result of **WORK**, said waivers and releases to be filed with **ENGINEER** before final payment is made to **CONTRACTOR**. Prior to a request for final payment, **CONTRACTOR** shall also file with **ENGINEER** the Affidavit Respecting Construction Lien Waivers/Releases, the Prime Contractor Affidavit of Compliance with Prevailing Wage Rate Determination and (from each agent and Contractor) the Agent or Subcontractor Affidavits of Compliance with Prevailing Wage Rate Determination.

31. LIQUIDATED DAMAGES FOR DELAYS IN CONTRACT COMPLETION. In the event that **CONTRACTOR** fails to fully and completely perform **WORK** within the Contract Deadline, **CONTRACTOR** shall pay to **CITY** liquidated damages for such default in the sum of Five Hundred Dollars ($500.00) per day for each and every day's delay in the completion of **WORK**. This sum shall be considered and treated not as a penalty, but as fixed, agreed and liquidated damages due **CITY** from **CONTRACTOR** by reason of inconvenience to the public, added cost of engineering and supervision, increased municipal services, maintenance of detours and other items which have caused an expenditure of public funds resulting from the failure of **CONTRACTOR** to complete **WORK** within the time specified in this Contract.

32. RIGHTS OF CITY UPON CONTRACTOR DEFAULT. CONTRACTOR recognizes the right of **CITY** to suspend **WORK**, to order the reconstruction in full or in part of **WORK**, to relet all or part of **WORK**, to order the replacement of improper or defective **WORK**, or to itself do **WORK**, as determined by **ENGINEER.** However, none of the above shall relieve the **CONTRACTOR** of financial liability for failure to fully comply with this Contract. **CONTRACTOR** shall be responsible for paying **CITY** its cost and expenses, including attorney fees, incurred in enforcing this Contract.

33. OVERPAYMENTS AND SETOFFS. CONTRACTOR shall promptly, upon receipt of written demand from **ENGINEER**, refund any overpayments received thereby. Should **CONTRACTOR** not timely comply with said request, **CONTRACTOR** shall pay **CITY** interest for said amount at the rate of one (1%) percent per month on the unpaid balance, until paid in full. Should **CONTRACTOR** owe **CITY** any money which is lawfully due and payable on any account receivable or on any personal property tax, forfeiture or license or permit fee, whether or not related to **WORK, CONTRACTOR** authorizes **CITY** to set off and deduct said amount from any payment due **CONTRACTOR** hereunder.

34 SAFETY PRECAUTIONS – LIQUIDATED DAMAGES. CONTRACTOR, during the Contract period, shall assume control of **WORK** site and put up and properly maintain, at **CONTRACTOR'S** expense, adequate barriers, warning signs, lights and such other devices and take such measures as will make **WORK** site as safe as the nature of the premises will reasonably permit, with due consideration to all dangers associated with **WORK,** during both day and night hours. If there are any raised or exposed manholes, each shall be separately protected or visibly marked if the street they are on is open to traffic. **ENGINEER** may order **CONTRACTOR,** by a time or date certain, to take designated safety measures and the failure of **CONTRACTOR** to promptly obey said order shall result in liquidated damages of One Hundred ($100.00) Dollars per day for each day said order is not complied with. **CONTRACTOR** shall be fully responsible for making **WORK** site as safe as its nature will reasonably permit and may not rely upon any inspections, instructions or orders of **ENGINEER** or City Inspectors or lack thereof in this regard. **CONTRACTOR** has an obligation to check warning and safety devices on a daily basis. In the event of Contract termination prior to completion of **WORK, CONTRACTOR** will continue to be responsible for maintaining the safety of the **WORK** site until relieved of this obligation by **ENGINEER** or until another Contractor takes possession of **WORK** site.

35. WORK PROGRESS PAYMENTS - RETAINED PERCENTAGES - ACCEPTANCE OF WORK - LIEN WAIVERS AND RELEASES. Payments for **WORK** performed shall be made monthly, unless otherwise agreed. Payment shall be made by **CITY** within fifteen (15) days after **ENGINEER** receives an invoice or application for payment with adequate cost breakdown to verify payment due.

The **CITY** shall pay for contractual services, as work progresses, as specified in Section 66.0901 (9)(b), of the statutes is amended to read:

"Retained percentages. As the work progresses under a contract involving $1,000 or more for the construction, execution, repair, remodeling or improvement of a public work or building or for the furnishing of supplies or materials, regardless of whether proposals for the contract are required to be advertised by law, the municipality, from time to time, shall grant to the contractor an estimate of the amount and proportionate value of the work done, which entitles the contractor to receive the amount of the estimate, less the retainage, from the proper fund. The retainage shall be an amount equal to not more than 5% of the estimate until 50% of the work has been completed. At 50% completion, further partial payments shall be made in full to the contractor and no additional amounts may be retained unless the architect or engineer certifies that the job is not proceeding satisfactorily but amounts previously retained shall not be paid to the contractor. At 50% completion or any time after 50% completion when the progress of the work is not satisfactory, additional amounts may be retained, but the total retainage may not be more than 10% of the value of the work completed. Upon substantial completion of the work, an amount retained may be paid to the contractor. When the work has been substantially completed except for work which cannot be completed because of weather conditions, lack of materials or other reasons which in the judgment of the municipality are valid reasons for noncompletion, the municipality may make additional payments, retaining at all times an amount sufficient to cover the estimated cost of the work still to be completed or may pay out the entire amount retained and receive from the contractor guarantees in the form of a bond or other collateral sufficient to ensure completion of the job. For purposes of this section, estimates may include any fabricated or manufactured materials

and components specified, previously paid for by contractor and delivered to the work or properly stored and suitable for incorporation in the work embraced in the contract."

In the event **WORK** under this Contract is defaulted or not completed, Section 62.15(10), Wisconsin Statutes, shall apply.

Progress payments will not be made for so long as any order relative to seeking compliance with this Contract made to **CONTRACTOR** by **ENGINEER** is not complied with. Progress payments will be reduced by the amount of any claim which **CITY** may have against **CONTRACTOR** for improper, defective or incompleted **WORK** or damages or expenses due to delay in the schedule of time for **WORK** completion or for any other primary liability of **CONTRACTOR** which **CITY** could be secondarily liable for, which secondary liability was not assumed by **CITY** under this Contract. Upon completion of **WORK** and following formal acceptance thereof by **CITY** Common Council, **CITY** will pay the full amount which it owes under this Contract, less any amount paid as progress payments and less any loss, damages, costs or expenses incurred by **CITY** for reason of **CONTRACTOR** having failed to diligently, faithfully, completely and timely fulfill the terms and conditions of this Contract, and less other money or costs owed by **CONTRACTOR** to **CITY** under this Contract. **WORK** shall not be accepted by **CITY** Common Council until all employees, subcontractors and suppliers have been fully paid for all work, labor, services, supplies or materials provided thereby, and lien waivers, releases and required affidavits have been procured and filed with **ENGINEER**.

36. INDEPENDENT CONTRACTOR. CONTRACTOR acknowledges that it is an independent contractor and that its employees and agents are not the employees of **CITY** for purposes of workers and unemployment compensation or any other purpose.

37. PROHIBITIONS AS TO ASSIGNMENT, SUBCONTRACTING AND JOINT VENTURES. CONTRACTOR may not assign this Contract, enter into a joint enterprise or subcontract any **WORK** without the express, written approval of **ENGINEER**. Subcontractors listed in this Contract are excepted from this prohibition. An unlawful assignment, joint enterprise or subcontract shall render this Contract voidable by **CITY** as of the date thereof. **CITY** is not obligated to pay **CONTRACTOR** any money for any **WORK** performed by an unauthorized assignment, subcontract or joint venture. **CONTRACTOR** will be responsible for any cost, loss, expense or damages, including attorney fees, **CITY** may incur in enforcing this provision.

38. INDEMNITY AND HOLD HARMLESS AGREEMENT.
CONTRACTOR shall indemnify and hold harmless **CITY**, and its officers and employees from and against any and all claims, damages, losses, judgments, expenses and attorney fees which they may incur, pay or sustain as a result of any act or omission, whether negligent or otherwise, of **CONTRACTOR** which causes death, personal injury or property damage or loss to any person or party, or a violation of any right of any person or party protected by law. **CONTRACTOR** is not responsible for any acts or omissions of **CITY** or **CITY'S** officers and employees.

39. INSURANCE. CONTRACTOR shall procure and maintain, during the term of this Contract, insurance policies, hereinafter specified. **CONTRACTOR**, prior to executing this Contract, shall furnish a Certificate of Insurance indicating compliance with the foregoing, and

proof of payment of premium to the City Attorney, for approval. The certificates shall contain a clause that in the event that any policy issued is canceled for any reason, or any material changes are made therein, the City Clerk will be notified, in writing, by the insurer at least twenty (20) days before any cancellation or change takes effect. If, for any reason, the insurance coverage required herein lapses, **CITY** may declare this Contract null and void as of the date no valid insurance policy was in effect. Certificates of policy renewals shall be furnished to the City Clerk throughout the term of this Contract. The insurance requirement shall not be construed to conflict with the obligations of **CONTRACTOR** in Section 38-Indemnity and Hold Harmless Agreement.

The following insurance must be in effect and continue in effect during the term of this Contract in not less than the following amounts:

- Worker's Compensation and Employer's Liability - Statutory Limits -In compliance with the Worker's Compensation Law of the State of Wisconsin.

- General Liability Insurance covering death, personal injury and property damage, with a minimum limit of One Million ($1,000,000.00) Dollars per occurrence having the following coverage:

Commercial General Liability;
Owners and Contractors Protection; and,
Products - Completed Operations.

- Automobile Liability Insurance with minimum combined single limits of liability of One Million ($1,000,000.00) Dollars for death and bodily injury, and Five Hundred Thousand ($500,000.00) Dollars for property damage, per occurrence, having the following coverage:

Owned automobiles;
Hired automobiles; and,
Non-owned automobiles.

- Excess liability with a minimum limit of Three Million ($3,000,000.00) Dollars per occurrence.

40. COOPERATION. CONTRACTOR shall cooperate with representatives of any and all Federal, State or local agencies having authority over or providing funding for **WORK**. Further, although **CONTRACTOR** has possession of **WORK** site, it shall permit **CITY** employees and representatives and employees and representatives of any Federal or State funding agency to have reasonable access to **WORK** site at all times.

