

**AGENDA**  
**BOARD OF PARK COMMISSIONERS**  
**Kenosha Municipal Building - Room 202**  
**Monday, April 9, 2012 - 5:00 pm**

**Chairman: Michael J. Orth**  
**Commissioner: Jesse L. Downing**  
**Commissioner: Lawrence Green**

**Vice Chair: Rocco J. LaMacchia, Sr.**  
**Commissioner: Anthony Kennedy**

**Call to Order**  
**Roll Call**

**A. APPROVAL OF MINUTES**

A-1. Approval of the minutes of the meeting held on March 26, 2012.

**B. DEFERRED**

B-1. Request from the Urban League of Racine and Kenosha to rescind the total amount of charges for the Juneteenth Festival on Saturday, June 25, 2011. *(Deferred from the 3/26/12 meeting)*

**C. REFERRED TO COMMISSION**

C-1. Request from Wisconsin Shores Little League to waive the Athletic fees for their 2012 League. *(District 10)*

C-2. Request from Pedro Nunez for permission to operate his peddler business on Simmons Island Beach and at Nash Park. *(District 2 & 11)*

C-3. Request from Kenosha Common Markets, Inc for Temporary use of the City's Power Generator at Place de Douai. *(District 2)*

C-4. Approval of Professional Services Agreement for Task Order #6 with SAA Design Group, Inc., for the Shagbark Park Trail Development for \$23,000. *(District 10)*

C-5. Award the Professional Service Contracts for:

- a. Parkway Tree Removal Project #12-1410 to Droprite Tree & Landscape Service, LLC *(Somers, Wisconsin)* in the amount of \$62,500 *(Also referred to Public Works)*
- b. Parkway Tree Pruning Project #12-1133 to Trees "R" Us, Inc *(Wauconda, Illinois)* in the amount of \$76,000. *(Also referred to Stormwater Utility)*
- c. Parkway Tree Planting Project #12-1412 to Paul Swartz Nursery & Garden Shop Inc *(Burlington, WI)* in the amount of \$33,000

**INFORMATIONAL ITEMS:**

1. Project Status Report
2. Grants – Sunrise - Shagbark

DIRECTOR AND/OR SUPERINTENDENT COMMENTS  
CITIZEN COMMENTS/COMMISSIONER COMMENTS/OTHER BUSINESS AS 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.

**BOARD OF PARK COMMISSIONERS**  
**Minutes of Meeting held Monday, March 26, 2012**

A meeting of the Board of Park Commissioners was held on Monday, March 26, 2012, in Room 202 of the Kenosha Municipal Building. The meeting was called to order at 5:00 pm by Chairman Orth.

At roll call, the following members were present: Commissioners LaMacchia and Green. Commissioner Downing arrived before item C-1. Commissioner Kennedy was excused.

It was moved by Commissioner Green, seconded by Commissioner LaMacchia, to approve the minutes from the meeting held on Monday, March 12, 2012. Motion passed unanimously.

- C-1. Request from the Urban League of Racine and Kenosha to waive the fees for the Juneteenth Festival on Saturday, June 25, 2012.  
Public Hearing: Yolanda Adams (CEO for the Urban League of Racine and Kenosha) spoke. It was moved by Commissioner Green, seconded by Commissioner LaMacchia to defer for two weeks. Motion carried unanimously.

**INFORMATIONAL ITEMS:**

1. Project Status Report

There being no further business to come before the Board of Park Commissioners it was moved, seconded and unanimously carried to adjourn at 5:06 pm.



**Engineering Division**  
Shelly Billingsley P.E.  
Director of Engineering  
**Fleet Maintenance**  
Mauro Lenci  
Superintendent  
**Park Division**  
Jeff Warnock  
Superintendent

**Street Division**  
John H. Prijic  
Superintendent  
**Waste Division**  
Rocky Bednar  
Superintendent

**DEPARTMENT OF PUBLIC WORKS**

**Michael M. Lemens, P.E., Director**

Municipal Building · 625 52<sup>nd</sup> ST · RM 305 · Kenosha, WI 53140  
Telephone (262) 653-4050 · Fax (262) 653-4056

March 23, 2012

TO: Chairman Michael Orth, Board of Park Commissioners  
FROM: Jeff Warnock, Park Superintendent  
RE: 2011 Juneteenth Festival

The Urban League of Racine and Kenosha is requesting a 100% sponsorship of their 2011 fees for their 2011 Juneteenth Festival held in Lincoln Park. The organization was billed a total of \$675 in fees for the use of the park and equipment.

History

This event has received 100% sponsorship in previous years. Enclosed you will find the letter of recommendation from staff and the vote from the 2011 Park Commission meeting.

For their 2012 event – the commission approved 50% sponsorship of the fees

Recommendation

To deny the request



Urban League

Empowering Communities.  
Changing Lives

## **URBAN LEAGUE** of Racine and Kenosha, Inc.

*An affiliate of the National Urban League*

718 N. Memorial Dr., Racine, WI 53404 \* Ph 262-637-8532 \* Fax 262-637-8634  
1418-68<sup>th</sup> St., Kenosha, WI 53143 \* Ph 262-652-2111 \* Fax 262-652-7044

December 20, 2011

Alderman Michael J. Orth  
Chair, Kenosha Board of Park Commissioners  
6211-40<sup>th</sup> Ave.  
Kenosha, WI 53142

Dear Chairman Orth:

This letter serves as our agency's request to have \$675 in fees waived as follows:

- \$100 – park facility fee for 06/25/11 Juneteenth Festival
- \$450 – equipment fee for 06/25/11 Juneteenth Festival
- \$125 – show mobile fee for 06/25/11 Juneteenth Festival

The Juneteenth Festival held on Saturday, June 25, 2011 at Lincoln Park netted a small deficit. A portion of the deficit resulted from the cost of adding security (Schmitt Protective Services). Regardless, it was a success in that it engaged the community on a beautiful day in Kenosha around a historic event that should never be forgotten.

Please include this request from the Urban League for a fee waiver as an agenda item at a future meeting of the Park Commissioners. I will attend the meeting to provide information and answer any questions that may arise from members of the Parks Commission.

Thank you in advance for your consideration of this request.

Sincerely,

## Yolanda Adams

President and CEO

Cc: Joseph F. Madrigrano, ULRK Board Chair  
Kelle Laura Rogers, ULRK Chair of Finance



**Engineering Division**  
Michael M. Lemens, P.E.  
Director/City Engineer  
**Fleet Maintenance**  
Mauro Lenci  
Superintendent

**Street Division**  
John H. Prijic  
Superintendent  
**Waste Division**  
Rocky Bednar  
Superintendent  
**Parks Division**  
Jeff Warnock  
Superintendent

B-1

## DEPARTMENT OF PUBLIC WORKS

Ronald L. Bursek, P.E., Director

Municipal Building · 625 52<sup>nd</sup> ST · RM 305 · Kenosha, WI 53140  
Telephone (262) 653-4050 · Fax (262) 653-4056

April 7, 2011

TO: Chairman Orth, Board of Park Commissioners  
FROM: Jeff Warnock, Superintendent of Parks *JW*  
RE: Special Event: Juneteenth Day

A request has been received from the Urban League of Racine & Kenosha, Inc. to use Lincoln Park and various pieces of equipment for their Juneteenth Festival. The event will be held on Saturday, June 25, 2011 from 11:00 am – 6:00 pm. This event has been held for several years and has been co-sponsored.

They are requesting use of benches, picnic tables and the new showmobile. The cost for the event including setup and take down in 2010 was \$1,132.36

Recommendation of staff: Approve the event, with no sponsorship

# To the Honorable Mayor and Common Council B-1

Your Committee on Board of Park Commissioners on: April 27, 2011

to whom was referred: Request form the Urban League of Racine & Kenosha, Inc. to hold their Juneteenth Festival at Lincoln Park on Saturday, June 25, 2011 and requesting full sponsorship. (District 8 & 12) (Deferred from the meeting held on April 11, 2011)

MOTION: Downing

SECOND: Green

Respectfully report and recommend:

Approve as recommended.

4-0

## COMMITTEE

## CIRCLE ONE

  
Michael J. Orth, Chairman

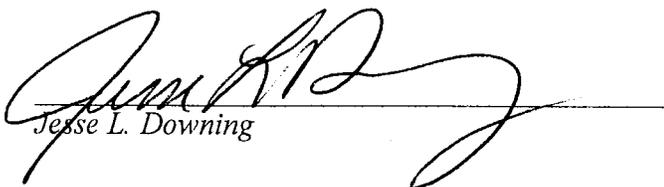
Aye

No

  
Rocco J. LaMacchia, Sr.

Aye

No

  
Jesse L. Downing

Aye

No

Anthony Kennedy

Aye

No

  
Lawrence F. Green

Aye

No

## MEMO INVOICE REQUISITION

<b>Customer:</b> Urban League of Racine/Kenosha	<b>Date:</b> October 25, 2011
<b>Address:</b> 718 N. Memorial Drive Racine WI 53404	<b>Assigned Invoice Number:</b> 111335 OCT 31 2011 <i>nk</i>
<b>Attn:</b> Yolanda Adams	<b>Customer Number:</b> 1512

Description	Amount												
Juneteenth Festival at Lincoln Park on June 25, 2011													
Park Facility Fee	\$100.00												
Equipment: 30 benches (\$150.00); 20 Picnic tables (\$300.00) and the use of showmobile Non-Profit (\$125.00)	\$575.00												
													
<table border="0" style="width: 100%;"> <tr> <td style="width: 30%;">Account Number(s)</td> <td style="width: 40%;">Issuing Department – Name &amp; Number</td> <td style="width: 30%; text-align: right;">Total</td> </tr> <tr> <td>110-00-46529 - \$100</td> <td><i>9</i> Parks – 10</td> <td></td> </tr> <tr> <td>110-00-46510 - \$575</td> <td>450.00</td> <td style="text-align: right;">\$675.00</td> </tr> <tr> <td>110-00-46531 - \$125</td> <td>125.00</td> <td></td> </tr> </table>	Account Number(s)	Issuing Department – Name & Number	Total	110-00-46529 - \$100	<i>9</i> Parks – 10		110-00-46510 - \$575	450.00	\$675.00	110-00-46531 - \$125	125.00		
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110-00-46529 - \$100	<i>9</i> Parks – 10												
110-00-46510 - \$575	450.00	\$675.00											
110-00-46531 - \$125	125.00												



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## DEPARTMENT OF PUBLIC WORKS

**Michael M. Lemens, P.E., Director**

Municipal Building · 625 52<sup>nd</sup> ST · RM 305 · Kenosha, WI 53140  
Telephone (262) 653-4050 · Fax (262) 653-4056

April 4, 2012

TO: Chairman Michael Orth, Board of Park Commissioners  
FROM: Jeff Warnock, Park Superintendent  
RE: Wisconsin Shores Little League

A request has been received from Wisconsin Shores Little League for 100% sponsorship of their athletic fees. This organization has utilized in the past Forest Park ball diamonds for their games, the past two years they have been playing at the Kenosha Sports Complex.

History: The organization has received a 100% sponsorship for each year

Fees: 2012 Fees: \$20.00 per field/per day - 11 weeks on all 4 diamonds = \$880.00

Recommendation: To approve the games with 100% sponsorship



# WISCONSIN SHORES LITTLE LEAGUE

Challenger Division of Little League Baseball, Inc.

Kenosha, Wisconsin



January 27, 2012

Mr. Jeff Warnock  
Parks Department  
Kenosha Municipal Building  
625-52<sup>nd</sup> Street  
Kenosha, WI 53142



Dear Mr. Warnock,

I am Jackie Battersby, president of Wisconsin Shores Little League. We are a Challenger Division of Little League Baseball and are a 501(c) non profit corporation. We are about to start our 21st season in Kenosha. Our league serves children ages 5-18, or 21 if they are still in school. These children are not able to participate in "regular" baseball leagues due to a disability or disabilities they have. These disabilities include cognitive and physical disabilities, hearing and visual impairments, autism and other health impairments.

We have anywhere from 6-8 teams participating. Little League has been very good to us over the years. We get to participate in Little League night at the Kenosha Brewers every June. The players get to walk around the field before the game starts and shake hands with a few of the players. They are also get to play at Helfaer Park with other Challenger players in the Milwaukee area. At the end of the season, the Brat Stop provides us with a dinner for our families. This is at no cost to us. We pay for the cake and trophies. We also pay for insurance and Little League charter fees. Each player is provided with a shirt and hat. All of this is at no cost to them. We charge \$300 for each team sponsor, so we operate on an extremely tight budget. We do not charge our players any fees. Many would not be able to afford even a modest fee.

We feel our league provides not only a valuable recreational activity to our special needs children, but we also try to help parents with "navigating the system" when it comes to medical and school issues. We kindly ask that our waive the fees involved with playing at the park. We kindly ask that our fees be waived.

If you have any questions, please feel free to contact me.

Thank you.

Jackie Battersby  
President  
WISCONSIN SHORES LITTLE LEAGUE

International Office located in  
Williamsport, PA • Charter #149-06-03

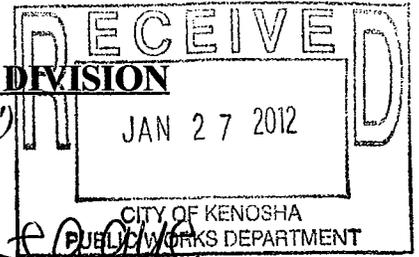
**PARK USE AGREEMENT**

*By And Between*

**THE CITY OF KENOSHA, WISCONSIN – PARK DIVISION**

*(Hereinafter referred to as "Park Division")*

*And*



PERMITTEE Wisconsin Shores Little League

ADDRESS 4216-25<sup>th</sup> Street, Kenosha WI 53144

CONTACT PERSON RESPONSIBLE FOR THE EVENT Jackie Battersby

TITLE President

TELEPHONE 551-7555 (prior to event) 705-8212 (during event)

The above parties, in consideration of the mutual understanding, undertakings and agreements hereinafter set forth, agree as follows:

**1. PARK USE**

**PARK DIVISION** will make available to PERMITTEE certain park property, as follows:

- a) Name of Park Kenosha Sports Complex (1-4)
- b) Park Activity Softball
- c) Date(s) and Time 9-10:30 am

Saturdays, June 2 thru August 11

**2. RESPONSIBILITY OF THE PARK DIVISION**

**PARK DIVISION**, although responsible for the general maintenance of said City park, will not inspect the area to be used immediately prior to the use to determine whether or not the area is suitable and safe for such use and it will not supervise such use.

**3. RESPONSIBILITY OF PERMITTEE**

**PERMITTEE** agrees to:

- a) Inspect the Park areas to be used, in accordance with, but not limited to, the **Safety Checklist**, which is attached hereto as Exhibit "**A**" and incorporated herein by reference, immediately prior to their use to determine whether or not the area is suitable and safe for such use. If said, inspection reveals that any such area is not suitable and safe for such use, the area shall not be used until the area is made suitable and safe for such use.
- b) Report unsafe conditions in the area to the City of Kenosha Park Division or Police Division as soon as possible.

- c) Warn all persons using the area under authority of this agreement of the risks and hazards of the intended use and of any unsafe conditions which may exist or portions of any area which are not suitable for use.
- d) Supervise all persons using area under authority of this agreement.
- e) Use Park Area in accordance with General and Special Park Rules and Regulations, a copy of which is attached hereto as **EXHIBIT 'B'** and incorporated herein by reference.
- f) Be financially responsible for any damage to the Park Area and Buildings and Structures thereon, which are caused by the negligent or intentional acts of persons using area under authority of this agreement.
- g) Applicants who are subject to the Americans with Disabilities Act shall comply herewith.

4. **SECURITY**

**PERMITTEE** shall provide private security at its expense for this event to provide a reasonable amount of protection for persons and property.

5. **INDEMNITY AND HOLD HARMLESS**

**PERMITTEE** shall indemnify and hold harmless **CITY** and **PARK DIVISION** and their officers and employees from and against any and all liability, claims, damages, expenses, attorney fees, cost, judgments or settlements which any of them may sustain should any person or party incur or suffer death, personal injury, or property damage as a result of any act or omission arising out of the use of park property or out of any breach of this agreement upon the part of **PERMITTEE** or its officers, employees or agents.

6. **INSURANCE**

**PERMITTEE** shall obtain and maintain one (1) or more policy(ies) of liability insurance written by one (1) or more insurance company(ies) licensed to do business in the State of Wisconsin, which shall contain an endorsement for contractual liability to support the indemnity and hold harmless provision of this agreement, covering death, personal injury and property damage in the amount of **One Million Dollars (\$1,000,000.00)**. A Certificate of Insurance shall be filed with the Park DIVISION prior to the event, which shall confirm said coverage and provide the City with twenty (20) days advance written notice of the cancellation, change or termination of said insurance policy(ies).

7. **AUTHORITY**

a) **PARK DIVISION**

The Park Superintendent is authorized to execute this agreement under authorization of Section 6.05E (2) of the Code of General Ordinances.

b) **PERMITTEE**

The **PERMITTEE** enters into this agreement by authority of

Wisconsin Shores Little League

IN WITNESS WHEREOF, the parties hereto have herein executed this agreement on the dates below given.

