AGENDA
BOARD OF PARK COMMISSIONERS
Monday, December 14, 2009
Kenosha Municipal Building Room 202
5:15 pm

Chairman: Michael Orth

Commissioners: Jesse Downing, Stephen Casey, Donald Ruef, Kathy Carpenter

Call to Order
Roll Call

A. APPROVAL OF MINUTES

A-1 Approval of minutes of regular meeting held on November 30, 2009.

C. REFERRED TO COMMISSION

C-1. Professional Service Agreement with Graef for Archiectual Services at Washington Park for the Velodrome Restroom/Concession/Storage Facility.

C-2 Agreement between KUSD and City Parks Division regarding Anderson Park baseball diamond #2.

C-3 Proposed change in guidelines for facilities and/or parks reservations.

C-4. Discussion on the Board of Park Commissioners meeting to be held on Monday, December 28, 2009.

DIRECTOR AND/OR SUPERINTENDENT COMMENTS
CITIZEN COMMENTS/COMMISSIONER COMMENTS

OTHER BUSINESS AUTHORIZED BY LAW

IF YOU ARE DISABLED AND NEED ASSISTANCE PLEASE CALL 653-4052 BEFORE THIS MEETING

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

CITY OF KENOSHA – BOARD OF PARK COMMISSIONERS
Meeting Minutes – Novermber 30, 2009

A meeting of the Board of Park Commissioners was held on Monday, November 30, 2009, at the Kenosha Municipal Building in Room 202. The meeting was called to order at 5:15 pm. The following members were present: Chairman Orth, Commissioner Carpenter, Downing, and Ruef. Alderman Casey was excused. Staff members in attendance were Jeff Warnock, Kevin Risch, and Shelly Billingsley.

It was moved by Commissioner Carpenter, seconded by Commissioner Ruef, to approve the minutes from the meeting held on Monday, November 16, 2009. Motion passed 4-0.

1. Acceptance of Project 09-2013 Southport Marina and Kenosha Harbor Dredging which has been satisfactorily completed by McMullen & Pitz Construction Co., Manitowoc, Wisconsin, in the amount of $203,823.00.
   Staff/Commissioners: Kevin informed the commission that the dollar amount was less than what was budgeted for because the Marina did not need dredging, but we have to check it every year and it might need to be done before 2013 when it is budgeted for again.
   It was moved by Commissioner Downing, seconded by Commissioner Carpenter, to approve. Motion passed 4-0.

INFORMATIONAL ITEM: Washington Park Velodrome Restroom Analysis. Shelly informed the commission that we requested a proposal to evaluate the existing restroom facility. Commissioner Downing questioned why we are paying an outside firm to tell us something that our own engineers could. Alderman Ohnstad, 6th District, agrees with Commissioner Downing and was upset that the money was taken out of this years budget and would like to see this moved forward. Chairman Orth said there is definitely a need for engineering input because of the hill.

INFORMATIONAL ITEM: Cedar Agreement Clarification of Insurance. Jeff informed the commission that the paragraph in question is basically a duplication.

DIRECTOR/SUPERINTENDENT COMMENTS: Jeff informed the commission that with budget cuts, he has been looking into the possibility of partnering up with Kiwanis at Nash Park. City employees would handle the grounds Monday through Friday and then Kiwanis would on the weekends for tournaments. This would eliminate a part time employee and the possibility of one more part time employee. Jeff also mentioned that the Boy Scout Troup 58 is requesting Eichelman Park for a special ceremony.

CITIZEN/COMMISSIONERS COMMENTS: Commissioner Ruef asked if the partnering up with Kiwanis would be at Anderson Park. Jeff informed him that it would only be at Nash Park.

There being no further business to come before the Board of Park Commissioners it was moved, seconded and unanimously carried to adjourn at 5:28 pm.

C-1

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

December 10, 2009

To: Michael Orth, Chairman
Park Commission

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

Cc: Alderman Ohnstad
District 6

Subject: ***Professional Service Agreement with Graef for Architectural Services at Washington Park for the Velodrome Restroom/Concession/Storage Facility***

BACKGROUND INFORMATION

Public Works staff, under the advisement of the Park Commission at the November 30th meeting, renegotiated with the consultant Graef to supply the City with architectural plans for a new restroom facility.

Under this proposed contract, plans, specifications and a cost estimate will be provided for a new facility that will have restrooms, a small concession area and a small storage area. This contract also specified that a concept plan with a construction cost range be developed before construction plans are developed.

Public Works staff has developed a strategy for implementation of a new facility in Washington Park . It would be our goal to utilize the 2007 CIP funding to complete the architectural plans and to demolish the existing facility after the 2010 seasonal use of the velodrome. This will allow for the facility to be constructed in 2011 using the 2011 CIP budget for the new facility as shown in the approved 2010 CIP.

RECOMMENDATION

Approve this change in strategy for the Washington Park Velodrome Restroom Facility.

One Honey Creek Corporate Center
125 South 84th Street, Suite 401
Milwaukee, WI 53214-1470
414 / 259 1500
414 / 259 0037 fax
www.graef-usa.com

GRāEF

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December 8, 2009

Ms. Shelly Billingsley, P.E.
Assistant City Engineer
City of Kenosha
625 52nd Street
Kenosha, WI 53140

Subject: Washington Park Velodrome Restroom/Concession/ Storage Facility

Dear Shelly:

Per your request, Graef-USA Inc. (GRAEF) is pleased to provide this proposal for services to the City of Kenosha (City) for the Washington Park Velodrome Restroom/Concession/Storage Facility (Project). It is our understanding that the nature of the Project is to Provide Architectural and Engineering Design Services for the construction of a new facility for the location referenced above. Our scope of work will include the design of a new facility including restrooms, a concession area and a storage area. The new facility will be designed farther away from the hillside base and will be separated with a retaining wall at the base of the hill. The city has allocated a budget of $300,000 for the construction of the project. The scope for the design services is proposed below under the tasks you have provided. The work for all disciplines will be included under each task.

For this Project, GRAEF proposes to provide the following Basic Services:

CONCEPT PLAN

- Building schematic floor plan
- Evaluate a concept plan and develop a site plan
- Building schematic exterior elevations
- Preliminary mechanical research
- Construction cost range

PLANS, SPECIFICATIONS, COST ESTIMATE

- Finish floor plan
- Interior toilet elevations
- Finish exterior elevations
- Building sections, wall sections, details
- Door and Room finish schedules
- Detailed probable construction cost estimate
- Specifications manual
- Site Layout / Grading/ Utility Plan

- Demolition/ Erosion Control Plan
- Site Details
- Foundation plan
- Roof framing plan
- Structural calculations
- Structural details
- Mechanical floor plans
- Mechanical details
- Mechanical schedules
- Plan submittal
- Plumbing calculations
- Plumbing design
- Plumbing plans
- Equipment selection
- Plumbing sections, details and schedules
- Electrical service coordination
- Design interior lighting
- Design exterior lighting
- Design power distribution
- Design receptacle layout

BIDDING

- Attend a Pre-bid meeting- by Architect
- Attend a pre-construction meeting- by Architect
- Attend 2 walkthroughs for punch lists and provide reports- by Architect
- Attend 2 site visits during construction- by Architect
- Answer construction questions
- Review requests for alternates
- Review shop drawings

MEETINGS AND PRESENTATION

- Attend 4 meetings with DPW
- Presentation to the Park Commission

GRAEF will endeavor to perform the proposed Basic Services per the following schedule:

- We will complete the project within 30 working days of receipt of notice to proceed.