41. FULL AGREEMENT - MODIFICATION. This Contract shall be the full and complete agreement and understanding of the parties and shall supersede all oral or written statements or documents, inconsistent herewith. This Contract can be modified, in writing, by the mutual agreement of the parties hereto, said amendment to be attached hereto and incorporated herein, it being expressly understood that **CITY** Common Council must approve any amendment

of this Contract. Approved change orders shall be deemed Contract amendments.

42. SEVERABILITY. It is mutually agreed that in case any provision of this Contract is determined by any Court of law to be unconstitutional, illegal or unenforceable, that it is the intention of the parties that all other provisions of this Contract remain in full force and effect.

43. NONDISCRIMINATION. In the performance of **WORK** under this Contract, **CONTRACTOR** agrees not to discriminate against any employee or applicant for employment contrary to any Federal, State or local law, rule or regulation, because of race, religion, marital status, age, creed, color, sex, handicap, national origin, or ancestry, sexual orientation, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, political beliefs or student status. **WORK** is to be performed in accordance with the Federal Americans With Disabilities Act.

44. GOVERNING LAW. This Contract shall be deemed to have been made in Wisconsin and shall be construed and interpreted in accordance with the laws of the State of Wisconsin. This public construction Contract is governed by numerous State Statutes and in the event of a conflict between this Contract and a State Statute, the State Statute shall be considered a part of this Contract and shall supersede any conflicting provision of this Contract.

45. NO THIRD PARTY BENEFICIARIES. This Contract is intended to be solely between the parties hereto. No part of this Contract 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.

46. NOTICES. Notices required by or relevant to this Contract shall be furnished by **CONTRACTOR** to **CITY** by personal service or by registered or certified mail with return receipt, postage prepaid, sent or delivered to **ENGINEER** at the Municipal Building, Room 305, 625 - 52nd Street, Kenosha, Wisconsin 53140.

Notices required by or relevant to this Contract shall be furnished by **CITY** to **CONTRACTOR** by personal service or by registered or certified mail with return receipt, postage prepaid, sent or delivered to:

Cicchini Asphalt LLC
4700 - 52nd Avenue
Kenosha, WI 53144

47. AUTHORIZATION TO EXECUTE CONTRACT. CITY is authorized to enter into this Contract by action of its Common Council taken on the 19th day of July, 2010. **CONTRACTOR** executes this Contract by appropriate officers in accordance with its Articles of Incorporation and ByLaws, or partnership agreement, where applicable.

48. STATEMENT BY FINANCE DIRECTOR. CITY has or will have sufficient funds to meet its obligations under this Contract.

CAROL STANCATO, Finance Director
Date: 8/4/10

Examined and approved as to form:

EDWARD R. ANTARAMIAN, City Attorney
Date: August 10, 2010

IN WITNESS WHEREOF, the parties hereto have hereunto executed this Contract on the dates below given.

CITY OF KENOSHA, WISCONSIN,
A Municipal Corporation

BY: _____
KEITH G. BOSMAN, Mayor
Date: 8/10/2010

BY: _____
MICHAEL K. HIGGINS, City Clerk/Treasurer
Date: 8/10/10

STATE OF WISCONSIN)
:SS.
COUNTY OF KENOSHA)

Personally came before me this 10th day of August, 2010 **KEITH G. BOSMAN**, Mayor, and **MICHAEL K. HIGGINS**, City Clerk/Treasurer, for the **CITY OF KENOSHA, WISCONSIN**, a municipal corporation, to me known to be the persons who executed the foregoing instrument, and to me known to be such Mayor and City Clerk/Treasurer of said City, and acknowledged that they executed the foregoing instrument as such officers as the agreement of said City, by its authority.

_____
Notary Public, Kenosha County, WI.
My Commission expires/is: 6/19/2011

CONTRACTOR

Cicchini Asphalt LLC
[Company name]

BY: Attilio J. Cicchini
Attilio J. Cicchini - Manager
President/Manager/Member/Partner/Sole Proprietor
Date: 7/23/10 Vice-President

BY: _____
_____
Secretary/Partner
Date: _____

BY: _____
_____
Partner
Date: _____

STATE OF WISCONSIN)
:SS.
COUNTY OF KENOSHA)

Personally came before me this 23rd day of, July, 2010 Attilio J. Cicchini, _____ and _____, _____, to me known to be such Manager and Vice-President who executed the foregoing instrument, and acknowledged to me that they executed the foregoing instrument as such officers as the agreement of Contractor, by its authority.

Michele S. Prue
Michele S. Prue
Notary Public, Kenosha County, WI.
My Commission expires/is: 3-16-2014

PERFORMANCE AND PAYMENT BOND

{$ 915,000.00 }

Project No. 10-1016

PROJECT DESCRIPTION: Resurfacing Phase III

BY: {Principal} Cicchini Asphalt, LLC

To And For The Benefit Of
The City of Kenosha, Wisconsin

Know All Men By These Presents, that we,

[Company Name] Cicchini Asphalt, LLC
[Address] 4700 - 52nd Avenue
Kenosha, WI 53144

as Principal, and Western Surety Company {Surety}, are held and firmly bound unto the City of Kenosha, Wisconsin, a municipal corporation as Obligee in the full and just sum of Nine Hundred Fifteen Thousand and 00/100---------- [$ 915,000.00], lawful money of the United States, to the payment of which sum, well and truly to be made, the Principal and Surety bind themselves their and each of their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the principal has entered into a written contract with the Obligee for the above project, which Contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THE OBLIGATION IS SUCH, that if the Principal shall faithfully perform said Contract according to its terms, covenants and conditions and shall promptly pay all persons supplying labor or material to the Principal for use in the prosecution of the work under said Contract, then this obligation shall be void; otherwise it shall remain in full force and effect.

Subject to the named Obligee's priority, all persons who have supplied labor or material directly to the Principal for use in the prosecution of the work under said Contract shall have a direct right of action under this Bond.

The Surety's aggregate liability hereunder shall in no event exceed the amount set forth above.

No claim, suit or action shall be brought hereunder after the expiration of one (1) year following the date of City acceptance of work on said Contract, or one (1) year following expiration of any warranty or guaranty covering work and materials set forth under said Contract, whichever is longer. If this limitation is made void by any law controlling the construction hereof, such limitation shall be deemed to be amended to equal the minimum period of limitation permitted by such law.

Signed and dated at Kenosha, Wisconsin, this 27 day of July, 2010

Michele S. Rue
[Witness]

Cicchini Asphalt, LLC
{Principal}
BY: Attilio J. Cicchini
Name: Attilio J. Cicchini
Title: Vice-President

Gloria Kraus
[Witness]

Western Surety Company
[Surety]
BY: Trudy A. Szalewski
Name: Trudy A. Szalewski
Title: Attorney-in-fact

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Jeffrey R Meisinger , Kelly Cody, Kent Arps , Roxanne Jensen , Individually of Green Bay, Wisconsin
Trudy A Szalewski, Christopher H Kondrick, Brian Krause, Cheryl Siem, Individually of Milwaukee, Wisconsin

their true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Senior Vice President and its corporate seal to be hereto affixed on this 6th day of July, 2010.

WESTERN SURETY COMPANY

Paul T. Bruflat, Senior Vice President

State of South Dakota
County of Minnehaha } ss

On this 6th day of July, 2010, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Senior Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires
November 30, 2012

D. KRELL
NOTARY PUBLIC
SOUTH DAKOTA

D. Krell, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 27 day of July, 2010

WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary

Form F4280-09-06

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 07/23/2010

PRODUCER 262.654.0221 FAX 262.654.7967
VALERI AGENCY, INC
6309 60TH ST, STE 200
P O BOX 575
KENOSHA, WI 53141

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED Cicchini Asphalt LLC
4700 52nd Avenue
Kenosha, WI 53144

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Cincinnati Insurance Co.	
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A		GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY CLAIMS MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PRO-JECT LOC	CPP1055504	04/10/2010	04/10/2011	EACH OCCURRENCE	$ 1,000,000
						DAMAGE TO RENTED PREMISES (Ea occurence)	$ 500,000
						MED EXP (Any one person)	$ 10,000
						PERSONAL & ADV INJURY	$ 1,000,000
						GENERAL AGGREGATE	$ 2,000,000
						PRODUCTS - COMP/OP AGG	$ 2,000,000
A		AUTOMOBILE LIABILITY X ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS	CPP1055504	04/10/2010	04/10/2011	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
						BODILY INJURY (Per person)	$
						BODILY INJURY (Per accident)	$
						PROPERTY DAMAGE (Per accident)	$
		GARAGE LIABILITY ANY AUTO				AUTO ONLY - EA ACCIDENT	$
						OTHER THAN AUTO ONLY: EA ACC	$
						AGG	$
A		EXCESS/UMBRELLA LIABILITY OCCUR CLAIMS MADE DEDUCTIBLE RETENTION $	CPP1055504	04/10/2010	04/10/2011	EACH OCCURRENCE	$ 5,000,000
						AGGREGATE	$ 5,000,000
							$
							$
							$
A		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	WC192226801	04/13/2010	04/13/2011	WC STATU-TORY LIMITS / OTH-ER	
						E.L. EACH ACCIDENT	$ 100,000
						E.L. DISEASE - EA EMPLOYEE	$ 100,000
						E.L. DISEASE - POLICY LIMIT	$ 500,000
		OTHER					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Regarding Resurfasing Phase III - Project # 10-1016 The City of Kenosha is hereby added as an additional insured.

CERTIFICATE HOLDER

City of Kenosha
625 52nd Street Room 305
Kenosha, WI 53140

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE
Jeffrey Valeri/JEFF

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IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

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PERFORMANCE AND PAYMENT BOND

Examined and approved as to form and execution this 10 day of August, 2010.

Edward R. Ostacoma
City Attorney

CASH PERFORMANCE BOND

PUBLIC CONSTRUCTION CONTRACT

KNOW ALL MEN BY THESE PRESENTS:

THAT _____, **Obligator**, _____, Wisconsin, is held and firmly bound unto the **CITY OF KENOSHA, WISCONSIN**, as **Obligee**, in penal sum of _____($_____) Dollars, lawful money of the United States, posted as a cash bond, out of which bond, payment will be made, and **Obligator** binds [himself/herself/themselves] and [his/her/their] heirs, executors, administrators, successors and assigns, firmly by these presents.