**CITY OF KENOSHA PARK DIVISION**

By Jeff Warnock  
Signature

Date 1/29/12

Title: Superintendent

STATE OF WISCONSIN  
COUNTY OF KENOSHA)

Personally came before me this 29 day of January, 2012.  
Jeff Warnock, to me known to be such Park Superintendent or his designee within the Park Division and acknowledge that he executed this foregoing instrument as under the authority of said Park Division, by its authority.

Mary F. Durkee  
Notary Public, Kenosha County, Wisconsin  
My Commission expires/is 4-29-2012

**Read carefully before signing: This is a Legal Document carrying financial obligations.**

**I have read all Park Rules and Regulations and understand all requirements that are listed in the approval letter. BE SURE TO HAVE YOUR SIGNATURE NOTARIZED.**

**PERMITTEE**

By Jacqueline A. Battersby

Date 1/27/12

STATE OF Wisconsin  
COUNTY OF Kenosha

The above duly authorized representative of PERMITTEE personally came before me this 27 day of January, 2012 to me known to be the persons who executed the foregoing instrument, and acknowledged that they executed the foregoing instrument on behalf of the PERMITTEE and by its authority.

**NOTARY PUBLIC  
STATE OF WISCONSIN  
JODI D. MCKINNEY**  
Jodi D. McKinney

Jodi D. McKinney  
Notary Public, Kenosha County, Wisconsin  
My Commission expires/is 12-21-14



**Engineering Division**  
Shelly Billingsley P.E.  
Director of Engineering  
**Fleet Maintenance**  
Mauro Lenci  
Superintendent  
**Park Division**  
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Superintendent

## DEPARTMENT OF PUBLIC WORKS

**Michael M. Lemens, P.E., Director**

Municipal Building · 625 52<sup>nd</sup> ST · RM 305 · Kenosha, WI 53140  
Telephone (262) 653-4050 · Fax (262) 653-4056

April 3, 2012

TO: Chairman Michael Orth, Board of Park Commissioners  
FROM: Jeff Warnock, Park Superintendent  
RE: Peddler request from Pedro Nunez

A request has been received from Pedro Nunez for permission to operate his peddler business at Nash Park on Saturday and Sundays during soccer games and at Simmons Island Beach every day from 9:00 am to 8:00 pm as weather permits. Mr. Nunez received permission and complied with all requirements in 2011.

Necessary requirements would be as follows:

1. Enter into a Concession Agreement with the City of Kenosha Park Division.
2. Provide a Certificate of Liability Insurance in the amount of \$2,00,000, which names the City of Kenosha as an additional insured. **\*Received**
3. Provide a copy of the permit issued by the Kenosha County Health Department. **\*Received**
4. Provide a copy of all necessary permits issued by the City of Kenosha Clerk's Office. **\*Received**
5. All trash in the area must be picked up and disposed of properly.
6. In compliance with all Park Rules and Regulations.

Recommendation: To approve the request contingent upon compliance with the above requirements.



First of all Pedro's food would like to thank the board of park commissioners for the opportunity to submit this business proposal.

Pedro's food has been in business since 1998 in the city of Kenosha serving hotdogs, corn, snow cones, tamales, sodas, and chips keeping an outstanding record on customer service and never a health violation.

We have participated in several different events like Kenosha Harbor Market, Sunny Summers Market, The taste of Wisconsin, and the 4<sup>th</sup> of July fireworks just to mention a few.

Pedro's food is insured with \$2,000,000 liability insurance and has all the permits required by the city of Kenosha and the Kenosha health department.

The purpose of this letter is to request permission to operate my business on Nash park on Saturdays and Sundays during soccer games and Simmons Island Beach every day from 9am to 8pm as weather permits. At the end of the day we will walk through the area picking up trash and we will dispose of it properly.

Please feel free to contact me with any questions or concerns that you may have.

Pedro Nunez  
(262) 748-3759  
1309 67<sup>th</sup> Pl.  
Kenosha, WI  
53143  
Thank you very much!  
Pedro Nunez.



**CITY OF KENOSHA**  
Issued Pursuant to Section  
13.03 of the Code of General  
Ordinances

**PEDDLER LICENSE**

VALID: 11/22/11

EXPIRES: 09/30/12

Lic. No.: 014874 126 120004

PEDRO I NUNEZ  
1309 67TH PLACE  
KENOSHA, WI 53143





# DIVISION OF HEALTH

8600 Sheridan Rd Suite 600  
Kenosha, Wisconsin 53143-6515

LICENSE, PERMIT  
OR REGISTRATION

## ACTIVITY

MOBILE RESTAURANT (REGULAR)

## EXPIRATION DATE

6/30/2012

## LICENSE NO.

19828

This license is issued pursuant to Chapter 16 of the Municipal Code of Kenosha County

13-65513  
PEDRO'S FOOD  
PEDRO NUNEZ  
1824 52ND ST  
KENOSHA, WI 53140

POST IN PLAIN PUBLIC VIEW

NON - TRANSFERABLE

KENOSHA COUNTY  
KENOSHA, WISCONSIN

LICENSE NO.

19828

DATE PAID	UNITS	CLASSIFICATION	DESCRIPTION	AMOUNT
6/28/2011	1	REST (R)	RESTAURANT (R) ADMIN FEE \$37.00	37.00
6/28/2011	1	REST (R) 409	RESTAURANT (REGULAR) \$409	409.00

TOTAL: 446.00

**\*\*\* THIS IS NOT A BILL \*\*\***

Mailing Address:

PEDRO'S FOOD  
1309 67TH PL  
KENOSHA, WI 53140



# DIVISION OF HEALTH

8600 Sheridan Rd Suite 600  
Kenosha, Wisconsin 53143-6515

LICENSE, PERMIT  
OR REGISTRATION

## ACTIVITY

MOBILE SERVICE BASE (PREPACKAGE 6/30/2012

## EXPIRATION DATE

## LICENSE NO.

19826

This license is issued pursuant to Chapter 16 of the Municipal Code of Kenosha County

09-65514  
PEDRO'S FOOD  
PEDRO NUNEZ  
1824 52ND ST  
KENOSHA, WI 53140

POST IN PLAIN PUBLIC VIEW

NON - TRANSFERABLE

KENOSHA COUNTY  
KENOSHA, WISCONSIN

## LICENSE NO.

19826

DATE PAID	UNITS	CLASSIFICATION	DESCRIPTION	AMOUNT
6/28/2011	1	REST (P)	RESTAURANT (P) ADMIN FEE \$11.00	11.00
6/28/2011	1	REST (P) 176	RESTAURANT (PREPACKAGED) \$176	176.00

TOTAL: 187.00

**\*\*\* THIS IS NOT A BILL \*\*\***

### Mailing Address:

PEDRO'S FOOD  
1309 67TH PL  
KENOSHA, WI 53140



# DIVISION OF HEALTH

8600 Sheridan Rd Suite 600  
Kenosha, Wisconsin 53143-6515

LICENSE, PERMIT  
OR REGISTRATION

## ACTIVITY

TEMPORARY RESTAURANT

## EXPIRATION DATE

6/30/2012

## LICENSE NO.

19867

This license is issued pursuant to Chapter 16 of the Municipal Code of Kenosha County

29-  
PEDRO'S FOOD  
PEDRO NUNEZ  
TEMPORARY LICENSE  
KENOSHA, WI 53143

POST IN PLAIN PUBLIC VIEW

NON - TRANSFERABLE

KENOSHA COUNTY  
KENOSHA, WISCONSIN

LICENSE NO.

19867

DATE PAID	UNITS	CLASSIFICATION	DESCRIPTION	AMOUNT
6/30/2011	1	REST (T)	RESTAURANT (TEMP) ADMIN FEE \$17	17.00
6/30/2011	1	REST (T) 108	RESTAURANT (TEMPORARY) \$108	108.00

TOTAL: 125.00

**\*\*\* THIS IS NOT A BILL \*\*\***

Mailing Address:

PEDRO'S FOOD  
1309 67TH PL  
KENOSHA, WI 53143



**PEKIN INSURANCE COMPANY**  
 (A STOCK COMPANY)  
 HOME OFFICE 2505 COURT STREET PEKIN, ILLINOIS 61558

**COMMERCIAL GENERAL LIABILITY COVERAGE PART DECLARATIONS  
 AMENDING POLICY**

**NAMED INSURED:** PEDRO'S FOOD  
 PEDRO NUNEZ DBA

**POLICY NO:** CL0140005-0

**LIMITS OF INSURANCE:**

GENERAL AGGREGATE LIMIT (OTHER THAN PRODUCTS-COMPLETED OPERATIONS)	\$ 2,000,000. INCLUDED
PRODUCTS-COMPLETED OPERATIONS AGGREGATE LIMIT	1,000,000.
PERSONAL & ADVERTISING INJURY LIMIT (ANY ONE PERSON OR ORGANIZATION)	1,000,000.
EACH OCCURRENCE LIMIT	100,000.
DAMAGE TO PREMISES RENTED TO YOU LIMIT (ANY ONE PREMISES)	5,000.
MEDICAL EXPENSE LIMIT (ANY ONE PERSON)	

**FORM OF BUSINESS:** INDIVIDUAL

**DEDUCTIBLE:** \$250 DEDUCTIBLE APPLIES TO THIS COVERAGE PART

**OTHER ENDORSEMENTS AND FORMS ATTACHED TO THIS COVERAGE PART:**

CG0001 1001	CG0005 0605	CG0062 1202	CG0068 0509	CG0124 0193	CG0300 0196
CG2012 0509	CG2132 0509	CG2147 0798	CG2160 0998	CG2171 0608	CG2176 0108
CG2187 0107	CG2196 0305	CG5021 0107	CG5034 0605	CG5037 0309	IL0017 1198
IL0019 0692	IL0021 0498	IL0283 0900	IL0985 0108	001696 1005	

**LOCATION OF ALL PREMISES THAT THIS COVERAGE PART APPLIES TO:**

01 1309 67TH PL, KENOSHA, WI

ADDITIONAL INSURED ADDED  
 FORMS ADDED

**Zimbra**

dhoff@kenosha.org

± Font size -

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**Re: Letter of Proposal**

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**From :** Diane Hoff <dhoff@kenosha.org>

Wed, Apr 04, 2012 10:04 AM

**Subject :** Re: Letter of Proposal**To :** pedro nunez <pedrosfood@hotmail.com>

Your application will be on Monday, April 9, 2012 Parks Agenda. The meeting starts at 5:00pm. You should attend in case the Commission has any questions for you.

*Diane Hoff  
Dept of Public Works  
625 52nd St, Rm 305  
Kenosha, WI 53140  
262-653-4050  
262-653-4065 (direct)  
262-653-4056 (fax)*

----- Original Message -----

From: "pedro nunez" <pedrosfood@hotmail.com>  
To: "Diane Hoff" <dhoff@kenosha.org>  
Sent: Wednesday, April 4, 2012 9:46:58 AM  
Subject: Re: Letter of Proposal

Good morning Diane,  
I was just wondering if the parks department has review my application and if you know which one of the two meeting I have to attend?  
Thank you!  
Pedro Nunez.

Sent from my iPhone 4s

On Mar 27, 2012, at 12:16 PM, "Diane Hoff" <[dhoff@kenosha.org](mailto:dhoff@kenosha.org)> wrote:

The Parks Commission has 2 meeting scheduled in April. They are April 9 & April 26. I do not know which 1 of the those meetings it will be until the Parks Department



**Engineering Division**  
Shelly Billingsley P.E.  
Director of Engineering  
**Fleet Maintenance**  
Mauro Lenci  
Superintendent  
**Park Division**  
Jeff Warnock  
Superintendent

**Street Division**  
John H. Prijic  
Superintendent  
**Waste Division**  
Rocky Bednar  
Superintendent

## DEPARTMENT OF PUBLIC WORKS

**Michael M. Lemens, P.E., Director**

Municipal Building · 625 52<sup>nd</sup> ST · RM 305 · Kenosha, WI 53140  
Telephone (262) 653-4050 · Fax (262) 653-4056

April 4, 2012

TO: Chairman Michael Orth, Board of Park Commissioners  
FROM: Jeff Warnock, Park Superintendent  
RE: Request From Kenosha Common Markets

A request has been received for Temporary Use of the City's Power Generator at Place de Douai on Saturday's from May 19 – October 13, 2012. They would utilize the generator from 7:00 am – 3:30 pm during the Market.

The concern with this request is that the generator is being utilized for special events and that it would not be available on all the requested dates. There is also the issue with availability of staff to transport the unit to the site and return to the Park Division after the market.

Cost: I contacted other vendors to get their prices to rent a generator.  
Top Choice - \$95.00  
Lincoln Contractors - \$112.00

Recommendation:

To deny the request for weekly use. However, if approved the recommendation would be for \$100 per day for those Saturday's that it is available and has not already been reserved for a special event.



C/O Kenosha Common Markets  
P.O. Box 580316  
Pleasant Prairie, Wisconsin 53158

April 2, 2012

Michael Orth, Chairman  
Park Commission  
City of Kenosha, Wisconsin  
C/O Mike Lemens, Director of Public Works  
Department of Public Works  
City of Kenosha  
625 52<sup>nd</sup> Street  
Kenosha, WI 53140

Re: Request for Temporary Use of the City's Power Generator at Place de Douai –  
Summer 2012

Dear Honorable Chairman Orth:

Kenosha Common Markets, Inc. operators of Kenosha HarborMarket, hereby requests the use of the City of Kenosha's portable power generator on Saturdays beginning on May 19 and ending on October 13, 2012 between the hours of 7:00 AM and 3:30 PM for the purpose of conducting Kenosha HarborMarket.

Please let me know if there is any further action or information needed from us.

Your approval and past and continued support of the market is very much appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Ray Forgianni", with a long horizontal flourish extending to the right.

Ray Forgianni, President, Kenosha Common Markets

Cc Keith Bosman, Mayor, City of Kenosha  
Mike Lemens, Acting Director of Public Works  
Kenosha Common Market Board of Directors



**Engineering Division**  
Shelly Billingsley, P.E.  
Director/City Engineer  
**Fleet Maintenance**  
Mauro Lenci  
Superintendent  
**Parks Division**  
Jeff Warnock  
Superintendent

**Street Division**  
John H. Prijic  
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Rocky Bednar  
Superintendent

C-4

**DEPARTMENT OF PUBLIC WORKS**  
**Michael M. Lemens, P.E., Director**

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April 4, 2012

To: Michael Orth, Chairman  
Park Commission

From: Shelly Billingsley, P.E. *Shelly Billingsley*  
Director of Engineering / City Engineer

Cc: Anthony Kennedy  
District 10

Subject: ***Task Order #6 with SAA Design Group, Inc.***

**BACKGROUND INFORMATION**

The Kenosha Park Division has received a task order to complete specifications and plans for the trail/path layout including bench pads, grading, native landscaping restoration, demolition and erosion control.. This task will be under the professional services agreement with SAA for professional services for 2012.

This work received partial funding from the Recreational Trails Act and the Acquisition and Development of Local Parks Grant.

The Kenosha Capital Improvement Program for 2011 included funding under PK-11-001 that can be allocated for the matching funds to complete this grant.

**RECOMMENDATION**

Approve Task Order #6 between the Department of Public Works - Park Division and SAA Design Group for \$23,000 to include their quote of \$20,910 with \$2,090 of contingency from PK-11-001.

## TASK ORDER #6 - SCOPE OF SERVICES

### Tasks to be completed:

1. **Site Survey and Basemap Compilation**  
SAA will acquire and assemble site survey and infrastructure drawings to be provided by the city. All existing topographic information to be analyzed at a one foot contour level. All existing pavement, structures, edge of water, storm sewer, water service, electrical service, and sanitary sewer information must be provided in the detailed topographic survey provided to SAA.
2. **Meeting #1: Design Program and Coordination**  
SAA will hold one meeting with city staff to coordinate limits of construction (loop and spur trail system, prairie restoration, and site grading), design parameters, constraints, and permitting requirements.
3. **Preliminary Design**  
SAA will prepare design development drawings for the limits of the project to include trail/path layout including bench pads, bridge, grading, native landscaping restoration, demolition plans, erosion control,. The new trail/path will connect to adjacent land uses as well as establish future connections to the city nursery and the school property to the north.
4. **Meeting #2: Design Review**  
SAA will attend one meeting with city staff to review preliminary engineering drawings. Digital copies (pdf) of the plans will be submitted to the city for review one week prior.
5. **Construction Document Bid Set Preparation**  
SAA will prepare bid documents to be let publicly in the summer/fall of 2012. Bid documents to include detailed construction plans and project specifications (city standards to be utilized with SAA Special Provisions). Final documents to be provided to the city in print ready digital format.
6. **Prepare Cost Estimate**  
SAA will assemble a detailed estimate of probable construction costs based upon the final construction documents.
7. **Permitting**  
SAA will complete the required DNR WRAPP (NOI) permit and submit to the review agency prior to plans being let for bidding. Permitting fees will be paid by SAA and submitted for reimbursement to the city. All local permitting (erosion control, stormwater, and road crossing improvement) will be completed by the city unless otherwise requested of SAA.

### Deliverables:

Final project deliverables will include the following:

- One (1) 11x17 inch preliminary plan set for the review meeting (Meeting #2)
- One (1) 8.5x11 inch final estimate of probable construction costs
- One (1) copy of submitted permits (digital format)
- One (1) CD/DVD containing final copy-ready construction documents and estimate of probable construction costs (native format and PDF)

## Shagbark Park CDs

**Schedule:**

SAA is prepared to begin work on the project on or about May 1, 2012 and will complete the project by August 1, 2012.