At your written request, GRAEF will provide the following Additional Services for additional compensation as detailed below:

- Attendance at City Council, Plan Commission or committee/commission meetings
- Provide a site survey
- Additional meetings
- Renderings
- Landscape drawings

For this Project, it is our understanding Client will provide the following services, items and/or information:

- Access to the site
- Existing underground utilities drawings that could be available

For all Basic Services, Client agrees to compensate GRAEF on a time and expense basis not to exceed a fee of $47,695. Our estimate of time is shown in the attached spreadsheets.

For all Additional Services, Client agrees to compensate GRAEF on a time and expense basis with an estimate to be provided at the time of the requested services.

To accept this proposal, please sign and date both of the enclosed copies and return one to us. An executed copy of this proposal will become our Agreement. This proposal is subject to GRAEF's Standard Terms and Conditions, a copy of which is attached and incorporated by reference. Upon receipt of an executed copy, we will commence work on the Project.

Graef-USA Inc. looks forward to providing these services to the City. Please call me at 414-266-9138 or Dewey Hemba at 414-266-9136 with any questions on this proposal.

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Sincerely,

Graef-USA Inc.

Tony Antonopoulos AIA
Associate

Dewey Hemba, P.E.
Principal

Accepted by: City of Kenosha

_____
(Signature)

_____
(Name Printed)

_____
(Title)

Date :_____

PROFESSIONAL SERVICES ESTIMATE

Graef Anhalt Schloemer

Project Title: City of Kenosha Velodrome Restroom docum

Date: 12/7/2009

Description: **Velodrome Restroom documents- Architectural fee schedule**

Prepared by: Tony A.

Approved By:

Task ID	Duration	Task Description	Title	Principal	Project Manage		Design Professional		Technician		Direct Expense	Consult.	Clerical
			Grade	P7	P6		P4						
			Rate		$130		$112		$82		$112		$55
			Resp.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.		
		Concept plan											
		Floor plan					4		8				
		Elevations					4		12				
		Construction cost range					4						
							12		**20**				
		Subtotal					**$1,344**		**$1,640**				
		Plans, Specifications, cost estimate											
		Cover sheet					1		2				
		Floor plan					4		8				
		Interior Elevations							8				
		Elevations					4		12				
		Bulding sections, wall sections			4		8		12				
		Details			4		4		8				
		Door & Room Finish Schedules					4		8				
		Detailed Probable Constr.Cost Estimate					8		2				
		Specifications									30		4
							33		**60**		**30**		**4**
		Subtotal					**$3,696**		**$4,920**		**$3,360**		**$220**
		Bidding											
		Pre-bid meeting			3								
		Pre -construction meeting			3								
		2 punch list walk throughs w/ reports			16								
		2 construction observation meetings			8								
		Answer construction questions			2		8						
		Review requests for Alternates			2		4						
		Shop drawings					6		2				
					34		**18**		**2**				
		Subtotal			**$4,420**		**$2,016**		**$164**				
		Meetings and Presentation											
		4 meetings w/ DPW			16								
		Presentation to Park Commission			4								
					20								
		Subtotal			**$2,600**								

PROFESSIONAL SERVICES ESTIMATE

Graef Anhalt Schloemer

Project Title: City of Kenosha Velodrome Restroom docum

Date: 12/7/2009

Description: **Velodrome Restroom documents- Architectural fee schedule**

Task ID	Duration	Task Description	Prepared by: Tony A. / Approved By:	Principal	Project Manage		Design .Professional		Technician		Direct Expense	Consult.	Clerical
			Title										
			Grade	P7	P6		P4						
			Rate		$130		$112		$82		$112		$55
			Resp.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.		
		Total Hours			54		63		82		30		4
		Total Cost			$7,020		$7,056		$6,724		$3,360		$220

Total Cost: $24,380 Est. No. Sheets Hrs/Sht: #DIV/0! Page of

Contingency:

Expenses-travel/printing:
Total Fee: **$24,380**

Washington Park Concessions - City of Kenosha
Kenosha, WI
ESTIMATE OF ENGINEERING SERVICES COSTS
GRAEF

08-Dec-09

		Clerical	Survey	Fran Tech III	Adam Engr II	Chris Engr III	Engr IV	Engr VI	Engr VII	Totals	Item Total	Element Total
				75.00	80.00	95.00						
	CONCEPT PLAN											
1	Attend 1 kickoff meeting with site visit				4					4	320.00	
2	Develop site plan			2	4					6	470.00	
3	Evaluate concept plan/provide recommendations				2					2	160.00	
4	Review existing utility information and update				2					2	160.00	
5	Develop construction cost estimate				2					2	160.00	
												1,270.00
	Total Hours:	0	0	2	14	0	0	0	0	16		
	PLANS, SPECIFICATIONS, & DETAILED COST ESTIMATE											
1	Submit civil plans for review and approval to city/state agency				2					2	160.00	
2	CD Site Layout/Grading/Utility Plan			4	8					12	940.00	
3	CD Demolition/erosion control Plan			2	4					6	470.00	
4	CD Site Details			1	3					4	315.00	
5	Technical Specifications	4			7					11	560.00	
6	Attend Meetings (1)					4				4	628.00	
7	Project Management/QA/QC					2				2	314.00	
												3,387.00
	Total Hours:	4	0	7	24	6	0	0	0	41		
	BIDDING											
1	Respond to contractors clarification requests				2					2	160.00	
2	Review shop drawings and submittals				2					2	160.00	
3	Contract closeout/punchlist				2					2	160.00	
4	Project Management					2				2	314.00	
												794.00
	Total Hours:	0	0	0	6	2	0	0	0	8		
	MEETINGS AND PRESENTATION											
1	Attend up to 4 meetings with DPW staff									0	0.00	
2	Present to Park Commission.									0	0.00	
												0.00
	Total Hours:	0	0	0	0	0	0	0	0	0		
	Total Hours	4	0	9	44	8	0	0	0	65		
	Printing Plans & Specs										0.00	0.00
	Mileage										200.00	200.00
	Other Reimbursable Expenses:										0.00	0.00
	Total Design Engineering Fee										5,651.00	5,651.00

PROFESSIONAL SERVICES ESTIMATE

Graef Anhalt Schloemer

Project Title City of Kkenosha Velodrome Restroom documents | Date: 12/7/2009

Description: Velodrome restroom documents- Structural

Prepared by: Tony A. | Approved By:

Task ID	Duration	Task Description	Title	Principal	Project Manage		Design Professional		Technician		Direct Expense	Consult.	Clerical
			Grade	P7	P6		P4						
			Rate				$112		$82		$112		$55
			Resp.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.		
		Concept plan											
		Floor plan					2						
		Construction cost range					2						
							4						
		Subtotal					**$448**						
		Plans, Specifications, cost estimate											
		Floor plan					8		16				
		Detailed Cost Estimate					8						
		Specifications					4				2		
							20		**16**		**2**		
		Subtotal					**$2,240**		**$1,312**		**$224**		
		Bidding											
		pre-bidd meeting											
		Pre construction meeting											
		2 punch list walk throughs w/ reports											
		Answer construvction questions					8						
		Review requests for alternates					4						
		Shop drawings					4		2				
		2 additional site visits					6						
							22		**2**				
		Subtotal					**$2,464**		**$164**				
		Meetings and Presentation											
		4 meetings w/ DPW											
		Presentation to Park Commission											
		Total Hours					**46**		**18**		**2**		
		Total Cost					**$5,152**		**$1,476**		**$224**		

Total Cost: $6,852 | Est. No. Sheets | Hrs/Sht: #DIV/0! | Page of

Contingency:

PROFESSIONAL SERVICES ESTIMATE

Graef Anhalt Schloemer

Project Title City of Kkenosha Velodrome Restroom documents

Date: 12/7/2009

Description: Velodrome restroom documents- Structural

Prepared by: Tony A.