WHEREAS, Obligator enters into this agreement for the purpose of holding the City of Kenosha harmless from any potential Contract default of **Obligator**, including default on Contract of **Obligator**, including default on Contract warranties.

NOW, THEREFORE, the condition of this obligation is such that the above burdened **Obligator**, shall fully and faithfully perform (his/her/their) contractual obligations and warranties within the time above designated, all such construction work to be done according to the laws shall be void, otherwise it shall be in full force and effect.

FURTHER, Obligator does hereby assign to the City of Kenosha, **Obligee** , all rights and interest in and to the insured account or Certificate Number _____ in the _____ {Name of Institution] of _____ [City], _____ _____ [State] in the amount of _____ ($_____) Dollars, which is delivered to the City Clerk of the City of Kenosha, Wisconsin. The assignor retains the right to income from said account by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, and gives the right to the City of Kenosha, Wisconsin, to redeem, collect and withdraw the full amount of such account at any time. This assignment is given as a cash performance bond, the terms of which are above stated. Assignor hereby notifies the above named institution of this assignment.

Dated this ____ day of _____, _____.

_____

Obligator and Assignor

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Assignment of the above account or certificate to the City of Kenosha, Wisconsin, is hereby acknowledged. We certify that we have received no notice of encumbrance or claim on the above identified account prior to this assignment. We have noted in our records the City's interest in said account as shown by the above assignment. We agree to make payment under this assignment to the City of Kenosha, Wisconsin, upon request.

Dated this _____ day of _____, _____.

_____
[Institution]

BY: _____
_____
Title: _____

ACCEPTANCE OF CASH BOND BY CITY

The above cash bond and assignment is hereby accepted and acknowledged by the City of Kenosha, Wisconsin.

Date this _____ day of _____, _____.

_____
[Institution]

BY: _____
_____
Title: _____

THE CITY OF KENOSHA, WISCONSIN
CHANGE ORDER

Project Name _____

Project Number _____

Account Number _____

Contractor _____

Public Works Committee Action _____

Date of Common Council Action _____

CITY and CONTRACTOR agree that the above Contract is amended by (increasing)(decreasing) the amount of the Contract by $_____ from $_____to $_____. This amendment shall have the effect of (increasing)(decreasing)(not changing) the date of project completion from _____ to _____.

This Change Order is approved by:

CONTRACTOR

_____

Date: _____

CITY OF KENOSHA, MAYOR

_____

Date: _____

THE CITY OF KENOSHA, WISCONSIN
AFFIDAVIT RESPECTING
CONSTRUCTION LIEN WAIVERS/RELEASES

STATE OF _____)
:SS
COUNTY OF _____)

Project Name: _____

Project Number: _____

Contractor: _____

I, _____, being duly sworn, state that:

1. I am an _____ (Officer, Partner, Individual) of Contractor, who is authorized to make this affidavit on behalf thereof.

2. Contractor has recently completed the work required under the terms of its above Contract and makes this Affidavit to obtain final payment.

3. The following is a true, correct and complete listing of all subcontractors and major material suppliers (as defined in the Construction Contract) which performed services or furnished material to Contractor relative to the project.

NAME	ADDRESS

4. Contractor has fully paid all subcontractors and material (whether major or minor) suppliers the amounts they are due and owing under their respective contracts and purchase orders and has obtained lien waivers or releases, which have been previously filed or are being filed with the Affidavit.

5. Contractor has full and accurate records which clearly show the name and address of every subcontractor and material supplier used in connection with the work on the project, as well as the actual sums paid thereto. These records will be kept at Contractor's principal place of business, as evidence of compliance set forth above, and will be retained and made available for inspection for a period of at least three (3) years following the completion of this project and will not be removed from said office without prior notification to the City Clerk of the City of Kenosha.

BY: _____
[Signature]
Position: _____
Date: _____

STATE OF _____)
:SS.
COUNTY OF _____)

Personally came before me this _____ day of _____, _____, to me known to be such person holding such position and acknowledged to me that they executed the foregoing instrument by its authority.

_____
_____
Notary Public, _____ County, _____
My Commission expires/is: _____

Drafted By:
WILLIAM K. RICHARDSON,
Assistant City Attorney

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PROJECT # 10-1016

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SPECIAL PROVISIONS

RESURFACING PHASE III
PROJECT # 10-1016

1. GENERAL

Perform the work under this construction contract for Project # 10-1016, Resurfacing Phase III, at various locations in Kenosha Wisconsin as the plans show and execute the work as specified in the State of Wisconsin, Department of Transportation, Standard Specifications for Highway and Structure Construction, 2010 Edition as published by the Department and these special provisions.

2. SCOPE OF WORK

The proposed improvement consists of supplying all the necessary labor, material and equipment to satisfactorily construct and install all improvements according to the plans and specifications designated as Resurfacing Phase III, Project No. 10-1016. The project limits include,

- **33rd Avenue – 60th Street to 55th Street**
- **22nd Avenue –38th Street to 35th Street**
- **50th Avenue – 67th Street to 65th Street**
- **53rd Street – 26th Avenue to 22nd Avenue**
- **104th Avenue from South of 69th Street to 1378 feet North**
- **Fire Station No. 2 on 30th Avenue**

This project consists of milling, saw cutting, removing and replacing concrete curb and gutter, repairing hazardous concrete sidewalk, concrete driveways and handicap ramps, rubblizing concrete pavement, adjusting inlets and utility manholes, resurfacing with hot mixed asphalt, site restoration, construction staking curb and gutter and all incidental items necessary to complete the work as shown on the plans and these specifications.

3. PRECONSTRUCTION MEETING

There will be a preconstruction meeting in Room 305 in the Kenosha Municipal Building, 625 52nd Street, Kenosha, on or about **July 13, 2010 at 10:00 AM**. The Contractor and all sub-contractors for this project will be required to attend. At this meeting, the Contractor shall submit a tentative critical path schedule for all work to be performed.

4. WORK RESTRICTION

The Contractor may not perform work on the following holidays
Labor Day -- Friday, September 3, 2010, 7:00 PM until Tuesday, September 8, 2010, 7:00 AM.
Thanksgiving Day -- Wednesday, November 24, 2010 7:00 PM until Tuesday, November 30, 2010, 7:00 AM

5. PROSECUTION AND PROGRESS

Once a task of construction has begun on a roadway, it shall proceed to completion without interruption. If a task of construction is not begun or proceeding in a timely manner, the Engineer, at his discretion, may cause the Contractor to cease all other work until the area in question is back on schedule.

The stoppage of work by the Engineer, or any delays as a result of it, shall not be considered as a reason to grant a contract time extension.
The upper layer of HMA shall be laid within one (1) week after all manholes have been adjusted to final grade.

The Contractor shall contact the Engineer if the Contractor wishes to start the project before the scheduled start date of July 20, 2010. When a new start date is requested, sufficient lead-time will be required to set new dates for the preconstruction conference and a neighborhood meeting. Regardless of the start date, the completion date for all work under this contract shall be September 30, 2010.

6. PROJECT AREA AND CLEANLINESS

Contractor together with sub contractors shall not be allowed to dispose of any garbage (ie. Lunch sacks, soda cans cigarette cartons, fruit cores…) within the project limits at any time. This also includes any tree stump material, construction lumber or sheathing material etc. The burial of such debris behind or under the curb & gutter and park lawn areas is unacceptable and will not be tolerated. The general contractor is responsible to make certain this does not take place.

7. EROSION CONTROL

It has been determined that an erosion control permit in accordance with Kenosha Ordinance 92-92 dated November 20, 1992, is not required for this project. The permit fee has been waived. The Contractor shall still be required to file with the Engineer an erosion control plan for any excess material removed from the site of work for this project and deposited elsewhere whether inside or outside the city. The Contractor shall also provide a copy of any permit required by any other village, town or city where excess material is deposited.

The Contractor shall protect all inlets within the limits of this project against grading and asphalt material from entering into the storm system. The Contractor shall protect the inlets per DOT Standard detail sheet E 10-2 for erosion control. The geotextile fabric basket shall be held in place by the grate of the inlet. 2" X 4" wood shall not be accepted to be used by the contractor to fasten the geotextile fabric basket in the case of inlets with a cast head. Contractor shall be responsible for the removal of any debris in the sewer system at his cost.

Erosion control shall be paid per the contract unit price for Inlet Protection, Type D.

8. EXPANSION JOINTS AT SIDEWALKS

All driveways and walkways abutting the sidewalk shall have a one-half (1/2) inch expansion joint placed against the sidewalk. In replacing sidewalk, any section ten (10) feet or more in length must have an expansion joint. For repair sections over fifty (50) feet in length, an expansion joint is required every fifty (50) feet in length. Expansion joints are required at the end of crosswalks and handicapped ramps where they meet the back of curb.

9. UTILITY MANHOLES

The specific non-city utility companies shall be responsible for the adjustment of their manholes. The Contractor shall coordinate with the utilities to ensure a timely completion of the project.

10. RESTORATION

The Contractor shall repair disturbed lawn areas adjacent to construction by placing and compacting a minimum of 4 inches (100 mm) of topsoil and then seed and mulch the area disturbed within construction limits. The Contractor shall backfill all lawn areas within five (5) working days of replacement of the concrete.

Seeding shall conform to Section 630 and Mulching to Section 627, State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, current edition. Seed shall be seed mixture No. 40. The sowing rate shall be two pounds per 1000 square feet of area.

Construction limits shall be considered areas within 18 inches of any new construction and any area disturbed by the contractor's operations. The level of the site restoration shall meet the level of the surrounding area being neither above nor below it. Areas containing walkways, asphalt, stone or other material shall be replaced with the same type of material unless otherwise directed by the Engineer. **Restoration of areas within 18" of the construction limits shall be considered incidental to the contract and shall be included in the unit bid price of sidewalk, curb and gutter, driveway approach or other related bid item.**

Where the Engineer directs the Contractor to remove walk, asphalt, stone or other material from the area outside of the construction limits and has the Contractor replace same with topsoil and sod or seed the Contractor shall be paid the unit bid price for seeding, mulching and fertilizer.

Where the Engineer raises the curb and gutter elevation, or where handicap ramps are constructed, additional excavation, topsoil and seeding may be required beyond areas disturbed by construction. This work, when ordered by the Engineer, shall be included in the quantities and paid for at the unit price bid for topsoil, seeding, mulching and fertilizer.