**Fee:**

In consideration of the preceding scope of services, SAA proposes a fixed fee, including expenses of \$20,910.



**Engineering Division**  
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Director/City Engineer  
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Jeff Warnock  
Superintendent

**Street Division**  
John H. Prijic  
Superintendent  
**Waste Division**  
Rocky Bednar  
Superintendent

C-5a

**DEPARTMENT OF PUBLIC WORKS**  
**Michael M. Lemens, P.E., Director**

Municipal Building · 625 52<sup>nd</sup> ST · RM 305 · Kenosha, WI 53140  
Telephone (262) 653-4050 · Fax (262) 653-4056

April 4, 2012

To: G. John Ruffolo, Chairman  
Public Works Committee

Michael Orth, Chairman  
Park Commission

From: Michael Lemens, P.E.  
Director of Public Works

A handwritten signature in black ink, likely of Michael Lemens, is written over the "From:" line. To the right of the signature, the date "4-4-12" is handwritten.

Subject: *Professional Service Contract for Parkway Tree Removal*

**BACKGROUND INFORMATION**

The City of Kenosha Public Works – Park Division has received three proposals to complete the Parkway Tree Removal Contract for 2012. Staff has reviewed the proposals and has chosen Droprite Tree & Landscape LLC based on their references, experience and standard quoted rates.

The 2012 tree removal contract includes removing approximately 136 trees.

**RECOMMENDATION**

Approve the Agreement between the City of Kenosha and Droprite Tree & Landscape LLC for \$62,500 to include their quote of \$56,749.00 with \$5,751.00 of contingency and authorize the Director to execute the contract. The funding for this work will be paid for out of CIP PK-93-004 Reforestation/Tree & Stump Removal.

**2012 CONTRACT TO REMOVE TREES**

**By And Between**

**THE CITY OF KENOSHA, WISCONSIN,  
A Municipal Corporation  
[Through Its Department of Public Works]**

**And**

**DROPRITE TREE & LANDSCAPE SERVICE, LLC  
a Wisconsin Limited Liability Company**

**TOTAL CONTRACT AWARD NOT TO EXCEED \$62,500**

**CONTRACT AMOUNT: \$56,749.00**

**COMPENSATION FOR ADDITIONAL REMOVAL AS REQUIRED BY THE CITY OF KENOSHA:  
NOT TO EXCEED \$5,751.00**

**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, through its Department of Public Works, hereinafter referred to as the **"CITY"**, and **DROPRITE TREE & LANDSCAPE SERVICE, LLC**, a Wisconsin limited liability company, located at 7709 12<sup>th</sup> STREET SOMERS, WISCONSIN 53171, hereinafter referred to as the **"CONTRACTOR"**.

**W I T N E S S E T H:**

**WHEREAS**, the **CONTRACTOR** has submitted to the **CITY** a written Proposal to remove trees according to the Specifications and Special Conditions contained in the Request for Proposal; and,

**WHEREAS**, the **CITY** has accepted the Proposal effective upon the **CONTRACTOR** entering into and abiding by the terms and conditions of this Contract; and,

**WHEREAS**, the parties understand that this Contract is not a public construction contract under Wisconsin Law.

**NOW, THEREFORE**, in consideration of the mutual undertakings, promises, agreements, understandings hereinafter set forth, and good and valuable consideration, the sufficiency of which is hereby acknowledged, the **CITY** and the **CONTRACTOR** agree as follows:

**1. DEFINITIONS.**

a. **"CONTRACT"** means this executed Contract to Remove Trees. The following documents comprise the complete Contract: Request for Proposal, Proposal, Executed Contract, Specifications and Special Conditions, Certificates of Insurance, Affidavit of Organization and Authority and Careful Inspection of Site and Preparation of Proposal, List of Subcontractors and Major Suppliers, Determination of City Representative in Charge of Project, Change Orders, Affidavit Respecting Construction Lien Waivers/Releases, Contract notices and such other documents as are referenced herein. Any of such documents which are not physically attached to this Contract are on file in the Department of Public Works and Park Division, and are incorporated into this Contract by reference.

- b. **“CONTRACTOR”** shall mean DROPRITE TREE & LANDSCAPE SERVICE, LLC, and any subcontractors approved by the **CITY**.
- c. **“FORESTER”** shall mean the Forester of the City of Kenosha within the Park Division, including designees.
- d. **“OVERPAYMENT”** means any money the **CONTRACTOR** received which the **CONTRACTOR** was not entitled to receive under this Contract, including, but not limited to, excess payment made in error and payment for defective and/or rejected Work which was not redone or replaced and accepted by the **CITY**.
- e. **“REMOVAL PROCESS”** means the systematic removal of the tree, commencing with the first cut or break by the **CONTRACTOR**, and including the trunk, stump, basal sprouts, brush, vines, weeds and debris removal within five feet (5') from outside of the trunk.
- f. **“STUMPING”** means either removal of a stump or grinding of a stump, as appropriate.
- g. **“WORK”** means any contractual endeavor undertaken by the **CONTRACTOR** or its approved subcontractors to fulfill the terms of this Contract, including, but not limited to, the providing of labor, service, materials, the oversight of approved subcontractors, and the disposal and dumping of materials and debris arising out of the endeavor.
- h. **“WORKING DAY”** means a calendar day, excluding weekends and legal holidays.

2. **WORK TO BE PERFORMED BY THE CONTRACTOR.** The **CONTRACTOR**, for the sum of Fifty-Six Thousand Seven Hundred Forty-Nine (\$56,749.00), will perform and complete, or will cause to be performed and completed, all Work in a good and workmanlike manner, and will do so in accordance with and subject to the provisions of this Contract. In addition, the **CONTRACTOR** will perform additional services as directed by the **CITY** and as otherwise authorized in the Proposal not to exceed an additional Five Thousand Seven Hundred Fifty-One (\$5,751.00). In the event of a conflict between the Request for Proposal, the Proposal and this Contract, the terms and conditions of this Contract shall control and supersede the other documents. The Work comprises the removing of the trees specified in Exhibit “A” in accordance with the Specifications and Special Conditions in Exhibit “B”, which Exhibits are attached hereto and incorporated herein by reference. The Specifications and Special Conditions will control and supersede an inconsistent provision in this Contract.

3. **COMMENCEMENT AND DILIGENT PROSECUTION OF THE WORK.** The **CONTRACTOR** will commence the work within five (5) working days following execution of this Contract and Notice to Proceed, and will prosecute the Work diligently until fully complete in accordance with this Contract. The **CONTRACTOR** shall complete the Work within the Contract Term.

The **CONTRACTOR** shall fully remove at least five (5) trees per week until this Contract is terminated. The **CONTRACTOR** shall complete the removal process with respect to each tree within five (5) working days of the start of the removal process.

The **CONTRACTOR**, in the event of a dispute respecting quantity or quality of the Work, shall not refuse to perform the Work and shall not delay the performance of the Work pending the resolution of said dispute.

The **CONTRACTOR** has the duty of requesting an extension of time to complete the Work from the **FORESTER**, in writing, prior to the time for Contract completion, where the progress of the Work was delayed, such that the Work will not be completed on time, and the **CONTRACTOR** was not responsible for such delay. Should the **FORESTER** grant an extension, the **CONTRACTOR** will not be liable for liquidated damages arising out of the delay. Should the **FORESTER** determine that the Work will not be

completed on schedule through normal methods and where no request for an extension has been requested, or if requested, such request was not justified, the **FORESTER** shall provide the **CONTRACTOR** with written notice requiring the **CONTRACTOR** to take such extraordinary measures as may be required to complete the Work on time, or as close to on time as possible. The failure of the **CONTRACTOR** to take such extraordinary measures shall be grounds for the **CITY** to suspend the Work by the **CONTRACTOR** and take such other measures as will assure completion of the Work within the Contract time, or if that is impossible, within a reasonable time. However, nothing contained herein shall prevent the **FORESTER** from stopping the **CONTRACTOR** from proceeding with the Work beyond the time set for the completion date where the completion date was not extended.

4. **CONTRACT TERM.** The term of this Contract shall be from the date of execution until each of the following:
- a. Respecting the Work, until completion and acceptance, or December 31, 2012, whichever is earlier.
  - b. Respecting the warranty, until expiration of the warranty term.
  - c. Respecting the Indemnity and Hold Harmless Agreement and Liability Insurance, until claims filed, if any, are resolved, or expiration of the Statute of Limitations where no claims were filed.

5. **TERMINATION FOR CAUSE.** In the event either party should fail to fulfill in a timely manner its obligation under this Contract, the non-breaching party shall have the right to terminate this Contract by giving a ten (10) day written notice to the breaching party of such breach and specifying the date of the termination, if the breaching party has not timely rectified and remedied the purported breach to the satisfaction of the party that gave notice of the breach.

The **CONTRACTOR** shall perform no new or additional Work upon receipt of a notice of termination without the advance, written permission of the **FORESTER**, except as necessary to cure the default, but not beyond the ten (10) day period to cure.

6. **FORESTER'S DECISION FINAL.** Should any dispute arise at any time between the **CONTRACTOR** and the **CITY** as to the true meaning or requirements of this Contract, or as to the manner of execution of the Work, or as to the quality of the Work executed, or as to the quality or quantity of materials used, or as to the timely completion of the Work, the decision of the **FORESTER** shall be final and conclusive, until and unless set aside by a Court of law.

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

7. **METHODS, LABOR, EQUIPMENT, MATERIALS AND SUPPLIES.** The **CONTRACTOR** shall select such methods and equipment for the performance of all operations connected with the Work as will assure professional quality of the Work and a rate of progress which will assure the timely completion of the Work. The **CONTRACTOR** is responsible for furnishing all labor, equipment, material and supplies required to perform the Work.
8. **SUSPENSION OF WORK BY THE CITY.** The **FORESTER** shall have authority to suspend the Work where he/she believes that the **CONTRACTOR** is not performing the Work in accordance with this Contract. The **CONTRACTOR** shall have no right to additional compensation for delay or a right to an extension of time to complete the Work where the Work is suspended by the **FORESTER**.

9. **INJUNCTIONS.** Should a preliminary or temporary injunction suspend the Work for a period of time, the deadline for completion of the 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 or judgment prohibits the Work, this Contract shall be null and void as of the date such injunction or Court order or judgment becomes final, although the **CONTRACTOR** shall be entitled to reasonable compensation for the Work performed to that date. In the event a permanent injunction, Court order or judgment reduces the scope of the Work, this Contract shall be deemed modified in accordance therewith and compensation of the **CONTRACTOR** shall be proportionately reduced to reflect the decrease in the scope of the Work.
10. **CHANGE ORDERS FOR ADDITIONAL WORK, ADJUSTMENT IN PRICE.** The **CONTRACTOR** does not have the discretion to refuse to comply with a Change Order to increase the scope of the Work identified in the **CITY** Request for Proposal. Increases in the scope of the Work shall result in a determination of the **CONTRACTOR'S** additional compensation based upon good faith negotiation, with the Contract as a guideline. Change Orders must be approved by the **FORESTER** on behalf of the **CITY**, and by the **CONTRACTOR**, and upon approval and execution, shall be considered a Contract amendment, to be kept on file in the **CITY** Department of Public Works and Park Division, and incorporated into this Contract by reference. Should the **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, provided the **FORESTER** attaches thereto a written report so indicating.
11. **WAIVER OF RIGHTS.** 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 of 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.
12. **SUBCONTRACTORS, MAJOR SUPPLIERS, AND DUMPING OR DISPOSAL SITES.** The **CONTRACTOR** will only use subcontractors, major suppliers and dumping or disposal sites, which are listed in this Contract. Any changes in subcontractors, major suppliers and dumping or disposal sites must be approved by the **FORESTER**. The **CONTRACTOR** is responsible for the Work of subcontractors and for delays in the Work occasioned thereby. The **CONTRACTOR** has a duty to remove and replace subcontractors whose involvement in the Work will result in a breach of this Contract.
13. **CONTROL AND PROTECTION OF WORK SITE.** The **CONTRACTOR** shall be responsible for the control and protection of the work site from commencement of the Work until the Work is completed.
14. **WARRANTY.** The **CONTRACTOR** will replace any Work which is defective or not in conformity with this Contract at no cost to the **CITY** for a period of one (1) year after final acceptance of the Work by the **CITY**.
15. **CITY COOPERATION.** The **CITY** will reasonably cooperate with the **CONTRACTOR** to facilitate the **CONTRACTOR'S** performance of the Work. The **CITY** will physically mark trees to be removed and notify the **CONTRACTOR** of the nature of the markings. The **CONTRACTOR** will provide reasonable notice to the **CITY** when the assistance thereof is requested. However, the **CITY** has no obligation to supervise or perform any part of the Work.

- 16. GOVERNMENTAL PERMITS AND APPROVALS.** The **CONTRACTOR** is authorized to perform the work under this Contract without obtaining a separate permit from the **FORESTER** or a Street Obstruction Permit.
- 17. LAWS, RULES AND REGULATIONS.** The **CONTRACTOR** shall comply with all Federal, State and local laws, rules and regulations applicable to the performance of this Contract and the Work. This Contract shall be deemed made in and construed under the laws of the State of Wisconsin.
- 18. CONTRACTOR'S EMPLOYEES AND ON-SITE REPRESENTATIVES.** Although the **CONTRACTOR** performs the Work as an independent Contractor, the **FORESTER** shall have the right to request the **CONTRACTOR** to remove and replace any of the **CONTRACTOR'S** employees involved in the Work when said employee does not furnish quality workmanship or is uncooperative with or disrespectful to any **CITY** personnel associated with the Work. The **CONTRACTOR** will comply with any reasonable request.
- The **CONTRACTOR**, at all times when the Work is being performed, shall assign an employee or agent on the work site to be the person to whom the **FORESTER** may furnish instructions or orders, or make inquiries of at all times when the Work is being performed. The name of such employee or agent shall be submitted to the **FORESTER** in writing, upon commencement of the Work.
- 19. SANITATION AND HEALTH.** The **CONTRACTOR** has the obligation of arranging for drinking water and sanitary conveniences for employees, subcontractors, suppliers, and agents thereof and for taking work site precautions as will deter the spread of infectious diseases. The **CONTRACTOR** shall not use materials in such manner as to pose a health hazard. The **CONTRACTOR** 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 employee or public health, safety or welfare.
- 20. INSPECTION.** The **CITY** has the right, at its cost and expense, to assign or retain inspectors to determine that the Work is performed in conformance with this Contract. Only the **FORESTER** can reject the Work. The use of inspectors by the **CITY** shall not relieve the **CONTRACTOR** of the duty of making its own inspections and of itself rejecting improper or defective Work, by its employees, subcontractors, suppliers and agents. The failure of a **CITY** inspector to notice or reject improper or defective Work shall not waive any rights of the **FORESTER** to have the **CONTRACTOR** take corrective action at the **CONTRACTOR'S** cost and expense to remedy such deficiencies or defects when discovered. The use of **CITY** inspectors shall not relieve the **CONTRACTOR** of its duty to maintain a safe workplace.
- 21. WORKMANSHIP.** Workmanship shall conform to the best standard practice of a given trade in Southeastern Wisconsin. Equipment, procedures and materials used must be suitable to and compatible with the nature of the Work, the work site and prevailing year round weather conditions that affect the Work and the work site.
- 22. UTILITIES.** The **CONTRACTOR** has the obligation of contacting Digger's Hotline to obtain utility locations, clearances, hookups, or cutoffs prior to any stump removal.
- 23. CLEANUP.** The **CONTRACTOR** shall at all times keep all areas related to the Work, including all rights-of-way, easements, streets, highways, alleys and private or public property adjacent to the work site, in a clean and sanitary condition, free from any rubbish, debris, surplus or waste materials that have accumulated as a result of the Work.

Within two (2) hours after the completion of the Removal Process of a specified tree, the **CONTRACTOR** shall remove all surplus materials, tools, equipment or plants, leaving the work site and the sites of easements and areas related to the Work, unobstructed, clean and sanitary, ready for their intended use and in as safe a

condition as their nature will reasonably permit. Should the **CONTRACTOR** neglect any such duty, the **FORESTER** may cause any such Work to be performed at the **CONTRACTOR'S** cost and expense.