Approved By:

Task ID	Duration	Task Description	Title	Principal	Project Manage		Design Professional		Technician		Direct Expense	Consult.	Clerical
			Grade	P7	P6		P4						
			Rate				$112		$82		$112		$55
			Resp.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.		

Expenses-travel/printing:

Total Fee: **$6,852**

PROFESSIONAL SERVICES ESTIMATE

Project Title: City of Kkenosha Velodrome Restroom documents

Date: 12/7/2009

Description:

Velodrome restroom documents- HVAC

Prepared by: Jason Gerke

Approved By:

Task ID	Duration	Task Description	Title	Principal	Project Manager		Design Professional		Technician		Direct Expense	Consult.	Clerical
			Grade					P3	T4				
			Rate					$103	$91				$55
			Resp.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.		
		Concept plan											
		Coordination Questions						3					
		Internal Meeting						1					
		Subtotal						**$412**					
		Plans, Specifications, cost estimate											
		Mechanical floor plans						6	3				
		Details						1	1				
		Schedules						1	1				
		Specifications (book)						3					3
		Construction Cost Estimate						2					
		Internal meetings						2					
		Plan submittal						1					
		Subtotal						**$1,648**	**$455**				**$165**
		Bidding											
		Shop Drawings, O&M & TAB						3					
		(2) site observations w/ reports						10					
		Answer bidder questions						2					
		Answer construction questions						2					
		Subtotal						**$1,751**					
								$3,811	$455				$165
		$4,431											of

Contingency:

PROFESSIONAL SERVICES ESTIMATE

Graef Anhalt Schloemer

Project Title: City of Kenosha Velodrome Restroom docum

Date: 12/7/2009

Description: **Velodrome Restroom documents- Plumbing fee schedule**

Prepared by: Tony A.

Approved By:

Task ID	Duration	Task Description	Principal	Project Manage		Design Professional		Technician		Direct Expense	Consult.	Clerical
		Title										
		Grade				P4	P2					
		Rate				$121	$101					$55
		Resp.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.		Hrs.	Hrs.		
		Concept plan										
		Floor plan										
		Elevations										
		Construction cost range										
		Subtotal										
		Plans, Specifications, cost estimate										
		Coordination meetings					3					
		Calculations					3					
		Plumbing design				1	2					
		Plumbing plans					5					
		Equipment selection					1					
		Sections, Details, Schedules				1	5					
		Detailed Probable Constr.Cost Estimate										
		Outline Specifications					1					1
						2	20					1
		Subtotal				$242	$2,020					$55
		Bidding										
		Punch list walk throughs w/ reports					4					
		Answer construction questions					1					
		Site observations					4					
		Review requests for Alternates					1					
		Shop drawings					1					
							11					
		Subtotal					$1,111					
		Meetings and Presentation										
		4 meetings w/ DPW										
		Presentation to Park Commission										
		Subtotal										
		Total Hours					31					1

PROFESSIONAL SERVICES ESTIMATE

Graef Anhalt Schloemer

Project Title: City of Kenosha Velodrome Restroom docum

Date: 12/7/2009

Description: **Velodrome Restroom documents- Plumbing fee schedule**

Task ID	Duration	Prepared by: Tony A.	Approved By:	Title	Principal	Project Manage		Design Professional		Technician		Direct Expense	Consult.	Clerical
				Grade				P4	P2					
				Rate				$121	$101					$55
		Task Description		Resp.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.		Hrs.	Hrs.		
		Total Cost						$242	$3,131					$55

Total Cost: $3,428 Est. No. Sheets Hrs/Sht: #DIV/0! Page of

Contingency:

Expenses-travel/printing:
Total Fee: **$3,428**

PROFESSIONAL SERVICES ESTIMATE

Graef Anhalt Schloemer

Project Title: City of Kenosha Velodrome Restroom docum

Date: 12/7/2009

Description: **Velodrome Restroom documents- Electrical fee schedule**

Prepared by: Tony A.

Approved By:

Task ID	Duration	Task Description	Principal	Project Manage		Design Professional		Technician		Direct Expense	Consult.	Clerical
		Title										
		Grade				P3		T3				
		Rate				$103		$82		$112		$55
		Resp.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.		
		Concept plan										
		Site Survey				3						
		Preliminary lighting Layout				0.5		0.5				
		Preliminary power layout				0.5		0.5				
						4		1				
		Subtotal				$412		$82				
		Plans, Specifications, cost estimate										
		Electrical service coordination				0.5						
		Design interior lighting				2		2				
		Design exterior lighting				1		1				
		Design power distribution				1.5		1				
		Design receptacle layout				1.5		2				
		Detailed Probable Constr.Cost Estimate				1.5						
		Specifications				4						1
						12		6				1
		Subtotal				$1,236		$492				$55
		Bidding										
		1 punch list walk throughs w/ report				3						
		Answer construction questions				0.5						
		Review requests for Alternates				0.5						
		Shop drawings				1		2				
						5		2				
		Subtotal				$515		$164				
		Total Hours				21		9				1
		Total Cost				$2,163		$738				$55

Total Cost: $2,956 Est. No. Sheets Hrs/Sht: #DIV/0! Page of

Contingency:

PROFESSIONAL SERVICES ESTIMATE

Graef Anhalt Schloemer				Project Title City of Kenosha Velodrome Restroom docum								Date: 12/7/2009		
				Description: Velodrome Restroom documents- Electrical fee schedule										
				Title	Principal	Project Manage		Design Professional		Technician		Direct Expense	Consult.	Clerical
Task ID	Duration	Prepared by: Tony A.	Approved By:	Grade				P3		T3				
				Rate				$103		$82		$112		$55
		Task Description		Resp.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.		

Expenses-travel/printing:
Total Fee: **$2,956**

Graef-USA Inc.'s STANDARD TERMS AND CONDITIONS

These Standard Terms and Conditions are material terms of the Professional Services Agreement proposed on December 8, 2009 (Agreement) by and between Graef-USA Inc. (GRAEF) and the City of Kenosha (Client):

Standard of Care: GRAEF shall exercise ordinary professional care in performing all services under this Agreement, without warranty or guarantee, expressed or implied.

Client Responsibilities: Client shall at all times procure and maintain financing adequate to timely pay for all costs of the PROJECT as incurred; shall timely furnish and provide those services, items and/or information defined in Agreement, as amended, and shall reasonably communicate with and reasonably cooperate with GRAEF in its performance of this Agreement. GRAEF shall be entitled to rely on the accuracy and completeness of any services, items and/or information furnished by Client. These terms are of the essence. Client shall indemnify, defend and hold GRAEF, its present or former officers, employees and subconsultant(s), fully harmless from any liability or loss, cost or expense (including attorney's fees and other claims expenses) in any way arising from or in connection with errors, omissions or deficiencies in the services, items and/or information Client is obliged to furnish in respect of this Agreement.

