



**BOROUGH OF EDGEWATER
RESOLUTION**

COUNCILPERSON	YES	NO	ABSTAIN	ABSENT
HENWOOD	X			
DORAN	X			
MONTE			X	
VIDAL	X			
JORDAN				X
BARTOLOMEO	X			
MAYOR				

DATE: February 18, 2014

RESOLUTION NO. 2014-063

INTRODUCED BY: Councilman Vidal

SECOND BY: Councilman Bartolomeo

WHEREAS the Borough of Edgewater, in accordance with the Local Public Contract Law, awarded a contract to Waterside Construction, LLC on June 18, 2012 by Resolution No. 2012-192, which project included remediation and renovations to Veteran's Field in accordance with the bid specifications; and

WHEREAS the site remediation included the removal and disposal of contaminated materials from the site in accordance with State and Federal regulations and the terms and conditions set forth in the Contract; and

WHEREAS pursuant to the terms of the Contract, the Contractor was obligated to import only certified clean fill or stone to the site from a quarry and/or crushed virgin rock; In addition, the contractor could use only certified clean top soil and sod from a clean approved source; and

WHEREAS the Borough retained the services of TERMS Environmental Services to act as their Licensed Site Remediation Professional (LSRP) to oversee the entire remediation project and to ensure that the Contractor complied with the terms and conditions of the Contract. Any fill brought to site was subject to the approval of the LSRP; and

WHEREAS by letter dated October 3, 2013, TERMS Environmental Services issued a letter to the Borough, advising that the Contractor had imported improper fill that contained high levels of PCB's onto Veteran's Field. As a result thereof, TERMS immediately closed the field until such time as they could complete an assessment of the field and develop a work plan to remove the fill. TERMS issued a follow-up letter dated October 30, 2013, confirming that improper fill was brought to Veteran's Field by the Contractor; and

WHEREAS meetings were held between the Borough representatives, TERMS and Waterside Construction to discuss the level of contamination and the steps that must be taken

in order to remediate the site and remove the improper fill brought on to the site by the Contractor; and

WHEREAS meetings were held between the Borough representatives, TERMS and Waterside Construction to discuss the level of contamination and the steps that must be taken in order to remediate the site and remove the improper fill brought on to the site by the Contractor; and

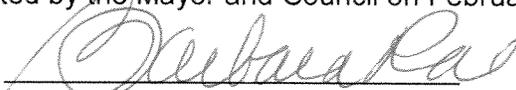
WHEREAS by letter dated February 5, 2014, TERMS advised the Borough that all soil samples taken at the site had been validated by an independent testing lab selected by the Contractor, and further advised that approximately 25,000 cubic yards of improper fill must be removed from the site; and

WHEREAS after thorough deliberation and consideration, the Borough has determined that Waterside Construction had imported contaminated fill onto the site and such action constitutes a material breach of contract, and that Waterside Construction, LLC does not have the means nor qualifications under New Jersey law to remediate the site; and

NOW, THEREFORE BE IT RESOLVED that the Borough of Edgewater hereby declares Waterside Construction in DEFAULT of the Contract for violations of the terms and conditions of the Contract, and the Borough shall pursue all remedies available to them to hold the Contractor responsible for such breach and the Borough shall pursue the prompt completion of this project. Furthermore, the Borough will retain the Services of TERMS and Neglia Engineering during the period the Remedial Action Work Plan is implemented to remediate the soil contamination. At the conclusion of the Remedial Action Work Plan, the Borough will evaluate both the LSRP and the Engineer to determine whether they or other consultants will be retained to complete the renovations to Veteran's Field.

A copy of this Resolution shall be sent to Waterside Construction, LLC and Liberty Mutual Insurance Company, which company issued the Performance and Payout Bond for this project.

I hereby certify that the above Resolution was adopted by the Mayor and Council on February 18, 2014.


BARBARA RAE, RMC, CMC
Borough Clerk