

ENROLLED ORDINANCE 167-34

AUTHORIZE AMENDMENTS TO A CONTRACT BETWEEN WAUKESHA COUNTY AND JOHNSON SAND & GRAVEL, INC. (JSG), AND A THREE-WAY MINING AND STORM WATER PRACTICE MAINTENANCE AGREEMENT BETWEEN WAUKESHA COUNTY, JSG, AND WOLF CONSTRUCTION, INC.

WHEREAS Waukesha County owns a 102 acre parcel of land, including a gravel pit, located along the east side of CTH C in Section 6 of the Town of Genesee (“County property”), and

WHEREAS in June 2002, Waukesha County executed Contract #0221 with Johnson Sand & Gravel, Inc. (“JSG”) to complete mining and reclamation work and operate a yard waste composting facility on the county property for a period of 10 years, subject to approved construction plans and all applicable regulations, and overseen by the Department of Parks and Land Use (“PLU”), and

WHEREAS final approved plans and regulatory permits require JSG to comply with a complex list of requirements, including but not limited to: maintaining compliance with detailed Site and Operation Plans for both the mining and composting facilities; executing final grading, storm water management and mine reclamation plans; using all finished compost as a topsoil substitute for mine reclamation; exhuming a previously closed 1-acre county-owned landfill; monitoring groundwater levels and guaranteeing nearby wells from being damaged by aggregate wash operations; and complying with a Three-Way Mining & Storm Water Practice Maintenance Agreement between the County, JSG and Wolf Construction Co., Inc. (neighboring property owner) in accordance with enrolled County Ordinance #158-66 (2003), and

WHEREAS significant delays in execution of Contract #0221 by JSG were caused by both a 2-year long up-front permitting process and the severe national economic recession, and

WHEREAS Contract #0221 with JSG is scheduled to expire on September 15, 2012, and

WHEREAS PLU staff estimate that by the end of 2012, enough compost will have been produced to execute the approved mine reclamation plan for the County property, however, they estimate another 8-10 years is needed to complete the remaining mining and reclamation work, depending on future economic conditions, and

WHEREAS the community demand for the yard waste composting facility remains strong, with over 7,300 tons per year processed for 12 participating communities over the past 7 years, and

WHEREAS PLU staff recommend the continued use of the county property for yard waste composting services until mining and reclamation is complete, at which time the property could be sold, and

WHEREAS since future compost production will exceed county needs for site reclamation, and allowing sale of future compost would help reduce program costs to communities, PLU staff recommend rebidding this portion of the project and allowing future compost to be exported.

THE BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA DOES ORDAIN that Contract #0221 with Johnson Sand & Gravel, Inc. shall be extended ten (10) years or upon completion of approved final grading, storm water and reclamation plans, with the following conditions:

1. *Rebid Composting.* JSG shall allow Waukesha County to accept proposals through a public bidding/RFP process on a revised yard waste composting project specification that allows exporting of the finished compost. JSG is eligible to bid on the revised composting project. JSG further agrees to obtain a certified survey of the finished compost stockpile(s) by September 15, 2012 to document volumes available to execute the approved reclamation plan prior to rebidding the composting operation.
2. *Interim Composting.* JSG agrees to continue operating the existing yard waste composting operation under the conditions of Contract #0221 until the contract is further amended, permits expire, or a new contract is executed.
3. *Cooperation.* JSG agrees to work cooperatively with any new composting contractor on implementing approved reclamation plans and complying with all applicable regulations. JSG further agrees to provide weighing services to the composting contractor for material entering and leaving the site using the existing JSG scale system at costs comparable to those paid by the current subcontractor.
4. *Mining Royalty Fees.* JSG agrees to continue paying Waukesha County annual mining royalty fees due by October 1 of each year in which JSG mines or maintains sand or gravel stock piles on the site. For 2012 and 2013 the annual fee shall remain at \$39,600 in accordance with Contract #0221. For 2014 and later the annual fee shall be \$30,000 per year. If stockpiles are completely removed from the county property after January 1 of any calendar year, royalty fees shall be reduced by 10% per full month prior to October.
5. *Landfill Exhumation.* JSG agrees to exhume the landfill in accordance with approved plans and applicable regulations prior to December 31, 2013.
6. *Three-Way Agreement.* The Three-Way Mining and Storm Water Facility Maintenance Agreement shall be amended to extend timelines for mining along property boundaries, pumping of water needed for aggregate wash operations and monitoring groundwater elevations.
7. *Verification of Compliance.* As a condition of release of the JSG letter of credit, PLU shall verify JSG compliance with the approved final grading, storm water and reclamation plans.
8. *Regulations.* The contract amendment shall only allow JSG to operate in accordance with applicable permits and regulatory approvals, several of which may also need to be revised and extended for the full term of this amendment to apply.