Limitation of Liability: Client and GRAEF agree that GRAEF's liability for any direct, indirect, incidental or consequential economic losses or damages arising under or in connection with this agreement (including any attorney's fees or claims expenses) shall be limited to the sum of one hundred thousand dollars ($100,000.00).

Additional Services: Client may request or it may become necessary for GRAEF or its subconsultant(s) to perform Additional Services in respect of this Agreement. Client shall pay for such Additional Services above and beyond charges for Basic Services set forth in this Agreement. GRAEF will notify Client in advance of GRAEF's intention to render Additional Services. Client's failure to instruct GRAEF not to perform the proposed Additional Service shall constitute Client's acceptance of such Additional Service and agreement to pay for such Additional Service in accordance with the Invoicing & Payment terms of this Agreement.

Collection Costs: Client shall pay all collection costs GRAEF incurs in order to collect amounts due from Client under this Agreement. Collection costs shall include, without limitation, reasonable attorney's fees and expenses, collection agency fees and expenses, court fees, collection bonds and reasonable GRAEF staff costs at standard billing rates for GRAEF's time spent in efforts to collect. Client's obligation to pay GRAEF's collection costs shall survive the term of this Agreement or the earlier termination by either party.

Invoicing & Payment: GRAEF may issue invoices for services rendered and expenses incurred at such times and with such frequency as GRAEF deems necessary or appropriate in GRAEF's discretion. All invoices are due and payable upon receipt and shall be considered past due if not paid within thirty (30) calendar days of the due date. **Prompt and full payment of all periodic invoices or other billings issued by GRAEF pursuant to this Agreement is of the essence of this Agreement.** In the event that Client fails to promptly and fully pay any invoice as and when due, then, and in addition to any other remedies allowed by law, GRAEF, may, in its sole discretion, suspend performance of all services under this Agreement upon seven (7) calendar days' written notice to Client, and immediately invoice Client for all unbilled work-in-progress rendered and other expenses incurred. Upon GRAEF's receipt of full payment, in good funds and without offset, of all sums invoiced in connection with any such declaration of suspension, GRAEF shall resume services, **provided that** the time schedule and compensation under this Agreement shall be equitably adjusted in a manner acceptable to GRAEF to compensate GRAEF for the period of suspension plus any other reasonable and necessary time and expenses GRAEF suffers or incurs to resume services. No failure by GRAEF to exercise its right to suspend work and accelerate sums due shall in any way waive or abridge Client's obligations to GRAEF or GRAEF's rights to later suspend work and accelerate terms. Client agrees GRAEF shall incur no liability whatsoever to Client, or to any other person, for any loss, cost or expense arising from any such suspension by GRAEF, either directly or indirectly. In addition, simple interest shall accrue at the lower of 1.5% per month (18% per annum), or the maximum interest rate allowable by law, on any invoiced amounts remaining unpaid for more than 60 days from the date of the invoice. Payments made shall be allocated as follows: (1) first to unpaid collection costs; (2) second to unpaid accrued interest; and (3) last to unpaid principal of the oldest invoice.

Latent Conditions: Client acknowledges that subsurface or latent physical conditions at the site that differ materially from those indicated in the project documents, or unknown or unusual conditions that materially differ from those ordinarily encountered may exist. If such latent conditions require a change in the design or the construction phase services, GRAEF shall be entitled to a reasonable extension of time to evaluate such change(s) and their impact on the project and to prepare such additional design documents as may be necessary to address or respond to such latent conditions. Client shall pay GRAEF for all services rendered and reimbursable expenses incurred by GRAEF and its subconsultant(s), if any, to address, respond to or repair such latent conditions. Such services by GRAEF or its subconsultant(s) shall constitute Additional Services.

Graef-USA Inc.'s STANDARD TERMS AND CONDITIONS (continued)

Insurance: GRAEF shall procure and maintain liability insurance policies, including professional liability, commercial general liability, automobile liability, and workers' compensation insurance for the duration of this Agreement and shall, upon request, produce certificates evidencing the maintenance of such coverages. Should Client desire additional insurance, GRAEF shall endeavor reasonably to procure and maintain such additional insurance, but Client shall reimburse GRAEF for any additional premiums or other related costs that GRAEF incurs.

Instruments of Service: All original documents prepared for Client by GRAEF or GRAEF's independent professional associate(s) and subconsultant(s) pursuant to this Agreement (including calculations, computer files, drawings, specifications, or reports) are Instruments of Professional Service in respect of this Agreement. GRAEF shall retain an ownership and property interest therein whether or not the services that are the subject of this Agreement are completed. Unless otherwise confirmed by written Addenda to this Agreement, signed by duly authorized representatives of both Client and GRAEF, no Instrument of Professional Service in respect of this Agreement constitutes, or is intended to document or depict any "as-built" conditions of the completed Work. Client may make and retain copies for information and reference in connection with the use and occupancy of the completed project by Client and others; however, such documents are not intended or represented to be suitable for reuse by Client or others on extensions of the project, or otherwise. Any reuse without GRAEF's written consent shall be at Client's sole risk and responsibility, and without any liability to GRAEF, or to GRAEF's independent professional associate(s) and subconsultant(s). Further, Client shall indemnify, defend and hold GRAEF and GRAEF's independent professional associate(s) and subconsultant(s), fully harmless from all liability or loss, cost or expense (including attorney's fees and other claims expenses) in any way arising from or in connection with such unauthorized reuse.

Contractor Submittals: The scope of any review or other action taken by GRAEF or its subconsultant(s) in respect of any contractor submittal, such as shop drawings, shall be for the limited purpose of determining if the submission generally conforms with the overall intent of the design of the work that is the subject of this Agreement, but not for purposes of determining accuracy, completeness or other details such as dimensioning or quantities, or for substantiating instructions or performance of equipment or systems. GRAEF shall not be liable or responsible for any error, omission, defect or deficiency in any contractor submittal.

Pricing Estimates: Neither GRAEF nor Client has any control over the costs of labor, materials or equipment, over contractors' methods of determining bid prices, or over competitive bidding, market or negotiation conditions. Accordingly, GRAEF cannot and does not warrant or represent that bids or negotiated prices will not vary from any projected or established budgetary constraints.

Construction Observation: Unless expressly stated in this Agreement, GRAEF shall have no responsibility for Construction Observation. If Construction Observation services are performed, GRAEF's visits to the construction site shall be for the purpose of becoming generally familiar with the progress and quality of the construction, and to determine if the construction is being performed in general accordance with the plans and specifications. GRAEF shall have no obligation to "inspect" the work of any contractor or subcontractor and shall have no control or right of control over and shall not be responsible for any construction means, methods, techniques, sequences, equipment or procedures (including, but not limited to, any erection procedures, temporary bracing or temporary conditions), or for safety precautions and programs in connection with the construction. Also, GRAEF shall have no obligation for any defects or deficiencies or other acts or omissions of any contractor(s) or subcontractor(s) or material supplier(s), or for the failure of any of them to carry out the construction in accordance with the contract documents, including the plans and specifications. GRAEF is not authorized to stop the construction or to take any other action relating to jobsite safety, which are solely the contractor's rights and responsibilities.

