

RESOLUTION NO. 2008-35

**RESOLUTION BY THE ECONOMIC DEVELOPMENT AND LAND USE PLANNING COMMITTEE
AUTHORIZING AND APPROVING THE IMPLEMENTATION AGREEMENT AND SETTLEMENT
AGREEMENT AFFECTING THE VEOLIA ES EMERALD PARK LANDFILL**

To the Honorable Members of the Racine County Board of Supervisors:

BE IT RESOLVED by the Racine County Board of Supervisors that Racine County Planning and Development Department is authorized to execute the Implementation and Settlement Agreements as detailed the draft documents titled "Exhibit A," that is attached hereto, resulting from the litigation in Waukesha County Case No. 99-CV-1476 in order to complete the final steps.

BE IT FURTHER RESOLVED that the Racine County Board of Supervisors authorize Corporation Counsel to prepare a final draft with necessary and appropriate terms and conditions consistent with the intent and purpose of this resolution.

BE IT FURTHER RESOLVED by the Racine County Board of Supervisors that any two of the County Clerk, the County Executive and/or the County Board Chairman are authorized to execute any contracts, agreements or other documents necessary to carry out the intent of this resolution.

Respectfully submitted,

1st Reading _____

**ECONOMIC DEVELOPMENT AND LAND USE
PLANNING COMMITTEE**

2nd Reading _____

BOARD ACTION

Robert D. Grove, Chairman

Adopted _____

For _____

Against _____

Absent _____

Mark M. Gleason, Vice Chairman

VOTE REQUIRED: Majority

Dan F. Sharkozy, Secretary

Prepared by:
Corporation Counsel

Kenneth Hall

Thomas Pringle

Q. A. Shakoor, II

John A. Wisch

4
5 **INFORMATION ONLY**
6

7 **WHEREAS**, on or about December 23, 2005, Onyx Emerald Park, LLC submitted an Initial
8 Site Report for the Onyx Emerald Park Landfill Western Horizontal Expansion; and
9

10 **WHEREAS**, the Onyx Emerald Park Landfill (formerly known as the Emerald Park Landfill
11 and the Superior Emerald Park Landfill) is a solid waste disposal facility located within the City of
12 Muskego, Waukesha County, Wisconsin; and
13

14 **WHEREAS**, Onyx Emerald Park Landfill, LLC, a domestic limited liability company, is the
15 current owner of the Onyx Emerald Park Landfill; and
16

17 **WHEREAS**, the City of Muskego, Waukesha County, City of Franklin, Town of Norway, and
18 Racine County each constitute an "Affected Municipality" under Wis. Stat. § 289.01(1); and
19

20 **WHEREAS**, the Onyx Emerald Park Landfill is licensed by the Wisconsin Department of
21 Natural Resources ("WDNR") under WDNR License No. 3290 pursuant to Chapter 289 of the
22 Wisconsin Statutes; and
23

24 **WHEREAS**, the Onyx Emerald Park Landfill is further subject to multiple agreements, to
25 wit: the Interim Construction Agreement, Stipulation as to Agreed Upon Issues as to Negotiated
26 Agreement, the Arbitration Award of the Wisconsin Waste Facilities Siting Board, the Settlement
27 Agreement and Mutual Release in Case No. 99-CV-1476, and the January 20, 2000 Letter of
28 Understanding regarding City of Muskego v. Superior Emerald Park Landfill, Inc. (all of which are
29 collectively referred to herein as the "Agreement"); and
30

31 **WHEREAS**, the Agreement arises out of, and is related to, an expansion of the Onyx
32 Emerald Park Landfill; and
33

34 **WHEREAS**, the Agreement was ultimately concluded on or about March 13, 2000 after
35 approximately two years of contentious litigation; and
36

37 **WHEREAS**, the aforementioned Stipulation as to Agreed Upon Issues as to Negotiated
38 Agreement and the Negotiated Agreement incorporated therein (the "Negotiated Agreement") was
39 entered into under Wis. Stat. § 289.33(9)(g); and
40

41 **WHEREAS**, Paragraph 27 of the Negotiated Agreement (attached hereto and incorporated
42 by reference as Exhibit "A") expressly grants the Affected Municipalities the option to waive
43 negotiations for future expansions and thereby make applicable all terms and rate schedules for
44 compensation set forth in the Negotiated Agreement.