BE IT FURTHER ORDAINED that the Director of the Department of Parks and Land Use is authorized to execute amendments to Contract #0221 with JSG, and the Three-Way Mining and Storm Water Practice Agreement with JSG, Wolf Construction Co. Inc. and the County, in accordance with the above noted conditions and upon review and approval by the Departments of Administration and Corporation Counsel, and;

BE IT FURTHER ORDAINED that any amendment to the Three-Way Agreement shall be recorded by Waukesha County on the Wolf and County properties through the Waukesha County Register of Deeds.

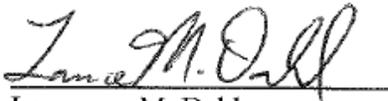
FISCAL NOTE

AUTHORIZE AMENDMENTS TO A CONTRACT BETWEEN WAUKESHA COUNTY AND JOHNSON SAND AND GRAVEL, INC. (JSG), AND A THREE-WAY MINING AND STORM WATER PRACTICE MAINTENANCE AGREEMENT BETWEEN WAUKESHA COUNTY, JSG AND WOLF CONSTRUCTION, INC.

This ordinance authorizes the Waukesha County Department of Parks and Land Use to extend a contract with Johnson Sand and Gravel (JSG) up to ten years for the mining of sand and gravel on a County property and the operation of a yard waste composting operation. Under the terms of the extended agreement, JSG will continue to pay the County an annual royalty fee of \$39,600 through 2013; after which it will be reduced to \$30,000 annually until stockpiles are completely removed from the County property, with a pro-rata reduction for partial operations in the last year.

The agreement as amended allows the County to rebid the composting operation, as there is now sufficient material on-site for reclamation of the property and future material produced will be available for sale. JSG is obligated under the agreement to work cooperatively with any new contractor selected by the County in complying with applicable regulations, and to provide weighing services for material entering and leaving the site.

The mining royalty revenue was included in the 2012 Adopted Budget. Future mining and compost operations revenues will be included in future year budgets.



Lawrence M. Dahl
Accounting Services Manager
08/02/2012

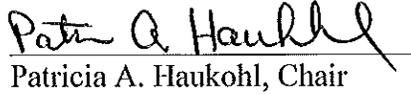
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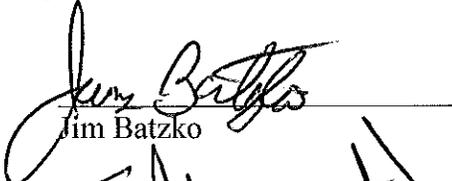
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Presented by: Land Use, Parks and Environment Committee