- 24. PAYMENT OF EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS.** The **CONTRACTOR** shall promptly pay all employees, subcontractors and suppliers for all work, labor, services, supplies, or materials which they may directly or indirectly furnish in the fulfillment of this Contract and the **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 the Work. The **CONTRACTOR**, as a condition of payment, shall execute an Affidavit Respecting Construction Lien Waivers/Releases and file such document with the **CITY** Director of Public Works.
- 25. LIQUIDATED DAMAGES FOR DELAYS IN CONTRACT COMPLETION.** In the event that the **CONTRACTOR** fails to fully and completely perform the Work within the Contract term, the **CONTRACTOR** shall pay to the **CITY** for such default the sum of One Hundred Dollars (\$100.00) per day, for each and every day's delay in the fulfillment of this Contract provision. This sum shall be considered and treated not as a penalty, but as fixed, agreed and liquidated damages due the **CITY** from the **CONTRACTOR**.
- 26. RIGHTS OF CITY UPON CONTRACTOR DEFAULT.** The **CONTRACTOR** recognizes the right of the **CITY** to suspend the Work, to order the revision of nonconforming Work, to re-let all or part of the Work, or to itself perform the Work as may be required to ensure the timely completion of the Work or to replace improper or defective Work, as determined necessary by the **FORESTER**. No provision of this Paragraph 26 may be construed to relieve the **CONTRACTOR** of its obligations under this Contract.
- 27. OVERPAYMENTS AND SETOFFS UNRELATED TO THE CONTRACT.** The **CONTRACTOR** will promptly, upon receipt of written demand from the **CITY** Director of Public Works, refund any overpayments received thereby. Should the **CONTRACTOR** not comply with said request within thirty (30) days of receipt of written notice, the **CONTRACTOR** shall pay the **CITY** interest for said amount at the rate of one and one-half percent (1.5%) per month on the unpaid balance, until paid in full. Should the **CONTRACTOR** owe the **CITY** any money which is lawfully due and payable on any account receivable or on any personal property tax, forfeiture or fee, whether or not related to the Work under this Contract, the **CONTRACTOR** authorizes the **CITY** to deduct said amount from any payment due the **CONTRACTOR** hereunder.
- 28. SAFETY PRECAUTIONS.** The **CONTRACTOR'S** Work shall conform to the most recent revision of the American National Standards Institute Standard Z-133.1 (Safety Requirements for Pruning, Trimming, Repairing, Maintaining, and Removing Trees and for Cutting Brush).

The **CONTRACTOR**, during the performance of the Work, shall assume control of the work site and put up and properly maintain, at the **CONTRACTOR'S** cost and expense, adequate barriers, warning signs, lights and such other devices and take such measures as will make the work site as safe as the nature of the premises will reasonably permit to protect frequenters as well as persons using abutting private or public property, from any and all dangers associated with the Work, during both day and night hours. The **FORESTER** may order the **CONTRACTOR**, by a time or date, to take designated safety measures and the failure of the **CONTRACTOR** to promptly obey said order shall result in liquidated damages of Five Hundred Dollars (\$500.00) per day for each day said order is not complied with. The **CONTRACTOR** shall be fully responsible for making the work site as safe as its nature will reasonably permit and may not rely upon any inspections, instructions or orders of the **FORESTER** or the **CITY** inspectors or lack thereof, in this regard. The **CONTRACTOR** has an obligation to check warning and safety devices on a daily basis.

- 29. PAYMENT – ACCEPTANCE OF THE WORK.** Payment shall be made by the **CITY** on a monthly basis upon submission of an invoice for completed Work to the **CITY** Director of Public Works, within fifteen (15)

days after the **FORESTER** executed a document accepting the Work as being performed in accordance with this Contract, subject to the following:

a. The **CITY** may withhold payment if the **CONTRACTOR** is not in compliance with any order issued by the **FORESTER**. Payment will be reduced by the amount of any claim which the **CITY** may have against the **CONTRACTOR** for improper, defective, or rejected Work, liquidated damages due to delay in the schedule of time for the Work completion, or in taking safety precautions, by the amount of setoffs authorized by this Contract, or for any other primary liability of the **CONTRACTOR** for which the **CITY** could be secondarily liable, which secondary liability was not assumed by the **CITY** under this Contract.

b. Work shall not be accepted by the **FORESTER** until all employees, subcontractors and suppliers have been fully paid for all work, labor, services, supplies or materials provided thereby, and affidavits, lien waivers or releases have been procured and filed with the **CITY** Director of Public Works.

**30. INDEPENDENT CONTRACTORS, WORKERS AND UNEMPLOYMENT COMPENSATION.** The **CONTRACTOR** acknowledges that it is an independent contractor and that its employees and agents are not the employees of the **CITY** for purposes of Worker's and Unemployment Compensation or any other purpose. The **CONTRACTOR** shall be responsible for Worker's and Unemployment Compensation with respect to its employees.

**31. PROHIBITIONS AS TO ASSIGNMENT, SUBCONTRACTING AND JOINT VENTURES.** The **CONTRACTOR** may not assign this Contract, enter into a joint enterprise or sublet any Work without the express written approval of the **FORESTER**, and the **CITY** is not liable for any cost and expenses arising therefrom. Listed subcontractors, major suppliers, and dumping and disposal sites are excepted from this prohibition. An unlawful assignment, joint enterprise or subletting shall render this Contract voidable by the **FORESTER** as of the date thereof, and the **CITY** will not be obligated to pay to the **CONTRACTOR** any money for any Work performed by an unauthorized party. If this contract is voided, the **CONTRACTOR** will continue to be responsible for maintaining the safety of the work site until relieved of this obligation by the **FORESTER** or until another contractor takes possession of the work site. The **CONTRACTOR** will be responsible for any cost, loss, expense, attorney fees, or damages the **CITY** may incur in enforcing this provision.

**32. INDEMNITY AND HOLD HARMLESS AGREEMENT.** The **CONTRACTOR** agrees that it will defend, indemnify and hold harmless the **CITY** and its officers, agents, employees and representatives, from and against any and all liability, loss, charges, damages, claims, judgments, costs, expenses or attorney fees, which they may hereafter sustain, incur or be required to pay as a result of any action taken or not taken by the **CITY** or its officers, agents, employees or representatives to supervise or oversee the adequacy of safety precautions taken by the **CONTRACTOR** or as a result of the willful or negligent act or omission of the **CONTRACTOR** and its subcontractors, suppliers, assigns, employees, officers, agents or representatives, or resulting from the **CONTRACTOR'S** failure to perform or observe any of the terms, covenants and conditions of this Contract, should any person or party, as a result thereof, suffer or sustain personal injury, death or property loss or damage, or a violation of any other right protected by law.

**33. INSURANCE.** The **CONTRACTOR** prior to performing the Work and during the Contract term, shall carry the insurance policies in the following minimum limits, which shall be written and enforceable in accordance with the laws of the State of Wisconsin.

- Commercial General Liability: General Aggregate – One Million (\$1,000,000.00) Dollars; each occurrence – One Million (\$1,000,000.00) Dollars.
- Automobile Liability :
  - Bodily Injury per Person – One Million (\$1,000,000.00) Dollars;
  - Bodily Injury per Accident – One Million (\$1,000,000.00) Dollars;

- Property Damage – Two Hundred Thousand (\$200,000.00) Dollars; OR a combined single limit of One Million (\$1,000,000.00) Dollars.
- Worker’s Compensation: Statutory limits.

Said insurance coverage shall be verified by a Certificate of Insurance issued to the **CITY**, which shall provide that should any of the described policies be cancelled or terminated before the expiration date thereof, the issuing company will endeavor to mail thirty (30) days written notice to the **CITY**.

- 34. COOPERATION.** The **CONTRACTOR** shall permit **CITY** employees and representatives to have reasonable access to the work site at all times.
- 35. SEVERABILITY.** It is mutually agreed that in case any provision of this Contract is determined by a Court of law to be unconstitutional, illegal or unenforceable, then it is the intention of the parties that all other provisions of this Contract shall remain in full force and effect.
- 36. NONDISCRIMINATION.** In the performance of the Work under this Contract, the **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. The Work is to be performed in accordance with the Federal Americans With Disabilities Act.
- 37. NO THIRD PARTY BENEFICIARIES.** This Contract is intended to be solely for the benefit of the parties hereto.
- 38. 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, said amendment to be attached and incorporated herein, it being expressly understood that the **CITY** Director of Public Works must approve any amendment of this Contract.
- 39. NOTICES.** Notices required by or relevant to this Contract shall be furnished by the **CONTRACTOR** to the **CITY** by personal service or by certified mail with return receipt, sent or delivered to the **FORESTER**, Director of Public Works and the City Clerk at the Municipal Building, 625 – 52<sup>nd</sup> Street, Kenosha, Wisconsin 53140, with a copy to the City Attorney at the foregoing address.

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

DROPRITE TREE & LANDSCAPE SERVICE, LLC  
7709 12<sup>th</sup> STREET SOMERS, WISCONSIN 53171

- 40. EXECUTION AUTHORITY.** The **CITY** and the **CONTRACTOR** each certify that they have authority under their respective organizational structure and governing laws to execute this Contract.

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

**CITY OF KENOSHA, WISCONSIN,  
A Municipal Corporation**

BY: \_\_\_\_\_  
MIKE LEMENS, Director,  
Department of Public Works  
Date: \_\_\_\_\_

BY: \_\_\_\_\_  
DIRK NELSON, City Forester  
Date: \_\_\_\_\_

STATE OF WISCONSIN)  
: SS.  
COUNTY OF KENOSHA)

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2012, MIKE LEMENS, Director of Public Works, and DIRK NELSON, City Forester, of the CITY OF KENOSHA, WISCONSIN, a municipal corporation, to me known to be such Director of Public Works and City Forester of said municipal corporation, 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: \_\_\_\_\_



**CITY OF KENOSHA, WISCONSIN  
PARK DIVISION**

**TREE REMOVAL CONTRACT SPECIFICATIONS  
AND SPECIAL CONDITIONS**

**Project No. 12-1410**

**WORK TO BE PERFORMED.** Work will consist of tree removal – severing and lowering portions of trees that prevent all damage to property, including turf, sidewalks, utilities, vehicles, persons and the like. This includes removing stumps and debris from the site and the proper disposal thereof.

**LOCATION OF WORK.** Work will consist of tree removal on public right-of-ways, City-wide, per the attached list, which is incorporated herein by reference.

**SUPERVISION.** Contractor shall consult the Kenosha Park Division concerning details and scheduling of all work. Contractor must have a responsible person in charge of work at all times to whom the Park Division may issue directives, who shall accept and act upon such directives. A name, phone number and address must be made available to the Park Division of Contractor's responsible person(s).

**INSPECTIONS.** The contractor shall call the Kenosha Park Division at (262) 653-4080 between 7:00 A.M. and 8:00 A.M. of each day work will be performed to inform the Kenosha Park Division of locations for that day's work. The Kenosha Park Division may conduct inspections of Contractor's work at any time without notification.

**PUBLIC RELATIONS.** The Kenosha Park Division has notified abutting property owners of anticipated work using the "Work Notification Form" and /or the "Hazard Tree Removal Notification" letter.

The Park Division will provide a supply of informative leaflets at no cost to Contractor who shall distribute them to each abutting property owner and place them at each building on front of which work will occur. Contractor shall answer any questions from citizens concerning the project. Anyone asking a question that the Contractor cannot answer shall be referred to the Park Division at (262) 653-4080.

**SAFETY.** Work shall conform to the most recent revision of American National Standards Institute Standard Z-133.1(Safety Requirements for Pruning, Trimming, Repairing, Maintaining, Removing Trees and for Cutting Brush). A copy of these standards is on file at the office of the Kenosha Park Division and is made a part of the Contract by this reference. **Contractor is responsible for contacting Digger's Hotline (1-800-242-8511)** and making sure the sites are marked prior to any stump removal.

**REMOVAL.** Only trees designated by the Park Division on designated work orders are to be removed. Trees are to be topped before removal, unless conditions allow felling, and removed at a maximum stump height of four (4") inches above the highest surrounding grade. No trees shall be felled onto sidewalks, traffic signs, hydrants or other infrastructure. **Removal includes: stump removal, removal of basal sprouts, brush, vines and weeds associated to be removed as designated by City Forester.** Cleanup must be completed within two (2) hours of removal. The site is to be left in a condition at least

as clean as pre-work conditions. Tree parts dropped or lowered from trees are to be kept off private property as much as possible. For trees marked for removal that extend through power and/or telephone and/or cable television wires, it will be the Contractor's responsibility to notify the responsible utilities prior to removal and make any necessary arrangements. Contractor is responsible for the hauling and disposal of all waste wood harvested during removal operations.

Once the removal process has begun for any said tree, the tree must be removed down to and including the stem, within five (5) working days of start. Any exception to this must be approved by the City Forester. The Kenosha Park Division may prioritize removals at its discretion. The Contractor shall be given twenty-four (24) hours advance notification of such action.

**STUMP GRINDING.** Only stumps designated by the Park Division on designated work orders are to be ground. Stumps and all exposed roots are to be ground out to a depth of twelve (12") inches below surface of soils and shall extend as far as is necessary between the sidewalk and curb to provide a uniform and level surface. Contractor is responsible for the hauling and deposit of all grinding debris. Cleanup must be completed within two (2) hours of grinding. The site is to be left in a condition at least as clean as pre-work conditions. Grinding debris is to be kept off private property, streets and sidewalks as much as possible. Contractor is responsible for contacting Digger's Hotline (1-800-242-8511) and making sure the sites are marked prior to any stump grinding. Stumps must be ground within three (3) weeks of tree removal.

**TOPSOIL AND SEED.** The contractor shall repair disturbed lawn areas adjacent to construction by placing and compacting of topsoil to the depth of grinding and mounded over stump hole to a height of two (2) inches above curb or sidewalk height.

Top soil material shall consist of loam, sandy loam, silt loam, silty clay loam or clay loam humas-bearing soils adapted to sustain plant life, and ensure this topsoil is in the Ph range of 6.0 to 7.0. Topsoil shall be compacted.

Topsoil shall be placed to a minimum depth of 2-4 inches and shall not be placed over any debris or material as described. All disturbed area 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 to a height of two (2") inches above curb or sidewalk height after thorough compaction.

Seeding shall consist of a type 40 mixture which shall include a blend of 35% Kentucky bluegrass, 20% red fescue, 20% hard fescue, and 25% improved fine perennial ryegrass. This mixture shall be uniformly distributed at a rate of 2 lbs. per 1000 square feet.

Construction limits shall be considered areas within 18 inches any area disturbed by the Contractor's operations.

Restoration of areas within construction limits shall be included in the unit bid price of topsoil and seed per tree.

**TRAFFIC CONTROL.** Traffic control shall be the total responsibility of Contractor and must be coordinated with the Public Safety Dispatcher (262-656-1234). Contractor shall be responsible for

posting the streets where work is to be performed twenty-four (24) hours prior to the work's commencement. If it becomes necessary to tow parked vehicles, the Contractor shall coordinate towing with the Park Division.

**COORDINATION OF WORK.** Separate crews may work on separate streets if the streets are close to one another. Each crew must complete work on each particular block before moving to another block unless the Park Division gives permission to do otherwise.

**EVIDENCE.** In all situations involving injury or property damage, Contractor shall not perform further work until photography, police reports and other evidence-gathering activities are completed. The Kenosha Park Division will supply guidelines for this situation. The Contractor shall not make any statements to anyone about which party might be liable for damages or injuries, or what caused any tree to break apart, fall, etc. All such questions shall be directed to the Kenosha Park Division at 262-653-4080.

**PAYMENTS.** Payments will be made on a monthly basis unless otherwise agreed upon between the parties. Payments will be made within fifteen (15) working days after City receives an invoice or application for payment with adequate cost breakdown to certify payment due. Payments will be on a per tree basis. Stump removal and cleanup must be completed.

**ASSIGNMENT AND SUBCONTRACTING.** No contract shall be assigned or subcontracted without the written consent of the Kenosha Park Division. In no case will consent relieve the Contractor from the Contractor's contractual obligation, nor will it change the terms of the contract. Any assignee or subcontractor approved by the Kenosha Park Division shall be required to submit Certificates of Insurance as per the Contract requirements prior to any removals.

The City of Kenosha, Wisconsin, Department of Public Works will receive proposals to remove trees described in the Contract Specifications and Special Conditions, subject to the following procedure and requirements.

PARK DIVISION

PROPOSAL FOR PARKWAY TREE REMOVAL - REVISED

Project No. 12-1410

City of Kenosha  
625 - 52nd Street, Room 305  
Kenosha, Wisconsin 53140

Department of Public Works:

A representative of this organization has reviewed the proposal documents and inspected the trees noted in the Contract Specifications and Special Conditions, or waived said right, and hereby submits the following Proposal to remove said trees in accordance with City of Kenosha specifications and special conditions at the following prices, to be firm for sixty (60) days from date of Proposal, subject to Proposal being accepted within that time and a Contract entered into for that price.

Line 1: Estimated Number of Trees is 136 Trees (Includes removal, stump grinding, topsoil & seed)  
Lump Sum = \$ 56,699

Line 2: Street Occupancy Permit Allowance = \$ 50.00

Total: (Line 1 + Line 2) = \$ 56,749

All work shall be completed no later than December 31, 2012 subject to liquidated damages of One hundred (\$100.00) Dollars per day in the event of delay where no extension is granted.

Additional removals may be added to the list at the proposed price of:

- \$ 25.00 (per tree, top soil and seed)
- \$ 13.00 per inch (from 1" to 16")
- \$ 13.50 per inch (from 17" to 29")
- \$ 17.50 per inch (from 30" to 35")
- \$ 21.00 per inch (from 36" to 56")

Measure at fifty-four (54") inches above ground level.

The effective date of the contract will be the date of return of executed Contract to Contractor with notice to proceed. The Contractor shall furnish sufficient labor, material, equipment, and supervision to complete the work according to the above time schedule.