The contractor shall be responsible for fertilizer, seed, mulch, water, and protection for a period of fourteen (14) days from the installation of the topsoil, seed, mulch and fertilizer. At the end of fourteen (14) days, any bare areas shall be replanted and reinspected after an additional fourteen (14) days.
Measurement of disturbed areas outside of the construction limits shall be by the square yard and will be paid for under the bid item of topsoil, seeding, mulch and fertilizer.

Topsoil shall be placed to a minimum depth of 4 inches and shall not be placed over any debris or material as described under Project Area and Cleanliness. All disturbed areas needing more than 4 inches of topsoil shall be placed in lifts and thoroughly compacted so that there are no excessive settlement areas after contract is completed. The finished topsoil elevation shall be at or slightly above the top of curb or sidewalk elevation after thorough compaction.

This contract will retain a minimum of 50 percent of the Topsoil 4-inch costs for a period of not less than 60 days until verification of settlement has been verified. If a settlement of 1 inch or more has occurred within this time frame, then contractor will be required to place additional material over the settled areas and will be required to reseed and fertilize the area at his cost.

11. CONSTRUCTION STAKING

The Contractor shall set line and grade stakes for all curb and gutter being newly installed. The staking shall include mid-point stakes and grades at all radius locations. The Contractor shall maintain and keep uncovered said stakes so that they can be examined at any time. The Contractor shall ensure that newly installed curb and gutter has adequate slope to drain rain runoff to a designated inlet. The Contractor shall notify the Engineer when the gutter does not have adequate slope to drain rain runoff. Newly installed curb and gutter that does not drain runoff to the designated inlet shall be replaced at the Contractors expense.

Staking shall be paid for per the unit bid price per linear foot of Construction Staking – Curb and Gutter which price shall be full payment for all survey, staking materials, paint and all incidental items necessary to complete the work.

12. ITEM 204.0105 REMOVING PAVEMENT BUTT JOINT

The milled depths at side roads and project terminal locations shall be in accordance with the detail shown in the plans. A three (3") inch deep saw cut shall be made at the project terminis prior to milling. Milling concrete and asphalt butt joints shall be paid per square yard at the unit bid price for Removing Pavement Butt Joints, and shall include the cost of saw cutting and milling the butt joint into the approach.

There shall be no abrupt drop-offs at milling termination or at manholes. The Contractor may taper the existing pavement at terminal locations during construction. If a taper is used the Contractor shall create a minimum one and one half inch (1-1/2") deep butt joint at asphalt to asphalt locations prior to applying the surface course.

13. ITEM 205.0100 EXCAVATION COMMON

If unsuitable sub base conditions exist, the city at its discretion may require the contractor to remove the unstable soils. The contractor shall excavate the soil to a depth designated by the Engineer and dispose of the material at the contractor's spoil site. Cost of this excavation shall be paid by a contract unit price for Excavation Common. The spoil site must meet all governmental erosion control requirements.

All cost relative to the excavation, trucking, disposal and erosion control at the spoil site shall be included in and paid for at the unit bid price per cubic yard of material removed. Measurement for payment shall be done by multiplying the square footage of the excavation by the depth of excavated area.

The excavation shall be backfilled with 1 ¼" dense aggregate which shall be paid for at the contract unit price for Base Dense Aggregate 1 ¼".

14. ITEM 416.0160 CONCRETE DRIVEWAY

When driveway access to a property is removed, it shall be replaced in no more than three calendar days.

15. ITEM 460.1100 HMA PAVEMENT E-3 (4-INCH)

The lower and the upper layer shall be paid per ton at the unit price for HMA Pavement E-3. This unit price shall include asphaltic material, aggregates, trucking, installation, compaction, material certification, quality control test results and all other works necessary to complete this item.

Performance Specification:
The contractor shall place the final lift of surface course such that the final compacted elevation of the asphalt matches the elevation of the surrounding manholes and the water valves within the pavement area. **Contractor shall be aware of the Tolerance specified for manholes and water valves under Item 611.8110 below. This tolerance will be adhered to or payment will be reduced or the repair will be adjusted by contractor at his expense.**

Lower Layer - The purpose of the lower layer is to provide a leveling course which negates dips and ridges in the existing surface producing a uniform cross section and profile. This lower layer shall be placed in one lift of two and a half (2 1/2") inches. It may be necessary for the Contractor to apply a scratch coat in some areas prior to or after the lower layer is laid. If unusual conditions exist, the Contractor shall notify the Engineer and then proceed upon the Engineer's direction. All material placed to provide this leveling course shall be paid for per

ton at the unit bid price for HMA Pavement Type E-3. This shall be payment in full for asphaltic material, aggregate, trucking, installation, compaction, and all other costs associated with such work. The Contractor shall furnish the City with weight tickets for each load of material. The weight tickets shall be the basis for payment of this item.

Upper Layer - The roadway area, after the lower layer has been laid by the Contractor, shall be such an elevation as to allow the Contractor to place the upper layer in a uniform thickness of one and one half (1 1/2") inches. Any upper layer material placed on a roadway in excess of 10% of the thickness as shown on the plans will not be paid for by the City. All material placed under these qualifications shall be paid for per ton at the unit bid price for HMA Pavement Type E-3. The Contractor shall furnish the City with weight tickets for each load of material. The weight tickets shall be the basis for payment of this item, minus any credits due to material laid in excess.

Special field or installation conditions shall be discussed with the Project Engineer and any adjustments to tonnage of upper layer material shall be authorized in writing prior to paving.

The HOT MIX ASPHALT used on this project shall meet the current Wisconsin Department of Transportation Standard Specifications and Supplemental Specifications for SUPERPAVE designed mixes.

The performance grade for asphalt pavement shall be PG 64-22.

The asphalt mixture design for the lower layer shall be Type E-3 and the aggregates shall conform to the gradation requirement of 19.0 mm nominal size.

The asphalt mixture design for the upper layer shall be Type E-3 and the aggregates shall conform to the gradation requirements of 9.5 mm nominal size.

The contractor shall provide material certification and quality control test results when requested by the engineer. Material specification and quality control tests shall be done in accordance with sections 450 and 460 of the current Wisconsin Department of Transportation Standard Specifications and Supplemental Specifications.

16. ITEM 204.0125 ASPHALTIC SURFACE MILLING

All milled material shall be removed from the area and taken to the Kenosha Street Division Yard located at 6415 35th Avenue or taken to a different City specified deposit site that will not exceed seven (7) miles from the project site.
Salvaged Asphaltic Pavement Milling shall be measured by the weighted tons of milled material. The Contractor shall provide to the Engineer weight tickets for the milled material. Asphaltic Surface Milling shall be paid for per unit price of ton of accepted weighed milling material. The unit price shall be full compensation for milling, weighing, hauling to designated dumpsite and any incidental works necessary to complete this work.

17. ITEM 601.0411 , SPV.0090.A, B, C - CONCRETE CURB & GUTTER

Items SPV.0090.A, B, C shall conform to Item 601 of WisDOT Specifications except for the changes in curb width.
Curb and gutter section flow lines and surfaces (top, face and pan) shall conform to the proposed line, grade and cross section as shown on the detail sheet or that of the adjacent curb and gutter as directed by the engineer.

New curb and gutter shall be tested with a ten (10) foot straight edge or in the case of shorter sections a string-line for trueness. Curb and gutter sections shall be subject to rejection if the surfaces show high spots or depressions which vary from true line and grade by the following amounts:

Top of Curb	± 1/4"
Face of Curb	± 1/4"
Pan	± 1/4"
Flow Line	± 1/4"

18. ITEM 602.0505 CURB RAMP DETECTABLE WARNING FIELD

All new handicap ramps shall be installed with a detectable warning field as prescribed in Procedure 11-25-30 of the Wisconsin Department of Transportation Facilities Development Manual and the Americans with Disability Act Accessibility Guidelines (AADAG) for Buildings and Facilities Sections 4.7, 4.29.2 and A4.29.2.

The material used for the detectable warning field shall be Neenah Foundry Detectable Warning Plates (NF Casting No. 49840001) **COLOR UNPAINTED**, placed within freshly poured concrete. This item shall be paid per the bid unit price for each (2'x4') Detectable Warning Field installed. The bid price for Detectable Warning Field shall include supply and installation of the 2'x4' panel, and all other costs associated with such work. Price shall not include concrete removal and replacement, which shall be paid per square foot at the unit bid price for Removing Sidewalk.

19. ITEM 611.8110 & SPV. 0060.B - ADJUSTING MANHOLE COVERS

This item of work shall follow and conform to the WisDOT Specifications Section 611 and shall adhere to these special provisions for tolerances.

All adjustments of manhole height from the top of the cone shall be made with pre-cast concrete rings. Pre-cast concrete rings shall have an inside diameter to match the manhole opening, but not less than 2 inches nor more than 6 inches high, and have a wall thickness of 6 inches unless otherwise specified. The rings shall contain a minimum of one No. 2 reinforcing rod centered within the ring. Where necessary, rings shall be grooved to receive manhole steps. No cracked or broken rings shall be used.

The maximum height of adjusting rings shall be 8 inches in paved areas. All joints between the adjusting rings shall be filled with grout or mortar, including between the cone and the adjusting ring and the frame.

Frame and Lid for sanitary manholes:
All sanitary manholes shall be installed with a casting with a self-sealing lid ground and machined bearing. Cover shall have two concealed pick holes which allow no water to enter the manhole and shall be embossed or engraved with Kenosha Water Utility, refer to the Construction Detail. Castings shall be Neenah R-1642 or EJIW 1045. All manholes shall have an internal/external chimney seal by Adaptor Inc., or approved equal, installed after final grade is established. The chimney seals shall extend from the top of the cone section to the base of the frame. Seal materials shall conform to ASTM C-877 or ASTM C-923. Any metal parts shall be made of Type 304 stainless steel.

In addition, to replacing the sanitary castings, the contractor shall also be required to replace the external/internal chimney seal for the sanitary manholes. The cost of installing the chimney seal shall be included in the unit price for adjusting manholes covers sanitary.