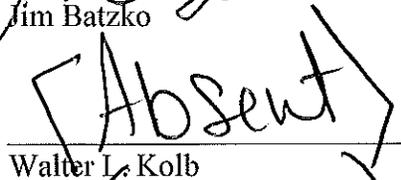
Approved by: Finance Committee

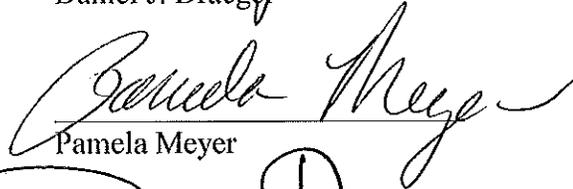

James A. Heinrich, Chair

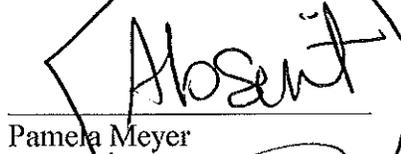

Patricia A. Haukohl, Chair

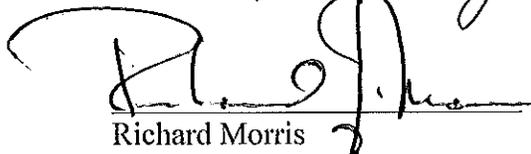

Jim Batzko

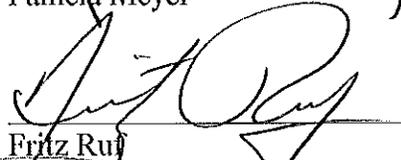

Daniel J. Draeger

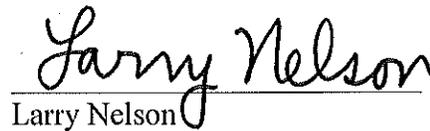

Walter L. Kolb

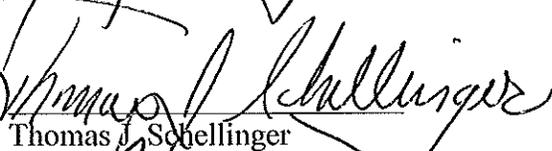

Pamela Meyer


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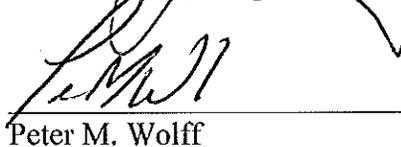

Richard Morris

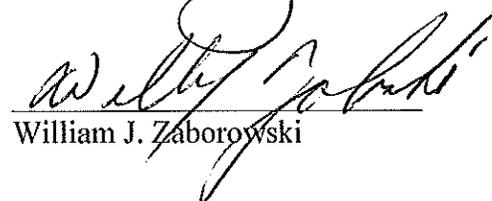

Fritz Ruf


Larry Nelson


Thomas J. Schellinger


Cathleen A. Slattery


Peter M. Wolff


William J. Zaborowski

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 8-31-12, 
Kathy Nickolaus, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X
Vetoed: _____

Date: 9-4-12, 
Daniel P. Vrakas, County Executive

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-08/28/12

(ORD) NUMBER-1670034

- 1 C. SLATTERY.....AYE
- 3 R. MORRIS.....AYE
- 5 J. BRANDTJEN.....AYE
- 7 J. GRANT.....AYE
- 9 J. HEINRICH.....AYE
- 11 F. RUF.....AYE
- 13 P. DECKER.....AYE
- 15 W. KOLB.....AYE
- 17 D. PAULSON.....AYE
- 19 C. CUMMINGS.....AYE
- 21 W. ZABOROWSKI.....AYE
- 23 K. HAMMITT.....AYE
- 25 G. YERKE.....AYE

- 2 D. FALSTAD.....AYE
- 4 J. BATZKO.....AYE
- 6 J. JESKEWITZ.....AYE
- 8 P. HAUKOHL.....AYE
- 10 D. SWAN.....AYE
- 12 P. WOLFF.....AYE
- 14 P. MEYER.....AYE
- 16 M. CROWLEY.....AYE
- 18 L. NELSON.....AYE
- 20 T. SCHELLINGER.....AYE
- 22 P. JASKE.....AYE
- 24 D. DRAEGER.....AYE

TOTAL AYES-25

TOTAL NAYS-00

CARRIED_____

DEFEATED_____

UNANIMOUS X

TOTAL VOTES-25