Respectfully submitted,

Cash Discount Terms:

\_\_\_\_\_ % \_\_\_\_\_ Days, Net

Net 30 Days

Date: \_\_\_\_\_

Firm: Droprite Tree + Landscape LLC

Signature: Daniel Messmann

Title: Manager Member

Address: P.O. Box 163, 7709 12th St. Kenosha

Phone: 262 554-6610

Fax: 262 859-0369

<p><b>Optional: (For informational purposes ONLY)</b></p> <p>Are you a minority owned business? Yes <input type="checkbox"/> No <input type="checkbox"/></p>
--

ADDRESS	STREET	SPECIES	DBH	LOCATION	RPLCT	NOTES	COST
7842	10 AVENUE	ASH	28		1		
6215	12 AVENUE	SILVER MAPLE	33	NORTH OF DRIVE			
7714	14 AVENUE	ASH	24		1		
7840	14 AVENUE	SILVER MAPLE	33	ON 14TH AVENUE	1		
8421	14 AVENUE	SILVER MAPLE	26		1		
67 PLACE	14 AVENUE	NEC OF INTERSECTION	38				
3400	14 PLACE	LINDEN	16		1		
7705	15 AVENUE	MAPLE	15	NORTH TREE	1		
7705	15 AVENUE	MAPLE	16	SOUTH TREE	0		
7826	15 AVENUE	NORWAY MAPLE	36		1		
8619	15 AVENUE	ELM	20	NORTH TREE	0		
1837	16 AVENUE	ASH	20	NORTH TREE	0		
3536	16 AVENUE	NORWAY MAPLE	16	ON 35 PLACE	2	BOTH ON 35 PL. (REPLACEMENTS)	
3616	16 AVENUE	GREEN ASH	28		1	LO-GRO	
7539	16 AVENUE	SILVER MAPLE	44		1		
7722	16 AVENUE	SUGAR MAPLE	16		1		
1851	17 AVENUE	SUGAR MAPLE	28		1		
4127	18 AVENUE	NORWAY MAPLE	36	NORTH TREE	0		
4131	18 AVENUE	NORWAY MAPLE	11		0	STREET LIGHT	
4917	19 AVENUE	NORWAY MAPLE	19	NORTH TREE	0		
7609	19 AVENUE	NORWAY MAPLE	20	NORTH TREE	0		
7517	20 AVENUE	NORWAY MAPLE	24		1		
7950	20 AVENUE	HONEYLOCUST	22	MIDDLE TREE ON 20 AVE.	0		
3549	21 AVENUE	SUGAR MAPLE	19		1		
4804	21 AVENUE	SUGAR MAPLE	20	ON 21ST STREET	1		
2008	21 STREET	NORWAY MAPLE	23		1		
4606	22 AVENUE	SUGAR MAPLE	24	SOUTH TREE	0		
6626	22 AVENUE	SILVER MAPLE	44	ON 67 STREET	1		
1803	22 STREET	NORWAY MAPLE	20	ON 22ND STREET	3		
2114	23 AVENUE	LINDEN	18		1		
3203	23 AVENUE	NORWAY MAPLE	22	SOUTH OF DRIVE ON 23 STREET	0		
4901	23 AVENUE	BUCKEYE	18		1		
4902	23 AVENUE	SUGAR MAPLE	16	NORTH TREE	0		
7937	23 AVENUE	GREEN ASH	30		1		
2133	24 AVENUE	LINDEN	14		1		
2217	24 AVENUE	GREEN ASH	26		0		
2223	24 AVENUE	GREEN ASH	28	NORTH TREE	1		
2223	24 AVENUE	GREEN ASH	26	SOUTH TREE	0		

2702	24 AVENUE	LINDEN	24	ON 24 AVENUE	1	ON 24 AVENUE
5036	24 AVENUE	BOXELDER	32	SOUTH TREE	0	
7515	24 AVENUE	NORWAY MAPLE	32		1	
7915	24 AVENUE	NORWAY MAPLE	23	NORTH TREE	0	
2623	25 AVENUE	NORWAY MAPLE	31	S. TREE ON 25 AVENUE	0	
2118	25 STREET	NORWAY MAPLE	20		1	
2702	26 AVENUE	NORWAY MAPLE	18	ON 27 STREET	1	
2820	26 AVENUE	NORWAY MAPLE	26		1	
2821	26 AVENUE	ASH	27		1	
2218	28 AVENUE	ASH	20			
6832	28 AVENUE	NORWAY MAPLE	30		1	
7612	28 AVENUE	SIBERIAN ELM	35	NORTH TREE	0	
4115	29 AVENUE	SUGAR MAPLE	24		1	
4506	29 AVENUE	ASH	20		0	
4703	29 AVENUE	HONEYLOCUST	34	NORTH TREE	1	
4703	29 AVENUE	HONEYLOCUST	35	SOUTH TREE	0	
4719	29 AVENUE	SUGAR MAPLE	25	NORTH TREE	1	
4719	29 AVENUE	SUGAR MAPLE	25	SOUTH TREE	0	
6622	29 AVENUE	ASH	16		1	LO-GRO (NARROW PARKWAY)
7964	29 AVENUE	SIBERIAN ELM	32	ON 80 STREET	0	
6855	3 AVENUE	NORWAY MAPLE	20	SOUTH TREE	0	
7923	30 AVENUE	PEAR	9		1	LO-GRO
2218	30 STREET	ELM	18	N. TREE ON 23 AVENUE		
5228	31 AVENUE	CATALPA	29		1	
5602	31 AVENUE	ASH	34	EAST TREE	1	ON 56 STREET
5417	33 AVENUE	ASH	22		1	
5427	33 AVENUE	NORWAY MAPLE	21	EAST TREE ON 55 ST.	0	
7204	33 AVENUE	NORWAY MAPLE	19	NORTH TREE	0	
8848	33 AVENUE	ASH	16	ON 33 AVENUE	1	
5316	34 AVENUE	SIBERIAN ELM	42		1	LO-GRO
6037	34 AVENUE	LINDEN	21		1	
6115	34 AVENUE	NORWAY MAPLE	22		1	
7551	34 AVENUE	ASH	21			
2909	34 STREET	ASH	22		1	
6013	35 AVENUE	ASH	15		1	
7853	35 AVENUE	CRABAPPLE	18	ON 79 STREET	0	
7853	35 AVENUE	ASH	24	ON 35 AVENUE	1	
8830	35 AVENUE	SILVER MAPLE	22		1	
1508	35 STREET	SILVER MAPLE	50	EAST TREE	0	

2508	80 PLACE	NORWAY MAPLE	20		1	
2508	80 PLACE	NORWAY MAPLE	24		0	
2515	80 PLACE	NORWAY MAPLE	20	WEST TREE	0	
1921	81 STREET	NORWAY MAPLE	24	EAST TREE	0	
3305	86 STREET	HONEYLOCUST	12			
1613	87 PLACE	ASH	26		1	
1915	87 PLACE	NORWAY MAPLE	18	EAST TREE		
4515	87 PLACE	HONEYLOCUST	20	EAST TREE	0	
1613	87 STREET	SILVER MAPLE	32		1	
6830	93 COURT	PEAR	14		1	
2415	LINCOLN	SIBERIAN ELM	44	ON 25 AVENUE	2	
2415	LINCOLN	SIBERIAN ELM	44	ON 25 AVENUE	0	
3544	SHERIDAN	HONEYLOCUST	28		1	
6124	SHERIDAN	HONEYLOCUST	30	do early in contract	1	LO-GRO
6925	SHERIDAN	ASH	16	ON 70 STREET	1	LO-GRO
6925	SHERIDAN	ASH	19	ON 70 STREET	0	
6925	SHERIDAN	ASH	14	ON 70 STREET	1	LO-GRO
7005	SHERIDAN	WALNUT	40		1	
6047	33 AVENUE	HONEYLOCUST	20		1	SEND WNFS
2619	26 AVENUE	NORWAY MAPLE	28	NORTH TREE	0	SEND WNFS

STATE OF WISCONSIN )  
COUNTY OF WI ) :SS.  
AND CAREFUL INSPECTION OF SITE  
AND PREPARATION OF PROPOSAL OR BID

STATE OF WISCONSIN )  
COUNTY OF WI ) :SS.

\_\_\_\_\_, being first duly sworn, on oath, deposes and says that the Bidder on the attached Bid Proposal is organized as indicated below, and that all statements herein are made on behalf of such Bidder, and this deponent is authorized to make them.

[Fill Out Applicable Paragraph]

**CORPORATION.** The Bidder is a corporation incorporated and existing under the laws of the State of \_\_\_\_\_, and its President is \_\_\_\_\_, its Secretary is \_\_\_\_\_, and it does have a corporate seal.

The President is authorized to sign construction contracts and bids for the Company by action of its Board of Directors taken on \_\_\_\_\_, a certified copy of which is attached hereto. [Strike out the last sentence, if applicable.]

**LIMITED LIABILITY COMPANY.** The Bidder is a limited liability company organized and existing under the laws of the State of \_\_\_\_\_. Pursuant to its articles of organization, the Bidder may be bound by action of its managing member/members [strike one].

**PARTNERSHIP.** The Bidder is a partnership consisting of \_\_\_\_\_, General Partners, doing business under the name of \_\_\_\_\_.

**SOLE PROPRIETOR.** The Bidder is an individual; and, if operating under a trade name, such trade name is as follows: \_\_\_\_\_.

**ADDRESS.** The business address of the Bidder is as follows.  
P.O. Box 163, 7709 12th St,  
Somers WI 53171

**TELEPHONE NUMBER:** (262) 554-6610

**STATUTORY SWORN STATEMENT.**

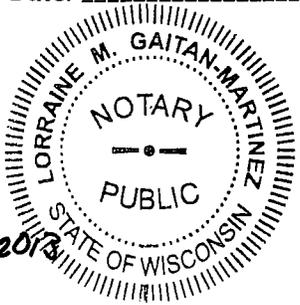
Daniel Tessman, also deposes and states that he/she has examined the instructions to Bidders, has investigated site conditions; or, in the alternative, has waived such inspections at Bidder's peril, and has carefully prepared the Bid Proposal from the plans and specifications, and checked the same in detail before submitting this proposal or Bid. The undersigned also deposes and states that the statements contained in this Affidavit are true and correct.

[Corporate Seal]

Signed: Daniel Tessman  
Typed Name: Daniel Tessman  
Title: Manage Member  
Date: 3/26/12

STATE OF WISCONSIN )  
COUNTY OF Kenosha ) :SS.

Subscribed and sworn to before me  
This 20th day of March, 2012.  
Notary Public Lorraine M. Gaitan-Martinez County, Wisconsin  
My Commission Expires 2/24/2013



CITY OF KENOSHA  
REFERENCE SHEET

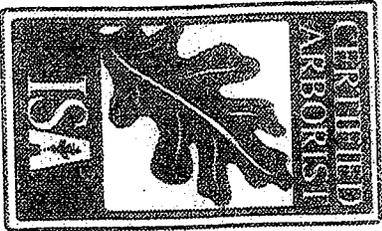
1. Name: City of Racine  
Contact: Sam Aiello  
Address: 730 Washington Ave Room 103 Racine  
Phone: 262-636-9143 Fax: 262 636-9100

2. Name: City of Franklin  
Contact: Jerry Schaefer  
Address: 7979 W. Ryan Road Franklin  
Phone: (414) 425-8881 Fax: (414) 425-7315

3. Name: City of Greenfield  
Contact: Dan Ewert  
Address: 4551 S. 52nd St. Greenfield  
Phone: (414) 761-5374 Fax: \_\_\_\_\_

4. Name: Bruce Company  
Contact: Fred Wensing  
Address: 4950 Menco Lane Racine  
Phone: (262) 939-0453 Fax: 262 681-7199





International  
Society  
of Arboriculture

**CERTIFIED ARBORIST**

**Daniel D. Tessmann**

Certificate Number:

**WI-0593A**

Expiration Date:

**Jun 30, 2012**

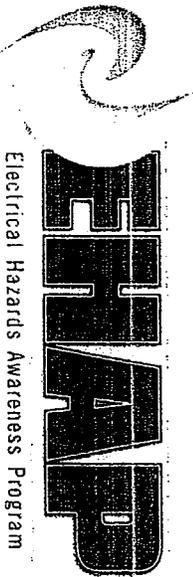
# Certificate of Completion

*TCIA Electrical Hazards Awareness Program*

*This certifies that*

***Daniel Tossman***

*has completed the Tree Care Industry Association*



*07/15/10 - 07/14/11*

Date

*Mark Garvin*  
Mark Garvin, Interim President & CEO



STREET DIVISION  
JOHN H. PRIJIC  
SUPERINTENDENT

ENGINEERING DIVISION  
SHELLY BILLINGSLEY, P.E.  
DIRECTOR/CITY ENGINEER

C-5b

SOIL EROSION SPECIALIST  
CHRIS PAGELS

**DEPARTMENT OF STORMWATER UTILITY**  
**MICHAEL M. LEMENS, P.E., DIRECTOR**

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

April 4, 2012

To: Anthony Nudo, Chairman  
Stormwater Utility Committee

Michael Orth, Chairman  
Park Commission

From: Michael M Lemens, P.E.  
Director of Public Works

A handwritten signature in black ink, appearing to be 'M Lemens', with the date '4-4-12' written below it.

Subject: *Professional Service Contract to Prune Trees in Lawn Park Areas*

**BACKGROUND INFORMATION**

The City of Kenosha Public Works – Park Division has received four proposals to complete the 2011 contract to prune trees in lawn park area. Staff has reviewed the proposals and has chosen Trees “R” Us, Inc. based on their references, experience and standard quoted rates.

Trees “R” Us was awarded the 2010 and 2011 Tree Pruning contract of which there were a few issues that staff was able to work through with the earlier 2011 contract. Trees “R” Us, Inc. was the lowest bid by approximately \$1,100 and has completed a variety of municipality/village contracts.

The 2011 tree pruning contract includes pruning approximately 4,500 trees within the public right-of-way in the following area, within the City limits west of 39<sup>th</sup> Avenue and north of 60<sup>th</sup> Street including 60<sup>th</sup> Street.

**RECOMMENDATION**

Approve the Agreement between the City of Kenosha and Trees “R” Us, Inc. for \$76,000 to include their quote of \$66,425 with \$9,575 of contingency and authorize the Director to execute the contract. The funding for this work will be paid for out of the Stormwater Utility account number 501-09-50106-219.

**2012 CONTRACT TO PRUNE TREES**

**By And Between**

**THE CITY OF KENOSHA, WISCONSIN,  
A Municipal Corporation  
[Through Its Department of Public Works]**

**And**

**TREES "R" US, INC.  
An Illinois Corporation**

**TOTAL CONTRACT AWARD NOT TO EXCEED \$76,000**

**CONTRACT AMOUNT: \$66,425.00**

**COMPENSATION FOR ADDITIONAL PRUNING AS REQUIRED BY THE CITY OF KENOSHA:  
NOT TO EXCEED \$9,575.00**

**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, through its Department of Public Works, hereinafter referred to as the "**CITY**", and **TREES "R" US, INC.** an Illinois corporation, located at 26825 N. US Hwy 12 Wauconda, Illinois 60084, hereinafter referred to as the "**CONTRACTOR**".

**W I T N E S S E T H:**

**WHEREAS**, the **CONTRACTOR** has submitted to the **CITY** a written Proposal to provide maintenance pruning work to lawn park area and public right-of-way trees located on all City streets and avenues West of 39<sup>th</sup> Avenue and North of 60<sup>th</sup> Street including 60<sup>th</sup> Street within the City of Kenosha, according to the Specifications and Special Conditions contained in the Request for Proposal; and,

**WHEREAS**, the **CITY** has accepted the Proposal effective upon the **CONTRACTOR** entering into and abiding by the terms and conditions of this Contract; and,

**WHEREAS**, the parties understand that this Contract is not a public construction contract under Wisconsin Law.

**NOW, THEREFORE**, in consideration of the mutual undertakings, promises, agreements, understandings hereinafter set forth, and good and valuable consideration, the sufficiency of which is hereby acknowledged, the **CITY** and the **CONTRACTOR** agree as follows:

**1. DEFINITIONS.**

a. "**CONTRACT**" means this executed Contract to Prune Trees. The following documents comprise the complete Contract: Request for Proposal, Proposal, Executed Contract, Specifications and Special Conditions, Certificates of Insurance, Affidavit of Organization and Authority and Careful Inspection of Site and Preparation of Proposal, List of Subcontractors and Major Suppliers, Determination of City Representative in Charge of Project, Change Orders, Affidavit Respecting Construction Lien Waivers/Releases, Contract notices and such other documents as are referenced herein. Any of such documents which are not physically attached to this Contract are on file in the Department of Public Works and Park Division, and are incorporated into this Contract by reference.