Dispute Resolution: GRAEF and Client shall endeavor to resolve all disputes first through direct negotiations between the parties' informed and authorized representatives, then through mediation. If mediation fails to fully resolve all disputes within 120 calendar days of the first written request for mediation, either party may pursue any remedy it deems appropriate to the circumstances.

No Assignment: This Agreement is not subject to assignment, transfer or hypothecation without the written consent of both parties expressly acknowledging such assignment, transfer or hypothecation.

Governing Law: This Agreement, as amended, and any disputes or controversies arising in connection with this Agreement shall be governed and resolved by the laws of the State of Wisconsin, without regard to said state's choice of law rules.

Severance of Clauses: In the event that any term, provision or condition of this Agreement is void or otherwise unenforceable under the law governing this Agreement, then such terms shall be stricken and the balance of this Agreement shall be interpreted and enforced as if such stricken terms never existed.

Integrated Agreement: The parties' final and entire agreement is expressed in the attached proposal letter and these Standard Terms and Conditions. All prior oral agreements or discussions, proposals and/or negotiations between the parties are merged into and superceded by this Agreement. No term of the parties' Agreement may be orally modified, amended or superceded.

C-2

AGREEMENT

By And Between

THE CITY OF KENOSHA, WISCONSIN,
A Municipal Corporation,
THROUGH THE BOARD OF PARK COMMISSIONERS

And

KENOSHA UNIFIED SCHOOL DISTRICT, NO. 1.,
A Wisconsin Common School District

THIS AGREEMENT made and entered into by and between the **BOARD OF PARK COMMISSIONERS OF THE CITY OF KENOSHA, WISCONSIN**, a Municipal Park Commission, duly organized and existing under the laws of the State of Wisconsin, having its principal office at 3617 65th Street, Kenosha, Wisconsin, 53142, hereinafter referred to as **"CITY"**, and **KENOSHA UNIFIED SCHOOL DISTRICT NO. 1**, a Wisconsin Common School District organized and existing under the laws of the State of Wisconsin, having its principal office at 3600 52nd Street, Kenosha, Wisconsin, 53144, hereinafter referred to as **"KUSD"**.

W I T N E S S E T H:

WHEREAS, CITY is the owner of parkland located at 8730 22nd Avenue commonly known as Anderson Park;

WHEREAS, KUSD desires to have preferential use of the softball diamond commonly designated as Anderson #2 and generally depicted by the cross hatched portion of the attached Exhibit A, (hereinafter **"PREMISES"),** located within Anderson Park for school, athletic and recreational programs and services; and,

WHEREAS, it is to the mutual advantage of the parties to enter into this Agreement.

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

1. PREFERENTIAL USE. **KUSD** shall, prior to the end of the calendar year, submit written notice to **CITY** of those dates, including rain dates, that it intends to utilize the **PREMISES** in the following calendar year. **CITY** agrees that it shall not grant a permit to any third

party for the use of the **PREMISES** in any year other than the year of the application without obtaining prior written approval from **KUSD**. Should, however, **KUSD's** request for use be made in the same year as the date of requested use, **KUSD** shall not be entitled to any preference.

a. CONCESSIONS. **KUSD** shall, on the dates of its use of the **PREMISES**, be entitled to sell concessions. Any such operation shall be done in a manner consistent with all applicable laws and ordinances. Any profit realized in the sale of such concessions shall be property of **KUSD.**

2. FEES. **KUSD** shall not be obligated to pay for any permit for the use of the **PREMISES**. **KUSD** shall, however, pay **CITY's** standard charge, as established by **CITY**, for the use of lights at the **PREMISES**. **KUSD** shall pay said lighting fee at the time it requests the date(s) for which lighting is to be required. Should **KUSD** utilize the lights on a day for which it has not paid for such use in advance, **KUSD** shall pay the **CITY's** standard charge within forty-five (45) days.

3. USE OF KUSD DIAMOND. **KUSD** shall permit **CITY** and/or the organizer of what is commonly known as the Kenosha Rotary Softball Tournament ("Tournament"), the use of one softball diamond situated on the **KUSD** property commonly known as Tremper High School during the second and third weekend (Friday through Sunday) of July.

4. IMPROVMENTS. **KUSD** shall, at its own cost and expense, be entitled to design and construct Improvements to **PREMISES**, subject to **CITY** approving the plans and specifications therefor. Should **KUSD** create fixtures, such fixtures shall become the property of **CITY**. Further **KUSD** shall not permit any lien, whether security or otherwise, on the Improvements.

a. CONSTRUCTION INSURANCE REQUIREMENTS. Prior to commencing construction of any Improvements, **KUSD,** shall procure and submit proof of the following insurance coverages to the City Clerk/Treasurer:

(1) Builder's At Risk Insurance, with **CITY** as an additional insured, in the amount of the full value of Improvements insuring against loss or damage during the course of construction, including material delivered, but not attached to the site; and,

(2) Liability Insurance protecting **KUSD** and **CITY** from claims for death, personal injury or property damage arising during the course of construction of the Improvements, in accordance with coverage requirements specified in this Lease.

b. **PERFORMANCE BOND.** The construction of all Improvements shall when required by **CITY** in the application of its policies and practices, be supported by a Performance Bond from the contractor guaranteeing the payment for all labor and materials, and the completion of Work in conformance with the construction contract. **CITY's** Director of Parks shall, within 30 days of being notified of the nature of the Improvement, advise **KUSD** of the necessity of a Performance Bond.

c. **CONSTRUCTION LIENS. KUSD,** in making Improvements upon **PREMISES,** shall not grant permission for or permit any liens for labor or materials to attach to **PREMISES** without the prior, written consent of **CITY**, nor allow any condition to exist or situation to develop whereby any party would be entitled, as a matter of law, to file or claim a lien against **PREMISES.** In order to avoid such liens, **KUSD** shall promptly pay or cause to be paid all undisputed bills for labor and materials. In the event any involuntary lien attaches to **PREMISES, KUSD** shall take such steps as shall cause the discharge of such lien within sixty (60) days after the filing thereof, or deposit a like amount in escrow with the City Clerk/Treasurer until the lien is discharged. Nothing contained herein shall preclude **KUSD,** or its contractor from, in good faith, defending against claims by labor or material suppliers which it believes unwarranted.

d. **UNAUTHORIZED IMPROVEMENTS.** Should **KUSD,** make any Improvements without prior **CITY** approval, which are not satisfactory to **CITY**, then, upon written notice to do so, **KUSD,** shall remove the same, or if agreed upon by **CITY,** cause the same to be changed, modified or reconstructed to the satisfaction of **CITY.** In the event any unauthorized Improvement results in an Ordinance violation **KUSD** shall also timely pay any forfeitures imposed for such violation(s). Should **KUSD** fail to comply with such notice within sixty (60) days of receipt thereof, or should **KUSD** commence to comply therewith and fail to pursue such work diligently to completion, **CITY** may effect

the removal, change, modification or reconstruction thereof, and **KUSD** shall pay the cost thereof to **CITY**, upon written demand.