All City owned manholes shall be adjusted in a two step procedure. First, remove all designated castings along with sufficient surrounding pavement to allow for a temporary cover plate to be placed over the manhole. All rubblizing, milling and laying of asphalt pavement shall be performed after the castings have been removed. Secondly, after the lower layer of asphalt has been placed, the manholes shall be raised to final grade. All manholes shall be excavated such that the edge of pavement is at least 2 feet from edge of casting. All sides shall be full depth saw cut or air spaded prior to removal. The manhole shall then be raised to final grade and set in place. The excavated material below binder course shall be replaced with CLSM, as specified in these special provisions and brought to the top of surrounding base course elevation. The Contractor shall bring the CLSM to surrounding base course grade and allowed a minimum of twenty-four (24) hours to cure before lower layer is placed. The material for the lower layer shall be placed around raised manhole prior to placement of final surface. The lower layer material must be brought to grade of surrounding lower layer in one lift of two and half inch (2 ½"). The Binder material shall have adequate time to properly harden by cooling before the final surface is applied.

After the manhole castings have been raised and set to final grade, a ten (10') foot straight edge or string line will be placed over the centerline of each manhole frame parallel to the direction of traffic. A measurement will be made at each side of the frame and the two measurements will be averaged. If the average is less than five-eighths (5/8") inches but greater than three-eighths (3/8") inches, the manhole shall be allowed to remain in place but will be paid for at one-half (1/2) the unit bid price for the adjustment. If the average is greater than five-eighths (5/8") inches, the manhole shall be readjusted at no additional cost to the City.

Payment for all City owned manhole adjustments shall be paid per manhole at the unit bid price for Adjust Manhole Storm and Adjust Manhole Sanitary. This shall be payment in full for all excavation, adjusting, mortar, asphalt patching, and all other costs associated with such work.

20. ITEM 643.0100 TRAFFIC CONTROL

The Contractor shall submit Traffic Control plan to the Engineer for approval a minimum of 7 days prior to commencing work.

The Contractor shall be responsible for all roadway markings and signage required to ensure proper traffic flow per the Manual on Uniform Traffic Control Devices. Costs for traffic control shall be paid per lump sum under the unit bid item Traffic Control.

The Contractor shall maintain all traffic control devices in their proper location and in a working condition. Upon notification by the Engineer or his representative during working hours, the Contractor shall, within one (1) hour of notification, relocate, repair, or replace any removed or unsatisfactory device. If the Contractor does not rectify the situation within one (1) hour, the Engineer may have City forces correct the problem and charge the Contractor for their services.

21. SPV.0035 CONTROLLED LOW STRENGTH MATERIAL

Controlled Low Strength Material (CLSM) shall be used to backfill around the manhole during manhole adjustment. CLSM, where specified, shall be used as a backfill material in utility trenches and other works where firm support is needed for pavements and structural elements. The Contractor shall complete this work in accordance with the plan and applicable specifications.

Material:
CLSM is a mixture of portland cement, densely graded mineral aggregate, fly ash, water and admixtures. The CLSM shall:

A. be capable of freely flowing to fill all voids in trenches or other areas without compaction or other additional effort;
B. be of uniform density;
C. be of low permeability to prevent migration of adjacent fines into the set mix,
D. excavate easily at any later time with minimal risk of damage to buried services.

The CLSM aggregate shall conform to aggregate requirements of Section 501.2.5 of WisDOT Standard Specification for Highway and Structure Construction (2010) and current Supplemental Specification.

Mixture Design and Performance Requirements:

A. The mixture shall be proportioned to achieve the strength requirements set forth by the engineer of as stated in the plan and specifications. The mixture shall be sufficiently fluid to meet the intended placement application.

B. Unless otherwise stated, the mixture shall have a 28 day compressive strength of 50-150 psi per AASHTO T 22-90 or ASTM D4832.

C. The mixture shall have a slump of between 6 and 8 inches as per AASTHO T 119-82 or ASTM C143.

D. Aggregates shall be densely graded virgin rock. A minimum of 50% of the total aggregate by weight shall pass a #8 sieve and no more than 5% of the total aggregate by weight may pass #200 sieve. Maximum size aggregate shall pass 3/8-inch sieve.

Mixing and Placing (Pouring):

A. The CLSM shall be produced at a central concrete mixing plant in accordance with ASTM C94 and delivered by a concrete truck mixer or using a mobile, volumetric mixer for small jobs.

B. The Engineer shall inspect all trenches and excavation prior to CLSM placement. If the Contractor pours CLSM without the Engineer's inspection and approval of the trench(s) or excavation, the Engineer reserves the right to reject the poured CLSM. If the poured CLSM is rejected, the Contractor shall remove the CLSM in question, have the trench inspected and backfill as directed by the Engineer at no additional cost to the City.

C. Any undermined or unstable sections of the existing pavements, curb and gutter, sidewalk, driveways or ramps, adjacent to the trench or excavation area shall be inspected and approved by the Engineer prior to CLSM placement. The Engineer reserves the right to extend excavation limits and to remove undermined or unstable section(s).

D. The CLSM mixture shall be placed directly into a trench or excavation. The CLSM shall be placed evenly and with care to avoid dislocating any conduits due to fluid pressure.

E. The Contractor shall place the CLSM in stages or lifts as necessary to avoid uplift. Any damage due to CLSM placement shall be repaired to the Engineer's satisfaction at the Contractor's expense. When using CLSM in a storm sewer trench, the initial lift shall not exceed half the height of concrete storm sewer pipe in place.

F. The Contractor shall not use vibratory compaction equipment.

G. The contractor may use bulkhead, sandbags or consolidated earth to control CLSM backfill in long trenches. Bulkhead, consolidated soil or other types of barriers shall be removed prior to the continuation of backfilling.

H. Unless otherwise directed, the poured CLSM shall cure for a minimum of two days prior to base course installation, paving operation, graveling or traffic loading.

I. The mixture shall not be placed on frozen ground. The placed mixture shall be protected from freezing or adverse weather condition.

Acceptance of Material and Field Test Requirements

A. The Contractor shall submit manufacturer's certification of the CLSM and include the unconfined 28-day compressive strengths. The material certification shall include the actual test data for each mixture used.

B. The Engineer reserves the right to reject any mix that appears to have:
   1) insufficient slump
   2) segregation, or
   3) open graded aggregates

C. When requested by the Engineer, the Contractor shall prepare 6 cylinders (3"x6") per ASTM D 4832 for every 100 cubic yards of CLSM used. If the placement is less than 100 cubic yards, 3 cylinders will be taken for every 50 cubic yards of production. 2 cylinders will be tested at 28 days and 1 at 90 days.

The Contractor shall coordinate this work, and shall be responsible for taking, curing, protection and testing of all cylinders.

Method of Measurement

CLSM will not be measured for payment unless included as a bid item. If CLSM is included as a bid item, the accepted and placed CLSM shall be measured at the contractor unit price of cubic yard (CY) in place, and as stated on the material ticket which has been submitted to the Engineer.

Basis of Payment

CLSM shall be paid per the unit price of the pay item Control Low Strength Material agreed in this contract.

The included or bid price shall be a full compensation for submitting a manufacturer's certification; securing pipes; for furnishing and placing the CLSM; for protecting the CLSM from traffic; for field and material testing; for taking, curing, protecting and testing cylinders; and for furnishing labor, material, tools, equipment, and incidentals necessary to complete the proposed work in accordance with the plan and specifications.

22. ITEM SPV. 0060A AJUSTING WATER VALVES

The contractor shall install rings as needed to adjust the valve cover to the finished pavement elevation. The adjustment with rings shall be considered incidental and included in the cost for Adjusting Water Valves.

Prior to starting construction, a representative of the primary Contractor, and any of the affected subcontractors along with a representative of the Kenosha Water Utility shall inspect all water valve risers and covers to determine their existing condition. If the pre-work inspection is not done, any valve box repair work required will be the responsibility of the Contractor. An inspection by the Contractor and Water Utility shall be made after a street is completed. Any valve box found damaged or paved over during final inspection shall be raised and/or repaired by the Contractor at the Contractor's cost. Kenosha Water Utility Deparment will repair damaged valve boxes identified prior to commencement of construction.

Kenosha Water Utility Department shall provide a valve box for every valve which has no gearing or operating mechanism or in which the gearing or operating mechanism is fully protected with a cast iron grease case. The valve box shall not transmit shock or stress to the valve and shall be centered and plumb over the operating nut of the valve with the box cover flush with the surface of the finished grade or such other level as may be directed by the Engineer.

The valve box shall extend from the valve to finished grade. The valve box may be installed upon the valve with the use of a valve box adaptor and manufactured by Adaptor Inc. (or equal). Install adaptor in accordance with manufacturer's instructions. Any valve box that becomes shifted or filled with debris shall be entirely uncovered and reset.

After the water valves have been raised and set to final grade, a ten (10') foot straightedge will be placed over the centerline of each valve parallel to the direction of traffic. A measurement will be made at each side of the valve and the two measurements will be averaged. If the average is less than five-eighths ($^5/_8$") inches but greater than three-eighths ($^3/_8$") inches, the water valve shall be allowed to remain in place but will be paid for at one-half ($^1/_2$) the unit bid price for the adjustment. If the average is greater than five-eighths ($^5/_8$") inches, the water valve shall be readjusted at no additional cost to the City.

Payment for this item will be made at the unit bid price for Adjusting Water Valves for each water valve adjusted.

23. ITEM SPV. 0060.C MANHOLE COVERS - STORM

This item of work shall conform to Section 611 of the Standard Specifications and the covers shall be the following Type:

Neenah Foundry R-2501 – 9" Frame and Type G Grate or
East Jordan Iron Works 1048 – 9" Frame Type MI Grate

Payment for Manhole Covers – Storm shall be payment in full per each which price shall include the removal of the old frame and replacement of the new frame and grate, for installing and adjusting frame, and all materials and incidental items necessary to complete the work. The old casting will become the property of the City of Kenosha and above price shall include delivery of the castings to the Street Division yard located at 6415 35th Avenue.

24. ITEM SPV. 0060.B MANHOLE COVERS - SANITARY

This item of work shall conform to Section 611 of the Standard Specifications and the covers shall be the following Type:

Neenah Foundry 1642 – 9" Frame and KWU Stamped Grate or
East Jordan Iron Works 1045 – 9" Frame and KWU Stamped Grate

Kenosha Water Utility will provide the frames and lids for sanitary manholes. The Contractor shall notify Curt Czarnecki at (262) 945-0073 with Kenosha Water Utility 24 hours prior to exchanging the old frames and lids for the new ones. The contractor shall be responsible for taking the old frames and lids to Kenosha Water Utility at 4401 Green Bay Road. The cost of taking the old frames and lids to KWU yard, installing the frame, lids and the seal shall be included in unit price for adjusting manhole cover – sanitary.