- b. **"CONTRACTOR"** shall mean TREES "R" US, INC. and any subcontractors approved by the CITY.
  - c. **"FORESTER"** shall mean the Forester of the City of Kenosha within the Park Division, including designees.
  - d. **"OVERPAYMENT"** means any money the **CONTRACTOR** received which the **CONTRACTOR** was not entitled to receive under this Contract, including, but not limited to, excess payment made in error and payment for defective and/or rejected Work which was not redone or replaced and accepted by the CITY.
  - e. **"WORK"** means any contractual endeavor undertaken by the **CONTRACTOR** or its approved subcontractors to fulfill the terms of this Contract, including, but not limited to, the providing of labor, service, materials, the oversight of approved subcontractors, and the disposal and dumping of materials and debris arising out of the endeavor.
  - f. **"WORKING DAY"** means a calendar day, excluding weekends and legal holidays.
2. **WORK TO BE PERFORMED BY THE CONTRACTOR.** The **CONTRACTOR**, for the sum of Sixty-Six Thousand Four Hundred Twenty-Five (\$66,425.00), will perform and complete, or will cause to be performed and completed, all Work in a good and workmanlike manner, and will do so in accordance with and subject to the provisions of this Contract. In addition, the **CONTRACTOR** will perform additional services as directed by the CITY and as otherwise authorized in the Proposal subject to the additional unit price compensation identified in the Proposal not to exceed an additional Nine Thousand Five Hundred Seventy-Five (\$9,575.00). In the event of a conflict between the Request for Proposal, the Proposal and this Contract, the terms and conditions of this Contract shall control and supersede the other documents. The Work comprises providing maintenance pruning to all lawn park areas and right-of-way trees on all City streets and avenues located West of 39<sup>th</sup> Avenue and North of 60<sup>th</sup> Street including 60<sup>th</sup> Street within the City of Kenosha, in accordance with the Specifications and Special Conditions in Exhibit "A", which Exhibit is attached hereto and incorporated herein by reference. The Specifications and Special conditions will control and supersede an inconsistent provision in this Contract.
3. **COMMENCEMENT AND DILIGENT PROSECUTION OF THE WORK.** The **CONTRACTOR** will commence the work within five (5) working days following execution of this Contract and Notice to Proceed, and will prosecute the Work diligently until fully complete in accordance with this Contract. The **CONTRACTOR** shall complete the Work within the Contract Term

The **CONTRACTOR** shall fully prune all the required trees within at least one block in the target area per week until this Contract is terminated.

The **CONTRACTOR**, in the event of a dispute respecting quantity or quality of the Work, shall not refuse to perform the Work and shall not delay the performance of the Work pending the resolution of said dispute.

The **CONTRACTOR** has the duty of requesting an extension of time to complete the Work from the **FORESTER**, in writing, prior to the time for Contract completion, where the progress of the Work was delayed, such that the Work will not be completed on time, and the **CONTRACTOR** was not responsible for such delay. Should the **FORESTER** grant an extension, the **CONTRACTOR** will not be liable for liquidated damages arising out of the delay. Should the **FORESTER** determine that the Work will not be completed on schedule through normal methods and where no request for an extension has been requested, or if requested, such request was not justified, the **FORESTER** shall provide the **CONTRACTOR** with written notice requiring the **CONTRACTOR** to take such extraordinary measures as may be required to complete the Work on time, or as close to on time as possible. The failure of the **CONTRACTOR** to take such extraordinary measures shall be grounds for the CITY to suspend the Work by the **CONTRACTOR** and take such other measures as will assure completion of the Work within the Contract time, or if that is impossible,

within a reasonable time. However, nothing contained herein shall prevent the **FORESTER** from stopping the **CONTRACTOR** from proceeding with the Work beyond the time set for the completion date where the completion date was not extended.

4. **CONTRACT TERM.** The term of this Contract shall be from the date of execution until each of the following:
  - a. Respecting the Work, until completion and acceptance, or December 31, 2012, whichever is earlier.
  - b. Respecting the warranty, until expiration of the warranty term.
  - c. Respecting the Indemnity and Hold Harmless Agreement and Liability Insurance, until claims filed, if any, are resolved, or expiration of the Statute of Limitations where no claims were filed.
5. **TERMINATION FOR CAUSE.** In the event either party should fail to fulfill in a timely manner its obligation under this Contract, the non-breaching party shall have the right to terminate this Contract by giving a ten (10) day written notice to the breaching party of such breach and specifying the date of the termination, if the breaching party has not timely rectified and remedied the purported breach to the satisfaction of the party that gave notice of the breach.

The **CONTRACTOR** shall perform no new or additional Work upon receipt of a notice of termination without the advance, written permission of the **FORESTER**, except as necessary to cure the default, but not beyond the ten (10) day period to cure.

6. **FORESTER'S DECISION FINAL.** Should any dispute arise at any time between the **CONTRACTOR** and the **CITY** as to the true meaning or requirements of this Contract, or as to the manner of execution of the Work, or as to the quality of the Work executed, or as to the quality or quantity of materials used, or as to the timely completion of the Work, the decision of the **FORESTER** shall be final and conclusive, until and unless set aside by a Court of law.

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

7. **METHODS, LABOR, EQUIPMENT, MATERIALS AND SUPPLIES.** The **CONTRACTOR** shall select such methods and equipment for the performance of all operations connected with the Work as will assure professional quality of the Work and a rate of progress which will assure the timely completion of the Work. The **CONTRACTOR** is responsible for furnishing all labor, equipment, material and supplies required to perform the Work.
8. **SUSPENSION OF WORK BY THE CITY.** The **FORESTER** shall have authority to suspend the Work where he/she believes that the **CONTRACTOR** is not performing the Work in accordance with this Contract. The **CONTRACTOR** shall have no right to additional compensation for delay or a right to an extension of time to complete the Work where the Work is suspended by the **FORESTER**.
9. **INJUNCTIONS.** Should a preliminary or temporary injunction suspend the Work for a period of time, the deadline for completion of the 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 or judgment prohibits the Work, this Contract shall be null and void as of the date such injunction or Court order or judgment becomes final, although the **CONTRACTOR** shall be entitled to reasonable compensation for the Work performed to that date. In the event a permanent injunction, Court order or judgment reduces the scope of the Work, this Contract shall be deemed modified in accordance therewith and compensation of the **CONTRACTOR** shall be proportionately reduced to reflect the decrease in the scope of the Work.

- 10. CHANGE ORDERS FOR ADDITIONAL WORK, ADJUSTMENT IN PRICE.** The **CONTRACTOR** does not have the discretion to refuse to comply with a Change Order to increase the scope of the Work identified in the **CITY** Request for Proposal. Increases in the scope of the Work shall result in a determination of the **CONTRACTOR'S** additional compensation based upon good faith negotiation, with the Contract as a guideline. Change Orders must be approved by the **FORESTER** on behalf of the **CITY**, and by the **CONTRACTOR**, and upon approval and execution, shall be considered a Contract amendment, to be kept on file in the **CITY** Department of Public Works and Park Division, and incorporated into this Contract by reference. Should the **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, provided the **FORESTER** attaches thereto a written report so indicating.
- 11. WAIVER OF RIGHTS.** 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 of 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.
- 12. SUBCONTRACTORS, MAJOR SUPPLIERS, AND DUMPING OR DISPOSAL SITES.** The **CONTRACTOR** will only use subcontractors, major suppliers and dumping or disposal sites, which are listed in this Contract. Any changes in subcontractors, major suppliers and dumping or disposal sites must be approved by the **FORESTER**. The **CONTRACTOR** is responsible for the Work of subcontractors and for delays in the Work occasioned thereby. The **CONTRACTOR** has a duty to remove and replace subcontractors whose involvement in the Work will result in a breach of this Contract.
- 13. CONTROL AND PROTECTION OF WORK SITE.** The **CONTRACTOR** shall be responsible for the control and protection of the work site from commencement of the Work until the Work is completed.
- 14. WARRANTY.** The **CONTRACTOR** will replace any Work which is defective or not in conformity with this Contract at no cost to the **CITY** for a period of one (1) year after final acceptance of the Work by the **CITY**.
- 15. CITY COOPERATION.** The **CITY** will reasonably cooperate with the **CONTRACTOR** to facilitate the **CONTRACTOR'S** performance of the Work. The **CITY** will physically mark trees to be removed and notify the **CONTRACTOR** of the nature of the markings. The **CONTRACTOR** will provide reasonable notice to the **CITY** when the assistance thereof is requested. However, the **CITY** has no obligation to supervise or perform any part of the Work.
- 16. GOVERNMENTAL PERMITS AND APPROVALS.** The **CONTRACTOR** is authorized to perform the work under this Contract without obtaining a separate permit from the **FORESTER** or a Street Obstruction Permit.
- 17. LAWS, RULES AND REGULATIONS.** The **CONTRACTOR** shall comply with all Federal, State and local laws, rules and regulations applicable to the performance of this Contract and the Work. This Contract shall be deemed made in and construed under the laws of the State of Wisconsin.
- 18. CONTRACTOR'S EMPLOYEES AND ON-SITE REPRESENTATIVES.** Although the **CONTRACTOR** performs the Work as an independent Contractor, the **FORESTER** shall have the right to

request the **CONTRACTOR** to remove and replace any of the **CONTRACTOR'S** employees involved in the Work when said employee does not furnish quality workmanship or is uncooperative with or disrespectful to any **CITY** personnel associated with the Work. The **CONTRACTOR** will comply with any reasonable request.

The **CONTRACTOR**, at all times when the Work is being performed, shall assign an employee or agent on the work site to be the person to whom the **FORESTER** may furnish instructions or orders, or make inquiries of at all times when the Work is being performed. The name of such employee or agent shall be submitted to the **FORESTER** in writing, upon commencement of the Work.

19. **SANITATION AND HEALTH.** The **CONTRACTOR** has the obligation of arranging for drinking water and sanitary conveniences for employees, subcontractors, suppliers, and agents thereof and for taking work site precautions as will deter the spread of infectious diseases. The **CONTRACTOR** shall not use materials in such manner as to pose a health hazard. The **CONTRACTOR** 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 employee or public health, safety or welfare.
20. **INSPECTION.** The **CITY** has the right, at its cost and expense, to assign or retain inspectors to determine that the Work is performed in conformance with this Contract. Only the **FORESTER** can reject the Work. The use of inspectors by the **CITY** shall not relieve the **CONTRACTOR** of the duty of making its own inspections and of itself rejecting improper or defective Work, by its employees, subcontractors, suppliers and agents. The failure of a **CITY** inspector to notice or reject improper or defective Work shall not waive any rights of the **FORESTER** to have the **CONTRACTOR** take corrective action at the **CONTRACTOR'S** cost and expense to remedy such deficiencies or defects when discovered. The use of **CITY** inspectors shall not relieve the **CONTRACTOR** of its duty to maintain a safe workplace.
21. **WORKMANSHIP.** Workmanship shall conform to the best standard practice of a given trade in Southeastern Wisconsin. Equipment, procedures and materials used must be suitable to and compatible with the nature of the Work, the work site and prevailing year round weather conditions that affect the Work and the work site.
22. **UTILITIES.** The **CONTRACTOR** has the obligation of contacting Digger's Hotline to obtain utility locations, clearances, hookups, or cutoffs prior to any pruning.
23. **CLEANUP.** The **CONTRACTOR** shall at all times keep all areas related to the Work, including all rights-of-way, easements, streets, highways, alleys and private or public property adjacent to the work site, in a clean and sanitary condition, free from any rubbish, debris, surplus or waste materials that have accumulated as a result of the Work.

Within twenty-four (24) hours after the completion of the Pruning Process, the **CONTRACTOR** shall remove all surplus materials, tools, equipment or plants, leaving the work site and the sites of easements and areas related to the Work, unobstructed, clean and sanitary, ready for their intended use and in as safe a condition as their nature will reasonably permit. Should the **CONTRACTOR** neglect any such duty, the **FORESTER** may cause any such Work to be performed at the **CONTRACTOR'S** cost and expense.

24. **PAYMENT OF EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS.** The **CONTRACTOR** shall promptly pay all employees, subcontractors and suppliers for all work, labor, services, supplies, or materials which they may directly or indirectly furnish in the fulfillment of this Contract and the **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 the Work. The **CONTRACTOR**, as a condition of payment, shall execute an Affidavit Respecting Construction Lien Waivers/Releases and file such document with the **CITY** Director of Public Works.

**25. LIQUIDATED DAMAGES FOR DELAYS IN CONTRACT COMPLETION.** In the event that the **CONTRACTOR** fails to fully and completely perform the Work within the Contract term, the **CONTRACTOR** shall pay to the **CITY** for such default the sum of One Hundred Dollars (\$100.00) per day, for each and every day's delay in the fulfillment of this Contract provision. This sum shall be considered and treated not as a penalty, but as fixed, agreed and liquidated damages due the **CITY** from the **CONTRACTOR**.

**26. RIGHTS OF CITY UPON CONTRACTOR DEFAULT.** The **CONTRACTOR** recognizes the right of the **CITY** to suspend the Work, to order the revision of nonconforming Work, to re-let all or part of the Work, or to itself perform the Work as may be required to ensure the timely completion of the Work or to replace improper or defective Work, as determined necessary by the **FORESTER**. No provision of this Paragraph 26 may be construed to relieve the **CONTRACTOR** of its obligations under this Contract.

**27. OVERPAYMENTS AND SETOFFS UNRELATED TO THE CONTRACT.** The **CONTRACTOR** will promptly, upon receipt of written demand from the **CITY** Director of Public Works, refund any overpayments received thereby. Should the **CONTRACTOR** not comply with said request within thirty (30) days of receipt of written notice, the **CONTRACTOR** shall pay the **CITY** interest for said amount at the rate of one and one-half percent (1.5%) per month on the unpaid balance, until paid in full. Should the **CONTRACTOR** owe the **CITY** any money which is lawfully due and payable on any account receivable or on any personal property tax, forfeiture or fee, whether or not related to the Work under this Contract, the **CONTRACTOR** authorizes the **CITY** to deduct said amount from any payment due the **CONTRACTOR** hereunder.

**28. SAFETY PRECAUTIONS.** The **CONTRACTOR'S** Work shall conform to the most recent revision of the American National Standards Institute Standard Z-133.1 (Safety Requirements for Pruning, Trimming, Repairing, Maintaining, and Removing Trees and for Cutting Brush).

The **CONTRACTOR**, during the performance of the Work, shall assume control of the work site and put up and properly maintain, at the **CONTRACTOR'S** cost and expense, adequate barriers, warning signs, lights and such other devices and take such measures as will make the work site as safe as the nature of the premises will reasonably permit to protect frequenters as well as persons using abutting private or public property, from any and all dangers associated with the Work, during both day and night hours. The **FORESTER** may order the **CONTRACTOR**, by a time or date, to take designated safety measures and the failure of the **CONTRACTOR** to promptly obey said order shall result in liquidated damages of Five Hundred Dollars (\$500.00) per day for each day said order is not complied with. The **CONTRACTOR** shall be fully responsible for making the work site as safe as its nature will reasonably permit and may not rely upon any inspections, instructions or orders of the **FORESTER** or the **CITY** inspectors or lack thereof, in this regard. The **CONTRACTOR** has an obligation to check warning and safety devices on a daily basis.

**29. PAYMENT – ACCEPTANCE OF THE WORK.** Payment shall be made by the **CITY** on a monthly basis upon submission of an invoice for completed Work to the **CITY** Director of Public Works, within fifteen (15) days after the **FORESTER** executed a document accepting the Work as being performed in accordance with this Contract, subject to the following:

a. The **CITY** may withhold payment if the **CONTRACTOR** is not in compliance with any order issued by the **FORESTER**. Payment will be reduced by the amount of any claim which the **CITY** may have against the **CONTRACTOR** for improper, defective, or rejected Work, liquidated damages due to delay in the schedule of time for the Work completion, or in taking safety precautions, by the amount of setoffs authorized by this Contract, or for any other primary liability of the **CONTRACTOR** for which the **CITY** could be secondarily liable, which secondary liability was not assumed by the **CITY** under this Contract.

b. Work shall not be accepted by the **FORESTER** until all employees, subcontractors and suppliers have been fully paid for all work, labor, services, supplies or materials provided thereby, and affidavits, lien waivers or releases have been procured and filed with the **CITY** Director of Public Works.

**30. INDEPENDENT CONTRACTORS, WORKERS AND UNEMPLOYMENT COMPENSATION.** The **CONTRACTOR** acknowledges that it is an independent contractor and that its employees and agents are not the employees of the **CITY** for purposes of Worker's and Unemployment Compensation or any other purpose. The **CONTRACTOR** shall be responsible for Worker's and Unemployment Compensation with respect to its employees.

**31. PROHIBITIONS AS TO ASSIGNMENT, SUBCONTRACTING AND JOINT VENTURES.** The **CONTRACTOR** may not assign this Contract, enter into a joint enterprise or sublet any Work without the express written approval of the **FORESTER**, and the **CITY** is not liable for any cost and expenses arising therefrom. Listed subcontractors, major suppliers, and dumping and disposal sites are excepted from this prohibition. An unlawful assignment, joint enterprise or subletting shall render this Contract voidable by the **FORESTER** as of the date thereof, and the **CITY** will not be obligated to pay to the **CONTRACTOR** any money for any Work performed by an unauthorized party. If this contract is voided, the **CONTRACTOR** will continue to be responsible for maintaining the safety of the work site until relieved of this obligation by the **FORESTER** or until another contractor takes possession of the work site. The **CONTRACTOR** will be responsible for any cost, loss, expense, attorney fees, or damages the **CITY** may incur in enforcing this provision.

**32. INDEMNITY AND HOLD HARMLESS AGREEMENT.** The **CONTRACTOR** agrees that it will defend, indemnify and hold harmless the **CITY** and its officers, agents, employees and representatives, from and against any and all liability, loss, charges, damages, claims, judgments, costs, expenses or attorney fees, which they may hereafter sustain, incur or be required to pay as a result of any action taken or not taken by the **CITY** or its officers, agents, employees or representatives to supervise or oversee the adequacy of safety precautions taken by the **CONTRACTOR** or as a result of the willful or negligent act or omission of the **CONTRACTOR** and its subcontractors, suppliers, assigns, employees, officers, agents or representatives, or resulting from the **CONTRACTOR'S** failure to perform or observe any of the terms, covenants and conditions of this Contract, should any person or party, as a result thereof, suffer or sustain personal injury, death or property loss or damage, or a violation of any other right protected by law.