e. **RISK OF LOSS.** **KUSD** assumes the risk of loss or damage to all of the Improvements, whether preexisting or constructed by **KUSD,** and the risk of loss or damage to all property of **CITY** arising out of or in connection with the performance of the construction work. In the event of such loss or damage **KUSD** shall forthwith repair, replace, restore and/or reconstruct the construction work and the property of **CITY** without cost or expense to **CITY.**

f. **INDEMNITY AND HOLD HARMLESS BY CONTRACTORS.** **KUSD** shall require its contractors who construct Improvements to indemnify and hold harmless **CITY**, and their officers and employees against any and all claims, liability, loss, charges, damages, costs, expenses or attorneys' fees, which any of them may hereafter sustain, incur or be required to pay as a result of any act or omission of **KUSD,** involving the construction of Improvements by reason of which any person suffers personal injury, death or property loss or damage; provided, however, the provisions of this paragraph shall not apply to claims, liabilities, losses, charges, damages, costs, expenses or attorneys' fees caused or resulting from the acts or omissions of **CITY**, or any of their officers or employees. This provision shall survive expiration or termination of the Agreement to the extent necessary to effectuate its purpose.

g. **INSPECTION.** **CITY** shall have the right, but not the obligation, through its duly designated representatives, to inspect the construction work, at any and all reasonable times during the progress thereof, and from time to time, in its discretion, to take samples and perform testing on any part of the construction work, provided the taking of samples and testing shall be conducted so as to minimize interference with the construction work, if such minimization of impact can be accomplished without diminishing the effectiveness or accuracy of the sampling and/or testing. Further, **CITY** shall have the right to review and provide approval of completed Improvements and should any Improvements in **CITY's** sole discretion be completed unsatisfactorily **KUSD** shall, within thirty (30) days, take all steps necessary to correct any deficiencies and obtain **CITY's** approval.

h. NO CONTRACTOR'S RIGHTS AGAINST CITY. Nothing contained herein shall grant or be deemed to grant to any contractor, architect, supplier, subcontractor or any other person engaged to perform, design or construct work any right of action or claims against **CITY**, its officers and employees with respect to any labor or materials provided in connection with the construction work. Nothing contained herein shall create, or be deemed to create, any relationship between **CITY** and any such contractor, architect, supplier, subcontractor or any other person engaged in any part of the construction work and **CITY** shall not be responsible to any of the foregoing for any payments due or alleged to be due thereto for any work performed or materials supplied in connection with the construction work.

i. COMPLIANCE. KUSD shall, when making Improvements to the **PREMISES,** comply with all state and local laws.

5. MAINTENANCE. CITY shall be responsible for the maintenance of the PREMISES.. **KUSD** shall, for the dates it is utilizing the **PREMISES,** be responsible for all preparation of the infield including, but not limited to, dragging and lining as well as the painting of the outfield foul lines. **KUSD** shall also be responsible for the maintenance and repair of any Improvements made to the **PREMISES.** All maintenance and repair shall be performed in a good and workmanlike manner. Further all maintenance and repair shall be in accordance with relevant federal, state and local laws, rules and regulations including permits and governmental approval where required. **CITY** shall have the right, in its sole discretion, to require **KUSD** to maintain or repair any Improvements made to the **PREMISES** in accordance with its direction. In the event **KUSD** fails to repair the PREMISES as requested by **CITY** within sixty (60) days or some other mutually agreeable time period, following receipt of written notice, or in the event **KUSD,** upon commencement thereof, fails to diligently continue to complete any such work, **CITY** may, at its option, terminate this Agreement or perform the maintenance or repair and the cost and expense thereof shall be payable to **CITY** by **KUSD**, on demand. Furthermore, should **CITY** undertake any work hereunder on the Improvements, **KUSD** waives any claims for damages,

consequential or otherwise, against **CITY** as a result therefrom, except claims for damages arising from the **CITY'S** negligence. The foregoing shall in no way affect or alter the continuing obligations of **KUSD** as set forth in the Agreement and shall not impose or be construed to impose upon **CITY** any obligations to care for, maintain or repair **PREMISES** except as otherwise provided herein.

6. **GARBAGE PICK-UP.** **CITY** shall provide adequate and appropriate containers for the temporary storage of trash, garbage, refuse, debris or litter on **PREMISES**. **CITY** shall also be responsible for the emptying of the refuse containers in accordance with **CITY's** regular schedule. **KUSD** shall, for the dates it is utilizing the **PREMISES**, keep the **PREMISES** in a clean, neat and sanitary condition, free and clear of trash, garbage, refuse, debris or litter.

7. **TOILET FACILITIES.** **KUSD** shall not utilize the toilet facilities located in the pool building at Anderson Park. **KUSD** shall, instead, utilize portable toilets or the toilet facilities at Ameche Stadium or Tremper High School.

8. **WATER.** **KUSD** shall be entitled to utilize the watering system currently in place at the **PREMISES** at no cost to **KUSD**. Should, however, the watering system be modified with the installation of an irrigation system or in some other fashion the parties agree that this Agreement can be amended, at the option of either party, to address the obligation of the parties to bear the cost of watering the **PREMISES**.

9. **INSURANCE.** **KUSD** shall procure and maintain, during this Agreement, insurance policies as hereinafter specified to insure against all risk and loss on the dates of its use of the **PREMISES**. The policies must be issued by an insurance company or companies authorized to do business in the State of Wisconsin and licensed by the Insurance Department of the State. **KUSD**, at the time obtaining dates for use of the **PREMISES** (and no less than on an annual basis) shall furnish a Certificate of Insurance indicating compliance with the foregoing, including the naming of **CITY** as an "additional insured", and proof of payment of premium to the City Clerk/Treasurer for approval. The insurance policy or policies 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/Treasurer 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 Agreement 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/Treasurer throughout the life of this Agreement. **CITY** reserves the right to reasonably increase the minimum liability insurance requirement set forth herein upon furnishing sixty (60) days advance written notice to **KUSD**, whenever minimum standards of the **CITY** for all insurance policies comparable to those covering **KUSD's** operations hereunder are enacted which adopt or increase the minimum insurance requirements, and **KUSD** shall comply with said request, upon being given such advance, written notice thereof, or be considered in material default of this Agreement. Should **KUSD** fail to furnish, deliver and maintain such insurance coverage, **CITY** may obtain such insurance coverage and charge **KUSD** the cost of such insurance coverage plus all appropriate administrative charges and incidental expenses associated with the transaction. The failure of **KUSD** to take out and/or maintain the required insurance shall not relieve **KUSD** from any liability under this Agreement. The insurance requirement shall not be construed to conflict with the obligations of **KUSD** in Section 12 of this Agreement. **KUSD** shall maintain during the course of this Agreement a General Liability Insurance with a minimum limit of Five Million ($5,000,000.00) Dollars per occurrence.

10. SIGNAGE. **KUSD** shall not place or erect any permanent (a sign standing for thirty (30) or more days) signs on or about **PREMISES** without the prior, written approval of the **CITY** Director of Parks and compliance with the City Zoning Ordinance and Code of General Ordinances. Should any signs be placed or erected as advertisements for a third party and consideration paid by said third party for the placement or erection of said signs any income derived therefrom shall be the property of **KUSD.**

11. USE RESTRICTIONS. The following restrictions are applicable to **KUSD's** use of **PREMISES.**

a. **PREMISES** shall not be used in a manner inconsistent with the deed restriction contained in the December 19, 1967, Deed from James R. Anderson and Janet L. Anderson to the City of Kenosha providing as follows: "In accepting this conveyance, the Grantee hereby assumes and agrees to maintain the above-described **PREMISES** as a public park."

b. Amplified sound shall not exceed the decibel limit specified in Chapter 23 of the Code of General Ordinances, entitled "Noise Control". Use of a sound system shall be limited to the necessary operations and announcements related to an event. No sound system shall be used during the hours of 10:00 P.M. To 9:00 A.M., daily.

c. The use will be in compliance with all applicable Federal, State, County and **CITY** laws, rules and regulations.

d. The use will not create an unreasonable risk of loss of life, personal injury or property loss or damage, or otherwise threaten the public health, safety or welfare.

e. The use will not unreasonably interfere with the use of Anderson Park by the general public.

f. The use is subject to applicable **CITY** licenses and permits, excluding Park Use Permits.