25. ITEM SPV. 0060.D REMOVE AND REPLACE MAILBOX

A Description

The Contractor shall be responsible to coordinate the removal and the reinstallation of the mailboxes with individual property owners. The City of Kenosha Post Office will be installing a temporary drop box for the affected properties prior to the roadway construction. The Contractor shall maintain access to the drop box at all times; the exact location of the drop box has not been determined.

The Contractor shall contact the City of Kenosha Post Office before reinstalling the mailboxes to ensure that the location and height are correct. Per the US Postal Specifications mailboxes are to be installed at a height of 41-45 inches from the road surface to the inside floor of the mailbox or point of mail entry (for locked designs) and are set back 6-8 inches from the face of curb or road edge to the mailbox door.

City of Kenosha Post Office Contact:

Thomas Aiken
Manager of Maintenance and Engineering
5605 Sheridan Road
Kenosha, WI 53140
Phone: (262) 657-5950
Email: thomas.c.aiken@usps.gov

B (Vacant)

Payment for Manhole Covers – Storm shall be payment in full per each which price shall include the removal of the old frame and replacement of the new frame and grate, for installing and adjusting frame, and all materials and incidental items necessary to complete the work. The old casting will become the property of the City of Kenosha and above price shall include delivery of the castings to the Street Division yard located at 6415 35th Avenue.

24. ITEM SPV. 0060.B MANHOLE COVERS - SANITARY

This item of work shall conform to Section 611 of the Standard Specifications and the covers shall be the following Type:

Neenah Foundry 1642 – 9" Frame and KWU Stamped Grate or
East Jordan Iron Works 1045 – 9" Frame and KWU Stamped Grate

Kenosha Water Utility will provide the frames and lids for sanitary manholes. The Contractor shall notify Curt Czarnecki at (262) 945-0073 with Kenosha Water Utility 24 hours prior to exchanging the old frames and lids for the new ones. The contractor shall be responsible for taking the old frames and lids to Kenosha Water Utility at 4401 Green Bay Road. The cost of taking the old frames and lids to KWU yard, installing the frame, lids and the seal shall be included in unit price for adjusting manhole cover – sanitary.

25. ITEM SPV. 0060.D REMOVE AND REPLACE MAILBOX

A Description

The Contractor shall be responsible to coordinate the removal and the reinstallation of the mailboxes with individual property owners. The City of Kenosha Post Office will be installing a temporary drop box for the affected properties prior to the roadway construction. The Contractor shall maintain access to the drop box at all times; the exact location of the drop box has not been determined.

The Contractor shall contact the City of Kenosha Post Office before reinstalling the mailboxes to ensure that the location and height are correct. Per the US Postal Specifications mailboxes are to be installed at a height of 41-45 inches from the road surface to the inside floor of the mailbox or point of mail entry (for locked designs) and are set back 6-8 inches from the face of curb or road edge to the mailbox door.

City of Kenosha Post Office Contact:

Thomas Aiken
Manager of Maintenance and Engineering
5605 Sheridan Road
Kenosha, WI 53140
Phone: (262) 657-5950
Email: thomas.c.aiken@usps.gov

B (Vacant)

C (Vacant)

D Measurement

The Engineer will measure the mailboxes removed and replaced per each mailbox removed and replaced acceptably completed per the Engineer.

E Payment

Payment for the removal and reinstallation of mailboxes shall be paid per each at the unit bid price under the following item:

ITEM NUMBER	DESCRIPTION	UNIT
SPV.0060.D	Remove and Replace Mailboxes	EACH

This shall be payment in full for the removal of mailboxes and posts, reinstallation of mailboxes and posts, coordination, and all other costs associated with such work.

PREVAILING WAGE RATE DETERMINATION

Issued by the State of Wisconsin
Department of Workforce Development
Pursuant to s. 66.0903, Stats.
Issued On: 6/01/2010

DETERMINATION NUMBER: 201002409

EXPIRATION DATE: Prime Contracts MUST Be Awarded Or Negotiated On Or Before 12/31/2010. If NOT, You MUST Reapply.

DESCRIPTION OF PROJECT: 2010 PHASE III - RESURFACING
PROJECT NO: 10-1016

LOCATION OF PROJECT: CITY OF KENOSHA, KENOSHA COUNTY, WI

CONTRACTING AGENCY: CITY OF KENOSHA

CLASSIFICATION: Contractors are required to call the Department of Workforce Development if there are any questions regarding the proper trade or classification to be used for any worker on a public works project.

OVERTIME: Time and one-half must be paid for all hours worked over 10 hours per day and 40 hours per calendar week and for all hours worked on Saturday, Sunday and the following six (6) holidays: January 1; the last Monday in May; July 4; the 1st Monday in September; the 4th Thursday in November; December 25; the day before if January 1, July 4 or December 25 falls on a Saturday; the day following if January 1, July 4 or December 25 falls on a Sunday.

FUTURE INCREASE: If indicated for a specific trade or occupation, the full amount of such increase MUST be added to the "TOTAL" indicated for such trade or occupation on the date(s) such increase(s) becomes effective.

PREMIUM PAY: If indicated for a specific trade or occupation, the full amount of such pay MUST be added to the "HOURLY BASIC RATE OF PAY" indicated for such trade or occupation, whenever such pay is applicable.

SUBJOURNEY: Wage rates may be available for some of the classifications indicated below with the exception of laborers, truck drivers and heavy equipment operators. Any employer that desires to use any subjourney classification on this project MUST request the applicable wage rate from this department PRIOR to the date such classification is used on this project. Form ERD-10880 is available for this purpose.

SEWER, WATER OR TUNNEL CONSTRUCTION

Includes those projects that primarily involve public sewer or water distribution, transmission or collection systems and related tunnel work (excluding buildings).

Fringe Benefits Must Be Paid On All Hours Worked TRADE OR OCCUPATION	HOURLY BASIC RATE OF PAY $	HOURLY FRINGE BENEFITS $	TOTAL $
Bricklayer, Blocklayer or Stonemason	31.43	13.76	45.19
Carpenter Future Increase(s): Add $2.60/hr on 5/31/2010; Add $2.65/hr on 6/6/2011.	31.38	16.11	47.49
Cement Finisher	32.88	13.30	46.18
Electrician	29.50	17.26	46.76
Fence Erector	24.50	3.00	27.50
Ironworker Future Increase(s): Add $2/hr on 6/7/2010; Add $2/hr on 6/6/2011.	30.51	20.59	51.10
Line Constructor (Electrical)	34.57	14.78	49.35
Pavement Marking Operator	23.46	9.45	32.91
Piledriver	27.25	19.51	46.76
Plumber	31.39	18.05	49.44
Steamfitter	31.43	13.76	45.19
Teledata Technician or Installer	23.77	13.68	37.45

Fringe Benefits Must Be Paid On All Hours Worked TRADE OR OCCUPATION	HOURLY BASIC RATE OF PAY $	HOURLY FRINGE BENEFITS $	TOTAL $
Tuckpointer, Caulker or Cleaner	25.00	11.75	36.75
Underwater Diver (Except on Great Lakes)	33.00	13.26	46.26
Well Driller or Pump Installer	24.22	14.80	39.02
Heavy Equipment Operator - ELECTRICAL LINE CONSTRUCTION ONLY	28.06	15.85	43.91
Light Equipment Operator -ELECTRICAL LINE CONSTRUCTION ONLY	37.16	15.22	52.38
Heavy Truck Driver - ELECTRICAL LINE CONSTRUCTION ONLY	19.00	1.50	20.50
Light Truck Driver - ELECTRICAL LINE CONSTRUCTION ONLY	22.47	11.78	34.25
Groundman - ELECTRICAL LINE CONSTRUCTION ONLY	20.93	11.62	32.55
TRUCK DRIVERS			
Single Axle or Two Axle	23.00	0.00	23.00
Three or More Axle	16.22	12.63	28.85
Articulated, Euclid, Dumptor, Off Road Material Hauler	30.12	15.55	45.67
Pavement Marking Vehicle	19.25	10.84	30.09
Truck Mechanic	16.22	12.63	28.85
LABORERS			
General Laborer	29.84	11.87	41.71
Landscaper	15.80	0.00	15.80
Flagperson or Traffic Control Person	20.33	10.50	30.83
Fiber Optic Laborer (Outside, Other Than Concrete Encased)	21.49	3.91	25.40
Railroad Track Laborer	13.00	2.79	15.79
HEAVY EQUIPMENT OPERATORS			
Crane, Tower Crane or Derrick, With or Without Attachments, With a Lifting Capacity of Over 100 Tons; Crane, Tower Crane or Derrick, With Boom, Leads and/or Jib Lengths Measuring 176 Feet or Over; Backhoe (Track Type) Having a Mfgr.'s Rated Capacity of 130,000 Lbs. or Over Future Increase(s): Add $1.70/hr on 6/1/2010; Add $1.90/hr on 6/6/2011; Add $2.05/hr on 6/4/2012. Premium Pay: Add $.25/hr for operating tower crane.	32.59	17.05	49.64
Crane, Tower Crane or Derrick, With or Without Attachments, With a Lifting Capacity of 100 Tons or Under; Crane, Tower Crane or Derrick, With Boom, Leads and/or Jib Lengths Measuring 175 Feet or Under; Traveling Crane (Bridge Type); Caisson Rig; Pile Driver; Dredge (Not Performing Work on the Great Lakes); Backhoe (Track Type) Having a Mfgr.'s Rated Capacity of Under 130,000 Lbs. Future Increase(s): Add $1.70/hr on 6/1/2010; Add $1.90/hr on 6/6/2011; Add $2.05/hr on 6/4/2012. Premium Pay: Add $.25/hr for operating tower crane.	31.81	17.05	48.86
Truck Mounted Hydraulic Crane (10 Tons or Under); Tractor or Truck Mounted Hydraulic Backhoe; Gradall (Cruz-Aire Type); Mechanic or Welder; Bulldozer or Endloader; Grader or Motor Patrol; Concrete Pump, Grout Pump, or Concrete Conveyor (Rotec or Bidwell Type); Concrete Breaker (Manual or Remote); Concrete Batch Plant; Power Subgrader; Concrete Spreader; Concrete Paver; Concrete Grinder or Planing Machine; Concrete Conveyor System; Concrete Slipform Placer; Curb and Gutter Machine;	30.86	17.05	47.91