**33. INSURANCE.** The **CONTRACTOR** prior to performing the Work and during the Contract term, shall carry the insurance policies in the following minimum limits, which shall be written and enforceable in accordance with the laws of the State of Wisconsin.

- o Commercial General Liability: General Aggregate – One Million (\$1,000,000.00) Dollars; each occurrence – One Million (\$1,000,000.00) Dollars.
- o Automobile Liability :
  - Bodily Injury per Person – One Million (\$1,000,000.00) Dollars;
  - Bodily Injury per Accident – One Million (\$1,000,000.00) Dollars;
  - Property Damage – Two Hundred Thousand (\$200,000.00) Dollars; OR a combined single limit of One Million (\$1,000,000.00) Dollars.
- o Worker's Compensation: Statutory limits.

Said insurance coverage shall be verified by a Certificate of Insurance issued to the **CITY**, which shall provide that should any of the described policies be cancelled or terminated before the expiration date thereof, the issuing company will endeavor to mail thirty (30) days written notice to the **CITY**.

**34. COOPERATION.** The **CONTRACTOR** shall permit **CITY** employees and representatives to have reasonable access to the work site at all times.

- 35. SEVERABILITY.** It is mutually agreed that in case any provision of this Contract is determined by a Court of law to be unconstitutional, illegal or unenforceable, then it is the intention of the parties that all other provisions of this Contract shall remain in full force and effect.
- 36. NONDISCRIMINATION.** In the performance of the Work under this Contract, the **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. The Work is to be performed in accordance with the Federal Americans With Disabilities Act.
- 37. NO THIRD PARTY BENEFICIARIES.** This Contract is intended to be solely for the benefit of the parties hereto.
- 38. 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, said amendment to be attached and incorporated herein, it being expressly understood that the **CITY** Director of Public Works must approve any amendment of this Contract.
- 39. NOTICES.** Notices required by or relevant to this Contract shall be furnished by the **CONTRACTOR** to the **CITY** by personal service or by certified mail with return receipt, sent or delivered to the **FORESTER**, Director of Public Works and the City Clerk at the Municipal Building, 625 – 52<sup>nd</sup> Street, Kenosha, Wisconsin 53140, with a copy to the City Attorney at the foregoing address.

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

TREES “R” US, INC.  
26825 N. US HWY 12 WAUCONDA, ILLINOIS 60084

- 40. EXECUTION AUTHORITY.** The **CITY** and the **CONTRACTOR** each certify that they have authority under their respective organizational structure and governing laws to execute this Contract.



**TREES "R" US, INC.**  
**An Illinois Corporation**

BY: \_\_\_\_\_  
Jennifer Willis, President  
Date: \_\_\_\_\_

BY: \_\_\_\_\_  
Nicholas Willis, Secretary  
Date: \_\_\_\_\_

STATE OF )  
                  : SS.  
COUNTY OF )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2012, **Jennifer Willis, President, and Nicholas Willis, Secretary, of TREES "R" US, INC.,** an Illinois corporation, to me known to be such President and Vice President of said corporation, and acknowledged to me that they executed the foregoing instrument as such officers as the agreement of said corporation, by its authority.

\_\_\_\_\_  
Notary Public,  
My Commission expires/is: \_\_\_\_\_

Drafted By:  
JONATHAN A. MULLIGAN  
Assistant City Attorney

**CITY OF KENOSHA, WISCONSIN  
PARK DIVISION**

**CONTRACT SPECIFICATIONS AND SPECIAL CONDITIONS  
FOR PRUNING TREES IN LAWN PARK AREAS**

**Project No. 12-1133**

**WORK TO BE PERFORMED.** Work will consist of maintenance pruning work on lawn park areas and public right-of-way trees within the City of Kenosha. This includes removing debris from the site and the proper disposal thereof.

**LOCATION OF WORK.** Work will consist of tree pruning on lawn park areas and public right-of-way in the following section of the City of Kenosha.

West of 39<sup>th</sup> Avenue and North of 60<sup>th</sup> Street including 60<sup>th</sup> Street within the City of Kenosha city limits.

All work shall be conducted in an organized manner and on a block-by-block basis. Written notification by Contractor of planned work shall be given to residents of the affected area not less than two (2) working days in advance of the scheduled work, nor more than seven (7) working days in advance of the work.

Contractor must notify the City Forester of scheduled work locations not less than two (2) working days in advance of said work.

Contractor shall provide the City with a sample of the notification letter to be given to residents in the 2012 Pruning Contract area in advance of commencement of work.

The City reserves the right to change, add or delete areas or quantities as it deems to be in its best interest. The City will give notice to Contractor of the addresses or areas to be pruned.

**SCHEDULE.** Pruning operations shall commence no later than thirty (30) days after Contract has been awarded. The time limit for completion of work is December 7, 2012, with any trees within the outlined pruning area that have not been pruned, but which require pruning will be placed on future pruning contracts as no time extension will be granted. Once pruning operations have been started, the Contractor must continue with work without delay until all pruning operations are completed, unless directed otherwise by the City Forester.

Tree pruning shall only be performed during those seasonal periods which will not be injurious to the health and well-being of the tree or the grounds. The City of Kenosha reserves the right to define those periods when pruning will not be permitted by the Contractor. Unless otherwise authorized by the City, failure of the Contractor to comply with the approved pruning schedule shall be sufficient cause to give notice that the Contractor is in default of the Contract, and terminate said Contract.

The Kenosha Park Division may prioritize pruning's at its discretion, and will give the Contractor 24 hours advance notification of any such action. These pruning's may occur outside the designated contract pruning location.

**WORK HOURS.** The contractor shall schedule work between the hours of 7:00 A.M. and 6:00P.M., Monday through Saturday, unless authorized by the City to do otherwise.

**SUPERVISION.** The Contractor shall be under the direct supervision of the City or its authorized representatives. Contractor shall consult the Kenosha Park Division concerning details and scheduling of all work. Contractor must have a responsible person in charge of work at all times to whom the Park Division may issue directives, who shall accept and act upon such directives. A name, phone number and address must be made available to the Park Division of

Contractor's responsible person(s). If any incidents occur that will impact any day's work, the Park Division must be contacted as soon as possible.

**INSPECTIONS.** The contractor shall call the Kenosha Park Division at 262-653-4080 between 7:00 A.M. and 8:00 A.M. on the morning of each day work will be performed to inform the Kenosha Park Division of locations for that day's work. The Kenosha Park Division may conduct inspections of Contractor's work at any time without notification.

**PUBLIC RELATIONS.** The Park Division has notified abutting property owners of anticipated work using the "Work Notification Form".

The Park Division will provide a supply of informative leaflets at no cost to Contractor who shall distribute them to each abutting property owner and place them at each building on front of which work will occur. Contractor shall answer any questions from citizens concerning the project. Anyone asking a question that the Contractor cannot answer shall be referred to the Park Division at 262-653-4080.

**SAFETY.** Work shall conform to the most recent revision of American National Standards Institute Standard Z-133.1-2006 (Safety Requirements for Pruning, Trimming, Repairing, Maintaining, Removing Trees and for Cutting Brush). A copy of these standards is on file at the office of the Kenosha Park Division and is made a part of the Contract by this reference. Contractor is responsible for contacting Digger's Hotline (1-800-242-8511) and making sure the sites are marked prior to any stump removal.

**DISCONTINUANCE OF WORK.** The Contractor shall immediately cease any practice obviously hazardous, as determined by the City, upon receipt of either written or oral notice from the Superintendent of Parks and City Forester, or his designee.

**TREE PRUNING.** The purpose of the Tree Pruning Contract is to raise the lawn park area trees so that they are in compliance with Section 34.05 D. of the Code of General Ordinances for the City of Kenosha, Wisconsin.

All pruning shall be done in accordance with the American National Standards Institute (ANSI) Standard A300-2001.

Trees shall be pruned in such a manner as to preserve their health and maintain a natural shape. Pruning shall consist of the removal of the lower branches of a tree to provide clearance for both vehicular and pedestrian traffic. No more than one-fourth (1/4) of the foliage on a mature tree shall be removed within a growing season. Trees planted within any lawn park or public right-of-way areas that are subject to vehicular traffic shall be pruned so that any branches or foliage projecting over such areas provide a clearance of not less than thirteen and one-half (13.5') feet from the pavement. Any branches or foliage

projecting over any public right-of-way areas that are subject to pedestrian or bicycle traffic shall be pruned so that any branches or foliage projecting over such areas provide a clearance of not less than eight and one-half ( 8.5') feet from the pavement or ground. Any deadwood within the tree shall be removed if the branch exceeds one (1) inch in diameter at its base.

Not every tree within the 2012 Pruning Contract area will require maintenance pruning. Contractor shall bypass and note trees that do not require Contract pruning.

**CLEANUP.** All debris from tree pruning shall be cleaned up each day before the work crew leaves the site, unless permission is given by the City to do otherwise. It shall be the responsibility of the Contractor to remove and dispose of in a proper and acceptable manner all logs, brush and debris resulting from tree pruning operations. Failure to do so will generate a penalty equal to the cost of cleanup by Kenosha Park Division.

**TRAFFIC CONTROL.** Traffic control shall be the total responsibility of Contractor and must be coordinated with the Public Safety Dispatcher (262-656-1234). Contractor shall be responsible for posting the streets where work is to be performed twenty-four (24) hours prior to the work's commencement. If it becomes necessary to tow parked vehicles, the Contractor shall coordinate towing with the Park Division.

**COORDINATION OF WORK.** Separate crews may work on separate streets if the streets are close to one another. Each crew must complete work on each particular block before moving to another block unless the Park Division gives permission to do otherwise.

**WORKING IN PROXIMITY TO ELECTRICAL HAZARDS.** A close inspection shall be made by the tree worker and his or her supervisor to determine whether an electrical conductor passes through a tree or passes within reach distance of the tree worker before climbing, entering or working around any tree.

Only a qualified line-clearance tree trimmer or qualified line-clearance tree trimmer trainee shall be assigned to the work if it is determined that an electrical hazard exists. A trainee shall be under the direct supervision of qualified personnel. A qualified line-clearance tree trimmer is a tree worker who, through related training and on-the-job experience, is familiar with the special techniques and hazards involved in line clearance. A trainee is a worker regularly assigned to a line-clearance tree trimming crew and undergoing on-the-job training who, in the course of such training, has demonstrated his/her ability to perform his/her duties safely at his/her level of training. (OSHA Standard 29CFR1910.)

There shall be a second qualified line-clearance tree trimmer or line-clearance tree trimmer trainee within normal voice communication during line-clearance operations aloft when:

- The line-clearance tree trimmer or line-clearance tree trimmer trainee must approach more closely than ten (10') feet (3m) to any conductor or electrical apparatus energized in excess of 750 volts;
- When branches of limbs being removed cannot first be cut (with a pole pruner/pole saw) sufficiently clear of the primary conductors and apparatus so as to avoid contact; or,
- When roping is required to remove branches or limbs from such conductors or apparatus.

All other workers shall maintain a minimum clearance of ten (10') feet (3m) from energized conductors rated 50 kV phase-to-phase or less; for conductors rated over 50 kV phase-to-phase, the minimum clearance shall be ten (10') feet plus 4/10 inches (3m plus 10mm) for each kilovolt over 59 kV.

Ladders, platforms and aerial devices, including insulated aerial devices, shall not be brought in contact with an electrical conductor.

When an aerial lift device contacts an electrical conductor, the truck supporting the aerial device shall be considered as energized, and contact with the truck shall be avoided, except where emergency rescue procedures are being carried out. Emergency rescue should only be attempted by properly trained persons familiar with electrical hazards.

**TREE DAMAGE.** Climbing iron, spurs or spikes shall not be used on trees to be pruned. Any tree damage caused by Contractor shall be repaired immediately, and at no additional expense, to the satisfaction of the City. Trees damaged beyond repair, as determined by a qualified arborist, acceptable to the City and the Contractor whose expenses shall be jointly covered by both parties, are to be removed at no expense to the City, with the stump ground to City standards, and replaced by a tree of the size and species designated at no additional expense to the City. The dollar value of such damaged tree(s), as determined by a qualified arborist, acceptable to the City and Contractor whose expenses shall be jointly covered by both parties, shall be deducted from monies owed to the Contractor.

**PROTECTION OF OVERHEAD UTILITIES.** Tree trimming operations may be conducted in areas where overhead electric, telephone and cable television facilities exist. The Contractor shall protect all utilities from damage, shall immediately contact the appropriate utility if damage should occur, and shall be responsible for all claims for damage due to his/her operations. The Contractor shall make arrangements with the utility for removal of all necessary limbs and branches which may conflict with or create a personal hazard in conducting the operations of this contract. If the Contractor has properly contacted the utility in sufficient time to arrange for the required work by the utility, delays encountered by the Contractor in waiting for the utility to complete its work shall not be the responsibility to the Contractor.

**EVIDENCE.** In all situations involving injury or property damage, Contractor shall not perform further work until photography, police reports and other evidence-gathering activities are completed. The Kenosha Park Division will supply guidelines for this situation. The Contractor shall not make any statements to anyone about which party might be liable for damages or injuries, or what caused any tree to break apart, fall, etc. All such questions shall be directed to the Kenosha Park Division at 262-653-4080.

**PAYMENTS.** Payments will be made on a monthly basis unless otherwise agreed upon between the parties. Payments will be made within fifteen (15) working days after City receives an invoice or application for payment with adequate cost breakdown to certify payment due. Payments will be on a per tree basis. Stump removal and cleanup must be completed.

**ASSIGNMENT AND SUBCONTRACTING.** No contract shall be assigned or subcontracted without the written consent of the Kenosha Park Division. In no case will consent relieve the Contractor from the Contractor's contractual obligation, nor will it change the terms of the contract. Any assignee or subcontractor approved by the Kenosha Park Division shall be required to submit Certificates of Insurance as per the Contract requirements prior to any removals.

**CITY OF KENOSHA, WISCONSIN**  
**PARK DIVISION**  
**PROPOSAL FOR PARKWAY TREE PRUNING**  
**Project No. 12-1133**

City of Kenosha  
625 - 52<sup>nd</sup> Street, Room 305  
Kenosha, Wisconsin 53140

Department of Public Works:

A representative of this organization has reviewed the proposal documents and inspected the trees noted in the Contract Specifications and Special Conditions, or waived said right, and hereby submits the following Proposal to prune said trees in accordance with City of Kenosha specifications and special conditions at the following prices, to be firm for sixty (60) days from date of Proposal, subject to Proposal being accepted within that time and a Contract entered into for that price.

Line 1: Estimated Number of Trees is 4,500 trees x \$ 14.75 per tree = \$ 66,375.00  
Line 2: Street Occupancy Permit Allowance = \$ 50.00  
Total (Line 1 + Line 2) = \$ 66,425.00

All work shall be completed no later than December 7, 2012 subject to liquidated damages of One hundred (\$100.00) Dollars per day in the event of delay where no extension is granted.

City reserves the right to designate more or less trees to be pruned based upon bid price per tree and available budget.

The effective date of the contract will be the date of return of executed Contract to Contractor with notice to proceed. The Contractor shall furnish sufficient labor, material, equipment, and supervision to complete the work according to the above time schedule.

Respectfully submitted,

Cash Discount Terms:

\_\_\_\_\_ % \_\_\_\_\_ Days, Net

Net 30 Days

Date: \_\_\_\_\_

Firm: TREES "R" U.S., INC

Signature: [Signature]

Title: VICE PRESIDENT

Address: PO BOX 6014 WAUWATONA, IL 60084

Phone: (847) 913-9069

Fax: (847) 487-3753

**Optional: (For Information Purposes ONLY)**

Are you a minority owned business? Yes  No

CITY OF KENOSHA  
REFERENCE SHEET

1. Name: VILLAGE OF WILMETE  
Contact: JOHN KEMPPAINEN  
Address: 1200 WILMETE AVE, WILMETE, IL 60091  
Phone: (847) 853-7619 Fax: (847) 853-7705
  
2. Name: VILLAGE OF LAKE IN THE HILLS  
Contact: ROB CALDWELL  
Address: 600 HARVEST GATE, LAKE IN THE HILLS, IL 60156  
Phone: (847) 960-7500 Fax: (847) 960-7415
  
3. Name: VILLAGE OF SKOKIE  
Contact: ELIZABETH ZIMMERMAN  
Address: 5127 DAKTON ST, SKOKIE, IL 60077  
Phone: (847) 673-0500 Fax: (847) 673-0525
  
4. Name: CITY OF HIGHLAND PARK  
Contact: JOE O'NEILL  
Address: 1150 HALF DAY RD, HIGHLAND PARK, IL 60035  
Phone: (847) 926-1149 Fax: (847) 432-9907

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

STATE OF WISCONSIN )

:SS.

COUNTY OF \_\_\_\_\_ )

NICK WILLIS

, being first duly sworn, on oath, deposes and says that the Bidder on the attached Bid Proposal is organized as indicated below, and that all statements herein are made on behalf of such Bidder, and this deponent is authorized to make them.

[Fill Out Applicable Paragraph]

**CORPORATION.** The Bidder is a corporation incorporated and existing under the laws of the State of ILLINOIS, and its President is JENNI WILLIS, its Secretary is NICK WILLIS, and it does have a corporate seal.