12. INDEMNITY AND HOLD HARMLESS. **KUSD** does hereby agree that it will, at all times, during the course of this Agreement, indemnify and hold harmless **CITY**, and their officers and employees against any and all claims, liability, loss, charges, damages, costs, expenses or reasonable attorneys' fees, which any of them may hereafter sustain, incur or be required to pay as a result of incidents occurring, after the effective date of this Agreement, on **PREMISES**, or as a result of any operations, works, acts or omission performed on **PREMISES**, by **KUSD**, its officers, employees, or representatives, or resulting from **KUSD's** failure to perform or observe any of the terms, covenants and conditions of this Agreement or resulting from any conditions of **PREMISES** or Improvements thereon by reason of which any person suffers personal injury, death or property loss or damage; provided,

however, that the provisions of this paragraph shall not apply to claims, liabilities, losses, charges, damages, costs, expenses, or attorneys' fees caused or resulting from the negligent or intentional acts or omissions of **CITY**, or any of their officers or employees in which case **CITY** will indemnify and hold harmless **KUSD** and its officers, and employees. Upon the filing with **CITY** of a claim for damages arising out of any incident(s) which **KUSD** herein agrees to indemnify and hold **CITY** and others harmless, **CITY** shall notify **KUSD** of such claim, and in the event that **KUSD** does not settle or compromise such claim, then **KUSD** shall undertake the legal defense of such claim both on behalf of **KUSD** and **CITY**. It is specifically agreed, however, that **CITY**, at its own cost and expense, may participate in the legal defense of any such claim. Any judgment, final beyond all possibility of appeal, which may be rendered against **CITY**, or their officers or employees for any cause for which **KUSD** is liable hereunder, shall be conclusive against **KUSD** as to liability and amount of damages. This provision shall survive expiration or termination of this Agreement to the extent necessary to effectuate its purpose.

13. TERMINATION. This Agreement shall have a minimum term of ten (10) years and will extend for one (1) year periods thereafter unless terminated by either party upon one hundred twenty (120) days written notice to the other. In the event, however, either party should fail to fulfill in a timely manner any of its obligations under this Agreement, the non-breaching party shall have the immediate right to terminate this Agreement by giving sixty (60) days written notice to the breaching party.

14. COUNTERPARTS. This Agreement may be executed in two or more counterparts each of which shall be deemed to be an original.

15. ENTIRE AGREEMENT. This Agreement shall constitute the full and complete agreement of the parties and it shall supersede all prior written or oral agreements, statements or understandings. The parties acknowledge there are no representations, warranties, covenants, or undertakings other than those expressly set forth herein.

16. HEADINGS. The paragraph headings contained in this Agreement are for

reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

17. **LAW GOVERNING.** The interpretation of this Agreement will be governed by and construed and enforced in accordance with the laws of the State of Wisconsin.

18. **SEVERABILITY**. If any of the terms or provisions contained herein shall be declared to be invalid or unenforceable by a court of competent jurisdiction, then the remaining provisions and terms of this Offer shall not be affected thereby and shall remain in full force and effect and shall be valid and enforceable to the fullest extent permitted by law.

19. **AMEND IN WRITING.** This Agreement cannot be amended, changed, altered, or modified except in a writing signed by the parties.

20. **CONSTRUCTION**. This Agreement has been negotiated between the parties, and each party has participated in the drafting of this Agreement; consequently, the doctrine of construing an agreement against a draftsman shall not apply to this Agreement, and neither party has any rights under such doctrine.

21. **WAIVER**. No extension of time, forbearance, neglect or waiver by one party with respect to any one or more of the covenants, terms or conditions of this Agreement shall be construed as a waiver of any of the other covenants, terms or conditions of this Agreement, or as an estoppel against the waiving party, nor shall any extension of time, forbearance or waiver by one party in any one or more instance or particulars be construed to be a waiver or estoppel with respect to any other instance or particular covered by this Agreement.

22. **NOTICE.** Any notice required to be given to any party to this Agreement shall be in writing and delivered either by hand or certified mail, return receipt requested, to the addresses indicated below, or such address as the parties indicate in writing. Notice shall be effective as of the date of delivery, if by hand, or mailing, if by certified mail, return receipt requested.

If to **CITY:** City Clerk/Treasurer/Assessor,
Municipal Building, Room 105,

625 - 52nd Street,
Kenosha, Wisconsin 53140;

with copies to:

City Attorney
Municipal Building, Room 201,
625 - 52nd Street,
Kenosha, Wisconsin 53140.

and

Director of Parks
3617 65th Street
Kenosha, Wisconsin 53142

If to **KUSD:**

Director of Facilities,
Kenosha Unified School District, No. 1,
3600 - 52nd Street,
Kenosha, Wisconsin 53144.

23. AUTHORIZATION. **CITY** enters into this Agreement by authorization of action taken by the Board of Park Commissioners on the _____ day of _____, 2009, and by action taken by the Common Council on the ____ day of _____, 2009.

KUSD enters into this Agreement by authority of its School Board and represents to **CITY** that all acts which are a condition precedent to its entering into this Agreement have timely taken place, and that **KUSD**, under State laws, is able to comply with the terms and conditions of this Agreement.

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

THE BOARD OF PARK COMMISSIONERS
FOR THE CITY OF KENOSHA
A Wisconsin Municipal Corporation

BY:_____
MICHAEL J. ORTH, CHAIRPERSON,

Date:_____

BY:_____

RONALD BURSEK,
DIRECTOR OF PUBLIC WORKS

Date:_____

STATE OF WISCONSIN)
:SS.
COUNTY OF KENOSHA)

Personally came before me this _____ day of _____, 2009, **MICHAEL J. ORTH, Chairperson and RONALD BURSEK, Director of Public Works** of the **CITY OF KENOSHA, WISCONSIN,** a Wisconsin municipal corporation, to me known to be such Chairperson and Director of Parks, and acknowledged to me 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:_____

KENOSHA UNIFIED SCHOOL DISTRICT NO. 1, A Wisconsin Common School District

BY:_____
PAM STEVENS, President,
School Board
Date:_____

BY:_____
GILBERT OSTMAN, Clerk
School Board
Date:_____

STATE OF WISCONSIN)
: SS.
COUNTY OF KENOSHA)

Personally came before me this _____ day of _____, 2009, **PAM STEVENS, President**, of the **Kenosha Unified School District No. 1 School Board**, and **GILBERT OSTMAN, Clerk,** of the **KENOSHA UNIFIED SCHOOL DISTRICT NO. 1,** to me known to be such School Board President and School Board Clerk, and acknowledged that they executed the foregoing instrument as such officers as the agreement of said common school district, by its authority.