Fringe Benefits Must Be Paid On All Hours Worked TRADE OR OCCUPATION	HOURLY BASIC RATE OF PAY $	HOURLY FRINGE BENEFITS $	TOTAL $
Roller (Over 5 Ton); Shouldering Machine; Boring Machine (Horizontal, Vertical or Directional); Air Track, Rotary or Percussion Drilling Machine; Straddle Carrier or Travel Lift; Manhoist or Elevator; Material or Stack Hoist; Trencher; Sideboom; Post Hole Digger or Driver; Tug or Launch (Not Performing Work on the Great Lakes) Future Increase(s): Add $1.70/hr on 6/1/2010; Add $1.90/hr on 6/6/2011; Add $2.05/hr on 6/4/2012. Premium Pay: Add $.25/hr for operating tower crane.			
Farm or Industrial Type Tractor; Greaser; Compactor (Self-Propelled); Concrete Saw (Vermeer Type); Concrete Bump Cutter or Grooving Machine; Tining or Curing Machine; Roller (5 Ton or Under); Broom or Sweeper; Hoist (Tugger); Environmental Burner Future Increase(s): Add $1.70/hr on 6/1/2010; Add $1.90/hr on 6/6/2011; Add $2.05/hr on 6/4/2012. Premium Pay: Add $.25/hr for operating tower crane.	30.86	17.05	47.91
Crusher, Screening or Wash Plant; Air, Electric or Hydraulic Jacking System; Air Compressor (400 CFM or Over); Generator (150 KW or Over); Pump (3 Inch or Over) or Well Points; Refrigeration Plant or Freeze Machine; Skid Steer Loader (With or Without Attachments); Robotic Tool Carrier (With or Without Attachments); Skid Rig; Stump Chipper; Mulcher; Vibratory Hammer or Extractor; High Pressure Utility Locating Machine (daylighting machine). Future Increase(s): Add $1.70/hr on 6/1/2010; Add $1.90/hr on 6/6/2011; Add $2.05/hr on 6/4/2012. Premium Pay: Add $.25/hr for operating tower crane.	30.86	17.05	47.91
Oiler; Forklift	29.42	16.60	46.02
Work Performed on the Great Lakes Including Diver; Wet Tender or Hydraulic Dredge Engineer	34.26	16.75	51.01
Work Performed on the Great Lakes Including Crane or Backhoe Operator; Mechanic or Welder; Assistant Hydraulic Dredge Engineer; Hydraulic Dredge Leverman or Diver's Tender	33.90	17.19	51.09
Work Performed on the Great Lakes Including Deck Equipment Operator or Machineryman (Maintains Cranes Over 50 Tons or Backhoes 115,000 Lbs. or more); Tug, Launch or Loader, Dozer or Like Equipment When Operated on a Barge, Breakwater Wall, Slip, Dock or Scow, Deck Machinery.	30.20	17.08	47.28
Work Performed on the Great Lakes Including Deck Equipment Operator; Machineryman or Fireman (Operates 4 Units or More or Maintains Cranes 50 Tons or Under or Backhoes 115,000 Lbs. or Under), Deck Hand, Deck Engineer or Assistant Tug Operator.	30.20	17.08	47.28

LOCAL STREET OR MISCELLANEOUS PAVING CONSTRUCTION

Includes roads, streets, alleys, trails, bridges, paths, racetracks, parking lots and driveways (except residential or agricultural), public sidewalks or other similar projects (excluding projects awarded by the Wisconsin Department of Transportation).

Bricklayer, Blocklayer or Stonemason	14.00	0.00	14.00
Carpenter	27.51	13.46	40.97
Cement Finisher	28.82	13.86	42.68
Electrician	31.64	23.28	54.92
Fence Erector	11.00	0.00	11.00
Ironworker Future Increase(s): Add $2/hr on 6/7/2010; Add $2/hr on 6/6/2011.	30.51	20.59	51.10
Line Constructor (Electrical)	34.57	14.78	49.35

Fringe Benefits Must Be Paid On All Hours Worked TRADE OR OCCUPATION	HOURLY BASIC RATE OF PAY $	HOURLY FRINGE BENEFITS $	TOTAL $
Painter	26.04	12.60	38.64
Pavement Marking Operator	23.46	9.45	32.91
Piledriver	27.25	19.70	46.95
Roofer or Waterproofer	28.85	11.98	40.83
Teledata Technician or Installer	23.77	13.68	37.45
Tuckpointer, Caulker or Cleaner	31.48	13.03	44.51
Underwater Diver (Except on Great Lakes)	33.00	13.26	46.26
Heavy Equipment Operator - ELECTRICAL LINE CONSTRUCTION ONLY	31.11	13.78	44.89
Light Equipment Operator -ELECTRICAL LINE CONSTRUCTION ONLY	37.16	15.22	52.38
Heavy Truck Driver - ELECTRICAL LINE CONSTRUCTION ONLY	24.20	11.28	35.48
Light Truck Driver - ELECTRICAL LINE CONSTRUCTION ONLY	22.47	11.78	34.25
Groundman - ELECTRICAL LINE CONSTRUCTION ONLY	27.66	10.67	38.33
TRUCK DRIVERS			
Single Axle or Two Axle	22.25	13.24	35.49
Three or More Axle	16.22	12.70	28.92
Articulated, Euclid, Dumptor, Off Road Material Hauler Future Increase(s): Add $1.80/hr on 5/31/2010.	30.89	17.16	48.05
Pavement Marking Vehicle	19.25	10.84	30.09
Shadow or Pilot Vehicle	22.25	13.24	35.49
Truck Mechanic	16.22	12.70	28.92
LABORERS			
General Laborer	22.22	14.59	36.81
Landscaper Future Increase(s): Add $1.60/hr on 6/1/10; Add $1.60/hr on 6/1/11; Add $1.60/hr on 6/1/12; Add $1.70/hr on 6/1/13; Add $1.60/hr on 6/ 1/ 14. Premium Pay: Effective 6/1/09 for "Airport Pavement or State Highway Construction" project type only, add $1.25/hr for work on projects involving temporary traffic control setup, for lane and shoulder closures, when work under artificial illumination conditions is necessary as required by the project provisions (including prep time prior to and/or cleanup after such time period).	21.60	16.45	38.05
Flagperson or Traffic Control Person	17.11	13.85	30.96
Fiber Optic Laborer (Outside, Other Than Concrete Encased)	21.49	3.91	25.40
Railroad Track Laborer	13.00	2.79	15.79
HEAVY EQUIPMENT OPERATORS CONCRETE PAVEMENT OR BRIDGE WORK ONLY			
Crane, Tower Crane or Derrick, With or Without Attachments, With a Lifting Capacity of Over 100 Tons; Crane, Tower Crane or Derrick, With Boom, Leads and/or Jib Lengths Measuring 176 Feet or Over Future Increase(s): Add $1.85/hr on 6/1/10; Add $1.95/hr on 6/1/11; Add $2/hr on 6/1/12; Add $2/hr on 6/1/13. Premium Pay: For "Airport Pavement or State Highway Construction" project type only, add $1.50/hr for work on projects involving temporary traffic control setup, for lane and shoulder closures, when work under artificial illumination conditions is necessary as required by the project provisions (including prep time prior to and/or	31.97	17.35	49.32

Fringe Benefits Must Be Paid On All Hours Worked TRADE OR OCCUPATION	HOURLY BASIC RATE OF PAY $	HOURLY FRINGE BENEFITS $	TOTAL $
cleanup after such time period).			
Crane, Tower Crane or Derrick, With or Without Attachments, With a Lifting Capacity of 100 Tons or Under; Crane, Tower Crane or Derrick, With Boom, Leads and/or Jib Lengths Measuring 175 Feet or Under; Backhoe (Track Type) Having a Mfgr.'s Rated Capacity of 130,000 Lbs. or Over; Caisson Rig; Pile Driver; Dredge (Not Performing Work on the Great Lakes)	31.47	17.35	48.82
Future Increase(s): Add $1.85/hr on 6/1/10; Add $1.95/hr on 6/1/11; Add $2/hr on 6/1/12; Add $2/hr on 6/1/13. Premium Pay: For "Airport Pavement or State Highway Construction" project type only, add $1.50/hr for work on projects involving temporary traffic control setup, for lane and shoulder closures, when work under artificial illumination conditions is necessary as required by the project provisions (including prep time prior to and/or cleanup after such time period).			
Backhoe (Track Type) Having a Mfgr.'s Rated Capacity of Under 130,000 Lbs.; Tractor or Truck Mounted Hydraulic Backhoe; Gradall (Cruz-Aire Type); Mechanic or Welder; Bulldozer or Endloader; Grader or Motor Patrol; Scraper (Self Propelled or Tractor Drawn) 5 cu yards or more capacity; Concrete Pump, Grout Pump or Concrete Conveyor (Rotec or Bidwell Type); Concrete Breaker (Manual or Remote); Concrete Batch Plant; Power Subgrader; Concrete Spreader; Concrete Paver; Concrete Grinder or Planing Machine; Concrete Conveyor System; Concrete Slipform Placer; Curb and Gutter Machine; Air Track, Rotary or Percussion Drilling Machine; Straddle Carrier or Travel Lift; Trencher; Post Hole Digger or Driver; Tug or Launch (Not Performing Work on the Great Lakes)	30.62	15.95	46.57
Farm or Industrial Type Tractor; Greaser; Compactor (Self-Propelled); Concrete Saw (Vermeer Type); Concrete Bump Cutter or Grooving Machine; Tining or Curing Machine; Environmental Burner	29.42	16.25	45.67
Oiler; Crusher, Screening or Wash Plant; Air Compressor; Generator; Pump (3 Inch or Over) or Well Points; Forklift; Skid Steer Loader (With or Without Attachments); Skid Rig; Stump Chipper; Mulcher; Vibratory Hammer or Extractor	30.42	17.35	47.77
Future Increase(s): Add $1.85/hr on 6/1/10; Add $1.95/hr on 6/1/11; Add $2/hr on 6/1/12; Add $2/hr on 6/1/13. Premium Pay: For "Airport Pavement or State Highway Construction" project type only, add $1.50/hr for work on projects involving temporary traffic control setup, for lane and shoulder closures, when work under artificial illumination conditions is necessary as required by the project provisions (including prep time prior to and/or cleanup after such time period).			
Fiber Optic Cable Equipment	22.79	15.30	38.09
Work Performed on the Great Lakes Including Diver; Wet Tender or Hydraulic Dredge Engineer	34.26	16.75	51.01
Work Performed on the Great Lakes Including Crane or Backhoe Operator; Mechanic or Welder; Assistant Hydraulic Dredge Engineer; Hydraulic Dredge Leverman or Diver's Tender	33.90	17.19	51.09
Work Performed on the Great Lakes Including Deck Equipment Operator or Machineryman (Maintains Cranes Over 50 Tons or Backhoes 115,000 Lbs. or more); Tug, Launch or Loader, Dozer or Like Equipment When Operated on a Barge, Breakwater Wall, Slip, Dock or Scow, Deck Machinery.	30.20	17.08	47.28
Work Performed on the Great Lakes Including Deck Equipment Operator; Machineryman or Fireman (Operates 4 Units or More or Maintains Cranes 50 Tons or Under or Backhoes 115,000 Lbs. or Under), Deck Hand, Deck Engineer or Assistant Tug Operator.	30.20	17.08	47.28

Fringe Benefits Must Be Paid On All Hours Worked TRADE OR OCCUPATION	HOURLY BASIC RATE OF PAY $	HOURLY FRINGE BENEFITS $	TOTAL $
HEAVY EQUIPMENT OPERATORS ASPHALT PAVEMENT OR OTHER WORK			
Crane, Tower Crane or Derrick, With or Without Attachments, With a Lifting Capacity of Over 100 Tons; Crane, Tower Crane or Derrick, With Boom, Leads and/or Jib Lengths Measuring 176 Feet or Over	30.97	16.60	47.57
Crane, Tower Crane or Derrick, With or Without Attachments, With a Lifting Capacity of 100 Tons or Under; Crane, Tower Crane or Derrick, With Boom, Leads and/or Jib Lengths Measuring 175 Feet or Under; Backhoe (Track Type) Having a Mfgr.'s Rated Capacity of 130,000 Lbs. or Over; Caisson Rig; Pile Driver; Dredge (Not Performing Work on the Great Lakes) Future Increase(s): Add $2.10/hr on 6/1/10; Add $2.10/hr on 6/1/11. Premium Pay: Crane Operators with CCO certification add $.50/hr. Cranes with boom length over 200 ft. not exceeding 300 ft. OR lifting capacity over 200 ton not exceeding 300 ton add $.50/hr. Over 300 ton OR 300 ft. add $.01/hr. per foot OR ton whichever is greater.	35.56	17.50	53.06
Backhoe (Track Type) Having a Mfgr.'s Rated Capacity of Under 130,000 Lbs.; Tractor or Truck Mounted Hydraulic Backhoe; Gradall (Cruz-Aire Type); Mechanic or Welder; Bulldozer or Endloader; Grader or Motor Patrol; Scraper (Self propelled or Tractor Drawn) 5 cu yards or more capacity; Concrete Breaker (Manual or Remote); Power Subgrader; Concrete Grinder or Planing Machine; Concrete Slipform Placer; Curb and Gutter Machine; Asphalt Plant; Asphalt Paver; Asphalt Screed; Asphalt Milling Machine; Roller (Over 5 Ton); Shouldering Machine; Trencher; Post Hole Digger or Driver Future Increase(s): Add $1.85/hr on 6/1/10; Add $1.95/hr on 6/1/11; Add $2/hr on 6/1/12; Add $2/hr on 6/1/13. Premium Pay: For "Airport Pavement or State Highway Construction" project type only, add $1.50/hr for work on projects involving temporary traffic control setup, for lane and shoulder closures, when work under artificial illumination conditions is necessary as required by the project provisions (including prep time prior to and/or cleanup after such time period).	30.97	17.35	48.32
Farm or Industrial Type Tractor; Greaser; Compactor (Self-Propelled); Roller (5 Ton or Under); Broom or Sweeper; Environmental Burner Future Increase(s): Add $1.85/hr on 6/1/10; Add $1.95/hr on 6/1/11; Add $2/hr on 6/1/12; Add $2/hr on 6/1/13.	30.42	17.00	47.42
Oiler; Crusher, Screening or Wash Plant; Air Compressor; Generator; Pump (3 Inch or Over) or Well Points; Forklift; Skid Steer Loader (With or Without Attachments); Skid Rig; Stump Chipper; Mulcher; Vibratory Hammer or Extractor Future Increase(s): Add $1.85/hr on 6/1/10; Add $1.95/hr on 6/1/11; Add $2/hr on 6/1/12; Add $2/hr on 6/1/13.	30.42	17.00	47.42
Fiber Optic Cable Equipment	22.79	15.30	38.09

This document **MUST BE POSTED** by the **CONTRACTING AGENCY** in at least one conspicuous and easily accessible place **on the site of the project.** A local governmental unit may post this document at the place normally used to post public notices if there is no common site on the project. This document **MUST** remain posted during the entire time any worker is employed on the project and **MUST** be physically incorporated into the specifications and all contracts and most subcontracts. If you have any questions, please write to the Equal Rights Division, Labor Standards Bureau, P.O. Box 8928, Madison, Wisconsin 53708 or call (608) 266-2832.

The following statutory provisions apply to local governmental unit public works projects and are set forth below pursuant to the requirements of s. 66.0903 (8), Stats.

Each contractor, subcontractor or agent thereof performing work on a project that is subject to this section shall keep full and accurate records clearly indicating the name and trade or occupation of every person described in sub. (4) and an accurate record of the number of hours worked by each of those persons and the actual wages paid therefor.

Any contractor, subcontractor or agent thereof, who fails to pay the prevailing wage rate determined by the department under sub.(3) or who pays less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor determinded under sub.(3), shall be liable to any affected employe in the amount of his or her unpaid wages or his or her unpaid overtime compensation and in an additional equal amount as liquidated damages. An action to recover the liability may be maintained in any court of competent jurisdiction by any employe for and in behalf of that employe and other employes similarly situated. No employe may be a party plaintiff to any such action unless the employe consents in writing to become such a party and the consent is filed in the court in which the action is brought. Notwithstanding s. 814.04 (1), the court shall, in addition to any judgment awarded to the plaintiff, allow reasonable attorney fees and costs to be paid by the defendant.

September 24, 2010

TO: Ronald L. Bursek, P.E.
Director of Public Works

FROM: Michael M. Lemens, P.E.
Director of Engineering/City Engineer

SUBJECT: Project Status Report

Project #07-1110 Storm Water Utility – Staff continues to work with Stand Associates, the engineering firm engaged to study storm sewers in the Forest Park area, and has asked for a number of items that staff need to be refined. Staff obtained additional field survey data. Staff is continuing plan review activities. (17, Citywide)

Project #09-1017 – 38th Street Bridge Reconstruction (ARRA) Kilbourn Road Ditch to Gordon Foods (Phase II) – [Zenith Tech] The bridge is being constructed with ARRA funds. Work is in progress. The old bridge has been removed and the new bridge is under construction. (16)

Project #09-1020 - 38th Street Reconstruction from I-94 East Frontage Road to Kilbourn Road Ditch (Phase III) – [Michels Construction] Work is nearing completion, except for lighting system and final restoration. (16)

Project #09-1024 - I-94 West Frontage Road from CTH K (60th Street) to 71st Street – [Super Western] Contract work is expected to start next week. Due to the late start necessitated by the delay in acquiring the R/W, it is not very likely that the project can be completed before the end of the year. (17)

Project #09-1025 (ARRA) - 80th Street from 30th Avenue to 39th Avenue – [Payne & Dolan] This is a state project. Work is complete. (13, 14)

Project #09-1027 Pavement Marking in School Zones [Brickline] Work is complete. (City Wide)

Project #09-1028 (ARRA) - 30th Avenue from 80th Street to 89th Street – [Payne & Dolan] This is a state project. Work is complete. (9, 13, 14)

Project #09-1207 – Street Division Salt Shed - Bid opening was Friday, August 6, 2010. Bids were over the budgeted amount, and bids were rejected. The project will have to re-advertised. (11)

Project #09-1410 Pool Drain Replacement – Replacement to meet requirements of the Virginia Graham Baker Act. Washington Park is complete, and Anderson Park work will be this fall. (6, 9)

Project #09-1443 and 08-1443 – Bike Path Extensions – Project design is nearly complete. WisDOT backed off on their request for an additional environmental report. (16)

Project #09-1751 – Parking Lot Resurfacing, 5th Ave and 56th Street – [Cicchini] Work is complete. (2)

Project #10-1012 - Resurfacing Phase I – [Cichhini] Work is complete. (11, 13, 14, 15)

Project #10-1015 - Resurfacing Phase II - [Cicchini] Work is in progress. (6, 16)

Project #10-1016 - Resurfacing Phase III - [Cicchini] Work is in progress. (5, 6, 11, 17)

Project #10-1013 – Resurfacing CDBG Projects – [Payne & Dolan] Work is in progress. (8, 12)

Project #10-1017 - New Road Construction and Reconstruction (27th Street and 39th Avenue) [Payne & Dolan] Work is in progress. 27th Street complete. The west half 39th Avenue concrete has been placed. (5)

Project #10-1111 - Emergency Multi-Plate Storm Sewer Repair – [DK Contractors] Work is complete. (2)

Project #10-1208 – Sidewalk and Curb and Gutter Repair – [Azar] Work is in progress. (Citywide)

Project #10-1541 – KPM HVAC Rooftop Compressor Replacement – [Grunau] - Work is complete. (2)

Project #08-1226 – Wetland Mitigation Bank – [Wetland and Waterway Consulting, LLC] Work is in progress. Site has been planted with a cover crop. Drain tile removal and actual planting with wetland plants will happen next spring.

Project #09-1026 - 14th Avenue from 25th Street to 31st Street – [A.W. Oakes] This is a state letting. Work is expected to start in next week, with an interim completion by late November. (1)

Project #09-1210 – MOB Parking Lot Improvements – [Cicchini] Work is in progress. (2)

Project # 10-2002 – Overpass Painting – [Mill Coatings] Work is complete. Rustoleum donated the paint. (2, 3, 8)

Design Work – Staff is working the following projects:

39th Avenue from 24th Street to 18th Street with assistance from SEH
Miscellaneous Bike Path projects
Lakefront Water Feature (Beaver Pond) with assistance from Bonestroo
Washington Park Restroom/Concession Stand replacement with assistance from GRAEF
Parks Field Office Building tuckpointing and painting
Southport Park Beach house ADA Ramp