_____

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

Drafted By:
WILLIAM K. RICHARDSON
Assistant City Attorney

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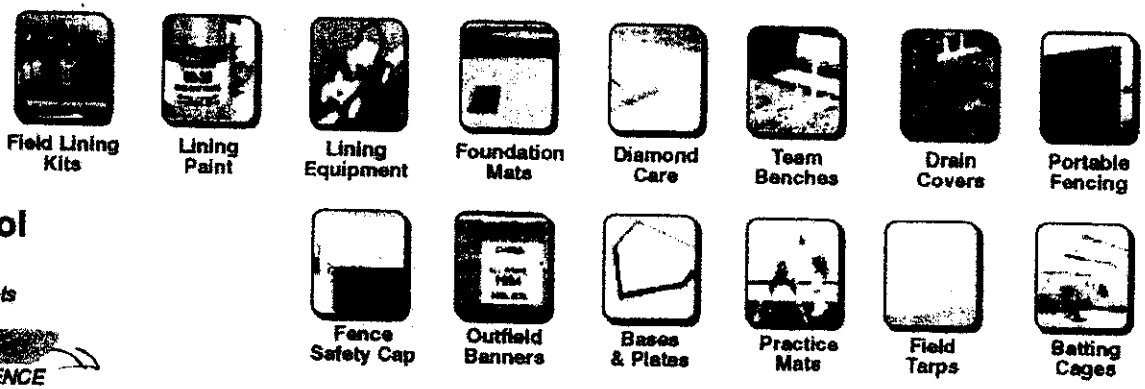
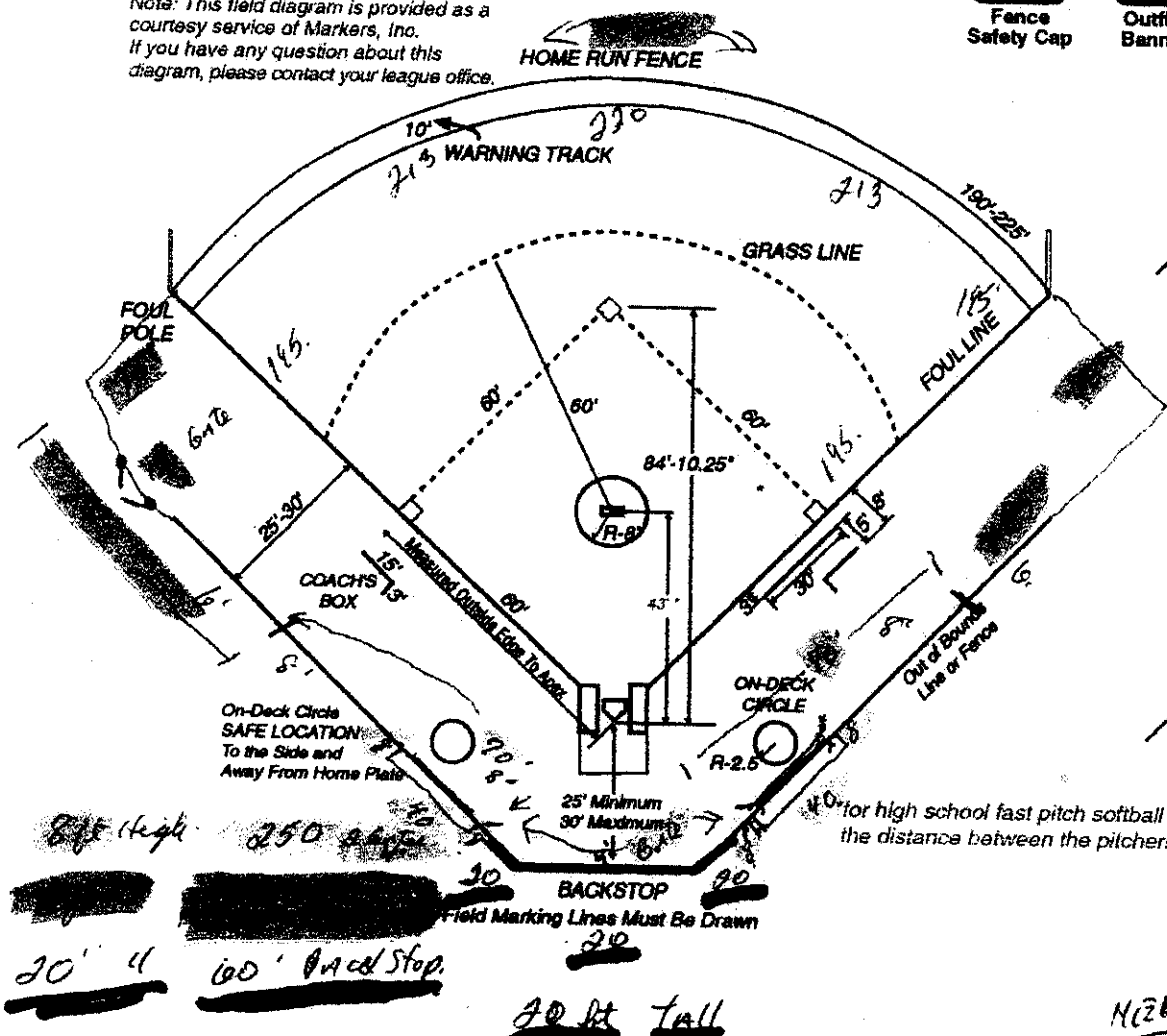
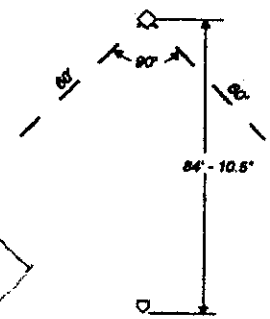


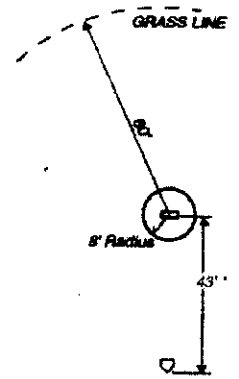
Fast Pitch College / High School Softball Field Dimensions

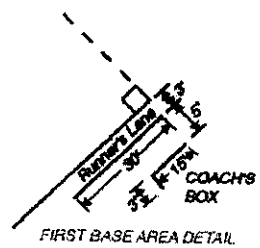
Field Dimensions & Diagram for Field Layout Measurements

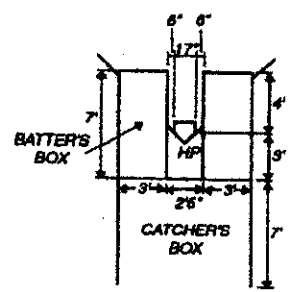
Note: This field diagram is provided as a courtesy service of Markers, Inc. If you have any question about this diagram, please contact your league office.











For high school fast pitch softball the distance between the pitchers mound and home plate is 46'.

Fast Pitch Field Dimensions Courtesy of Markers, Inc.
33490 Pin Oak Parkway, Avon Lake, Ohio 44012 www.markersinc.com

Need Bid on 8ft / Backstop / left Foul

C-3

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TO: Michael Orth, Chairman
Park Commission

FROM: Jan Schroeder

CC: Ron Bursek
Jeff Warnock

SUBJECT: **Change in Guidelines – Park Reservation Fee Payments**

DATE: December 14, 2009

Park, park facilities and athletic reservations require submission of the appropriate application and review of the request by staff. The requests are "penciled in" and require much staff time to finalize the date with the interested parties and collect payment.

In 2010, the guidelines for making a reservation at a park, park facility and athletics will now require firm date(s) for all reservations and payment up front.