~~The President is authorized to sign construction contracts and bids for the Company by action of its Board of Directors taken on \_\_\_\_\_, a certified copy of which is attached hereto. (Strike out the last sentence, if applicable.)~~

**LIMITED LIABILITY COMPANY.** The Bidder is a limited liability company organized and existing under the laws of the State of \_\_\_\_\_ Pursuant to its articles of organization, the Bidder may be bound by action of its managing member/members [strike one].

**PARTNERSHIP.** The Bidder is a partnership consisting of \_\_\_\_\_, General Partners, doing business under the name of \_\_\_\_\_.

**SOLE PROPRIETOR.** The Bidder is an individual; and, if operating under a trade name, such trade name is as follows: \_\_\_\_\_.

**ADDRESS.** The business address of the Bidder is as follows.

P.O. BOX 6014  
WAUCONDA, IL 60084

**TELEPHONE NUMBER:** (847) 913-9069

**STATUTORY SWORN STATEMENT.**

NICK WILLIS, also deposes and states that he/she has examined the Instructions to Bidders, has investigated site conditions; or, in the alternative, has waived such inspections at Bidder's peril, and has carefully prepared the Bid Proposal from the plans and specifications, and checked the same in detail before submitting this proposal or Bid. The undersigned also deposes and states that the statements contained in this Affidavit are true and correct.

[Corporate Seal]

Signed: [Signature]

Typed Name: NICK WILLIS

Title: VP

Date: 3/28/12

Illinois  
STATE OF WISCONSIN )

:SS.

COUNTY OF Lake )

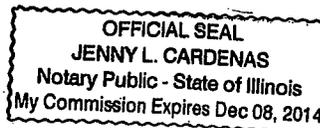
Subscribed and sworn to before me

This 28 day of March, 2012.

Notary Public, Lake County, Wisconsin Illinois

My Commission Expires/is: 12/08/14

[Signature]





*Trees "R" Us Inc.*

**COMPLETE TREE SERVICE**

PO BOX 6014  
Wauconda, IL 60084

**RESIDENTIAL & COMMERCIAL**

847-913-9069  
847-506-0272  
Fax: 847-487-3753

March 1, 2012

**Statement of Competency  
Equipment List  
All Equipment Owned by Company**

- 1995 Ford L8000 30yd chip truck
- 1992 International 20yd chip truck
- 1988 Ford F700 20yd chip truck
- 2001 International 20 yard chip truck
- 1998 International Forestry chip truck with 55' bucket
- 1992 International 60' bucket truck
- 1989 GMC 7000 65' bucket truck
- 1995 Ford F350 dump truck
- 1995 Ford F350 pickup
- 2006 Rayco RG Super50 stump grinder
- 2005 Vermeer Tow-behind Stumper
- 2004 Brush Bandit 15" drum chipper
- 1999 Brush Bandit 18" drum chipper
- 1992 Brush Bandit 15" disc chipper
- 1999 Brush Bandit 15" disc chipper
- 1999 Mack Log Truck
- 1995 Freightliner Log Truck
- 2004 Caterpillar 252B skid steer (2)
- CAT IT-28-B Wheel Loader
- 2000 Brush Bandit Beast #3680 – whole tree grinder/recycler

**Tree Removal  
Stump Removal**

**Tree Trimming  
Cabling**

**Lot Clearing  
Firewood**



**Engineering Division**  
Shelly Billingsley, P.E.  
Director/City Engineer  
**Fleet Maintenance**  
Mauro Lenci  
Superintendent  
**Parks Division**  
Jeff Warnock  
Superintendent

**Street Division**  
John H. Prijic  
Superintendent  
**Waste Division**  
Rocky Bednar  
Superintendent

C-5c

**DEPARTMENT OF PUBLIC WORKS**  
**Michael M. Lemens, P.E., Director**

Municipal Building · 625 52<sup>nd</sup> ST · RM 305 · Kenosha, WI 53140  
Telephone (262) 653-4050 · Fax (262) 653-4056

April 4, 2012

To: Michael Orth, Chairman  
Park Commission

From: Michael Lemens, P.E.  
Director of Public Works

*[Handwritten signature]*  
4-4-12

Subject: ***Professional Service Contract for Planting Trees in Lawn Park Area***

**BACKGROUND INFORMATION**

The City of Kenosha Public Works – Park Division has received one proposal to complete the Planting of Trees in Lawn Park Areas for 2012. Staff has reviewed the proposal and is recommending that the Contract be awarded to Paul Swartz Nursery & Garden Shop, Inc. based on their references, experience and standard quoted rates.

The 2012 planting trees in lawn park area contract includes approximately 180 trees.

**RECOMMENDATION**

Approve the Agreement between the City of Kenosha and Paul Swartz Nursery & Garden Shop, Inc. for \$33,000 to include their quote of \$30,100.00 with \$2,900.00 of contingency and authorize the Director to execute the contract. The funding for this work will be paid for out of CIP PK-93-004 Reforestation/Tree & Stump Removal.

**2012 CONTRACT TO PROVIDE TREES  
AND TO PLANT SAID TREES IN CITY LAWN PARK AREAS  
AND PUBLIC RIGHT-OF-WAY**

**By And Between**

**THE CITY OF KENOSHA, WISCONSIN,  
A Municipal Corporation  
[Through Its Department of Public Works]**

**And**

**PAUL SWARTZ NURSERY & GARDEN SHOP, INC.  
a Wisconsin Corporation**

**TOTAL CONTRACT AWARD NOT TO EXCEED \$33,000.00**

**CONTRACT AMOUNT: \$30,100.00**

**COMPENSATION FOR ADDITIONAL TREES AND PLANTING AS REQUIRED BY THE CITY OF KENOSHA: NOT TO EXCEED \$2,900.00**

**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, through its Department of Public Works, hereinafter referred to as “**CITY**”, and **PAUL SWARTZ NURSERY & GARDEN SHOP, INC.**, a Wisconsin corporation, located at 30728 93<sup>rd</sup> Street, Burlington, Wisconsin, 53105 hereinafter referred to as “**CONTRACTOR**”.

**W I T N E S S E T H:**

**WHEREAS**, the **CONTRACTOR** has submitted to the **CITY** a written Proposal to provide the trees and the labor and equipment to plant said trees on lawn park areas and public rights-of-way within the City of Kenosha according to the Specifications and Special Conditions contained in the Request for Proposal; and,

**WHEREAS**, the **CITY** has accepted the Proposal effective upon the **CONTRACTOR** entering into and abiding by the terms and conditions of this Contract; and,

**WHEREAS**, the parties understand that this Contract is not a public construction contract under Wisconsin Law.

**NOW, THEREFORE**, in consideration of the mutual undertakings, promises, agreements, understandings hereinafter set forth, and good and valuable consideration, the sufficiency of which is hereby acknowledged, the **CITY** and the **CONTRACTOR** agree as follows:

**1. DEFINITIONS.**

a. “**CONTRACT**” means this executed Contract to Provide Trees and to Plant Said Trees in City Lawn Park Areas and Public Right-of-Way. The following documents comprise the complete Contract: Request for Proposal, Proposal, Executed Contract, Specifications and Special Conditions, Certificates of Insurance, Affidavit of Organization and Authority and Careful Inspection of Site and Preparation of Proposal, List of Subcontractors and Major Suppliers, Determination of City Representative in Charge of Project, Change

Orders, Affidavit Respecting Construction Lien Waivers/Releases, Contract notices and such other documents as are referenced herein. Any of such documents which are not physically attached to this Contract are on file in the Department of Public Works and Park Division, and are incorporated into this Contract by reference.

b. **“CONTRACTOR”** shall mean **PAUL SWARTZ NURSERY & GARDEN SHOP, INC.** and any subcontractors approved by the **CITY**.

c. **“FORESTER”** shall mean the Forester of the City of Kenosha within the Park Division, and includes designees.

d. **“OVERPAYMENT”** means any money the **CONTRACTOR** received which the **CONTRACTOR** was not entitled to receive under this Agreement, including, but not limited to, excess payment made in error and payment for defective and/or rejected Work which was not redone or replaced and accepted by the **CITY**.

e. **“WORK”** means any contractual endeavor undertaken by the **CONTRACTOR** or its approved subcontractors to fulfill the terms of this Contract, including, but not limited to, the providing of labor, service, materials, the oversight of approved subcontractors, and the disposal and dumping of materials and debris arising out of the endeavor.

f. **“WORKING DAY”** means a calendar day, excluding weekends and legal holidays.

**2. WORK TO BE PERFORMED BY THE CONTRACTOR AND PRICE/COST.** The **CONTRACTOR**, for the sum of Thirty Thousand One Hundred (\$30,100.00), will perform and complete, or will cause to be performed and completed, all Work in a good and workmanlike manner, and it will do so in accordance with and subject to the provisions of this Contract. In addition, **CONTRACTOR** will provide additional trees and perform additional services as directed by the **CITY** and as otherwise authorized in the Proposal subject to the additional unit price compensation identified in the Proposal not to exceed an additional Two Thousand Nine Hundred (\$2,900.00). In the event of a conflict between the Request for Proposal, the Proposal and this Contract, the terms and conditions of this Contract shall control and supersede the other documents. The Work comprises the planting of trees specified in Exhibit “A” in accordance with the Specifications and Special Conditions in Exhibit “B”, which Exhibits are attached hereto and incorporated herein by reference. The Specifications and Special Conditions will control and supersede an inconsistent provision in this Contract.

**3. COMMENCEMENT AND DILIGENT PROSECUTION OF WORK.** The **CONTRACTOR** will commence work within five (5) working days following execution of Contract and Notice to Proceed, and will prosecute the Work diligently until fully complete in accordance with this Contract. The **CONTRACTOR** shall complete the Work within the Contract term.

The **CONTRACTOR**, in the event of a dispute respecting quantity or quality of the Work, shall not refuse to perform the Work and shall not delay the performance of the Work pending the resolution of said dispute.

The **CONTRACTOR** has the duty of requesting an extension of time to complete the Work from the **FORESTER**, in writing, prior to the time for Contract completion, where the progress of the Work was delayed, such that the Work will not be completed on time, and the **CONTRACTOR** was not responsible for such delay. Should the **FORESTER** grant an extension, the **CONTRACTOR** will not be liable for liquidated damages arising out of the delay. Should the **FORESTER** determine that the Work will not be completed on schedule through normal methods and where no request for an extension has been requested, or if requested, such request was not justified, the **FORESTER** shall provide the **CONTRACTOR** with

written notice requiring the **CONTRACTOR** to take such extraordinary measures as may be required to complete the Work on time, or as close to on time as possible. The failure of the **CONTRACTOR** to take such extraordinary measures shall be grounds for the **CITY** to suspend the Work by the **CONTRACTOR** and take such other measures as will assure completion of the Work within the Contract time, or if that is impossible, within a reasonable time. However, nothing contained herein shall prevent the **FORESTER** from stopping the **CONTRACTOR** from proceeding with the Work beyond the time set for the completion date where the completion date was not extended.

4. **CONTRACT TERM.** The term of this Contract shall be from the date of execution until each of the following:
  - a. Respecting Work, until completion and acceptance, or November 30, 2012, whichever is earlier.
  - b. Respecting warranty, until expiration of warranty term.
  - c. Respecting Indemnity and Hold Harmless Agreement and Liability Insurance, until claims filed, if any, are resolved, or expiration of applicable statutes of limitations where no claims were filed.
5. **TERMINATION FOR CAUSE.** In the event either party should fail to fulfill in a timely manner its obligation under this Contract, the non-breaching party shall have the right to terminate this Contract by giving a ten (10) day written notice to the breaching party of such breach and specifying the date of the termination, if the breaching party has not timely rectified and remedied the purported breach to the satisfaction of the party that gave notice of the breach.

The **CONTRACTOR** shall perform no new or additional Work upon receipt of a notice of termination without the advance, written permission of the **FORESTER**, except as necessary to cure the default, but not beyond the ten (10) day period to cure.

6. **FORESTER'S DECISION FINAL.** Should any dispute arise at any time between the **CONTRACTOR** and the **CITY** as to the true meaning or requirements of this Contract, or as to the manner of execution of the Work, or as to the quality of the Work executed, or as to the quality or quantity of materials used, or as to the timely completion of the Work, the decision of the **FORESTER** shall be final and conclusive, until and unless set aside by a Court of law.

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

7. **METHODS, LABOR, EQUIPMENT, MATERIALS AND SUPPLIES.** The **CONTRACTOR** shall select such methods and equipment for the performance of all operations connected with the Work as will assure professional quality of the Work and a rate of progress which will assure the timely completion of the Work. The **CONTRACTOR** is responsible for furnishing all labor, equipment, material and supplies required to perform the Work.
8. **SUSPENSION OF WORK BY THE CITY.** The **FORESTER** shall have authority to suspend the Work where he/she believes that the **CONTRACTOR** is not performing the Work in accordance with this Contract. The **CONTRACTOR** shall have no right to additional compensation for delay or a right to an extension of time to complete the Work where the Work is suspended by the **FORESTER**.
9. **INJUNCTIONS.** Should a preliminary or temporary injunction suspend the Work for a period of time, the deadline for completion of the 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 or judgment prohibits the Work, this Contract shall be null and void as of the date such injunction or Court order or judgment becomes final,

although the **CONTRACTOR** shall be entitled to reasonable compensation for the Work performed to that date. In the event a permanent injunction, Court order or judgment reduces the scope of the Work, this Contract shall be deemed modified in accordance therewith and compensation of the **CONTRACTOR** shall be proportionately reduced to reflect the decrease in the scope of the Work.

- 10. CHANGE ORDERS FOR ADDITIONAL WORK, ADJUSTMENT IN PRICE.** The **CONTRACTOR** does not have the discretion to refuse to comply with a Change Order to increase the scope of the Work identified in the **CITY** Request for Proposal. Increases in the scope of the Work shall result in a determination of the **CONTRACTOR'S** additional compensation based upon good faith negotiation, with the Contract as a guideline. Change Orders must be approved by the **FORESTER** on behalf of the **CITY**, and by the **CONTRACTOR**, and upon approval and execution, shall be considered a Contract amendment, to be kept on file in the **CITY** Department of Public Works and Park Division, and incorporated into this Contract by reference. Should the **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, provided the **FORESTER** attaches thereto a written report so indicating.
- 11. WAIVER OF RIGHTS.** 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 of 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.
- 12. SUBCONTRACTORS, MAJOR SUPPLIERS, AND DUMPING OR DISPOSAL SITES.** The **CONTRACTOR** will only use subcontractors, major suppliers and dumping or disposal sites, which are listed in this Contract. Any changes in subcontractors, major suppliers and dumping or disposal sites must be approved by the **FORESTER**. The **CONTRACTOR** is responsible for the Work of subcontractors and for delays in the Work occasioned thereby. The **CONTRACTOR** has a duty to remove and replace subcontractors whose involvement in the Work will result in a breach of this Contract.
- 13. CONTROL AND PROTECTION OF WORK SITE.** The **CONTRACTOR** shall be responsible for the control and protection of the work site from commencement of the Work until the Work is completed.
- 14. WARRANTY.** The **CONTRACTOR** will replace any Work which is defective or not in conformity with this Contract at no cost to the **CITY** for a period of one (1) year after final acceptance of the Work by the **CITY**.
- 15. CITY COOPERATION.** The **CITY** will reasonably cooperate with the **CONTRACTOR** to facilitate the **CONTRACTOR'S** performance of the Work. The **CITY** will physically mark trees to be removed and notify the **CONTRACTOR** of the nature of the markings. The **CONTRACTOR** will provide reasonable notice to the **CITY** when the assistance thereof is requested. However, the **CITY** has no obligation to supervise or perform any part of the Work.
- 16. GOVERNMENTAL PERMITS AND APPROVALS.** The **CONTRACTOR** is authorized to perform the work under this Contract without obtaining a separate permit from the **FORESTER** or a Street Obstruction Permit.

- 17. LAWS, RULES AND REGULATIONS.** The **CONTRACTOR** shall comply with all Federal, State and local laws, rules and regulations applicable to the performance of this Contract and the Work. This Contract shall be deemed made in and construed under the laws of the State of Wisconsin.
- 18. CONTRACTOR'S EMPLOYEES AND ON-SITE REPRESENTATIVES.** Although the **CONTRACTOR** performs the Work as an independent Contractor, the **FORESTER** shall have the right to request the **CONTRACTOR** to remove and replace any of the **CONTRACTOR'S** employees involved in the Work when said employee does not furnish quality workmanship or is uncooperative with or disrespectful to any **CITY** personnel associated with the Work. The **CONTRACTOR** will comply with any reasonable request.
- The **CONTRACTOR**, at all times when the Work is being performed, shall assign an employee or agent on the work site to be the person to whom the **FORESTER** may furnish instructions or orders, or make inquiries of at all times when the Work is being performed. The name of such employee or agent shall be submitted to the **FORESTER** in writing, upon commencement of the Work.
- 19. SANITATION AND HEALTH.** The **CONTRACTOR** has the obligation of arranging for drinking water and sanitary conveniences for employees, subcontractors, suppliers, and agents thereof and for taking work site precautions as will deter the spread of infectious diseases. The **CONTRACTOR** shall not use materials in such manner as to pose a health hazard. The **CONTRACTOR** 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 employee or public health, safety or welfare.
- 20. INSPECTION.** The **CITY** has the right, at its cost and expense, to assign or retain inspectors to determine that the Work is performed in conformance with this Contract. Only the **FORESTER** can reject the Work. The use of inspectors by the **CITY** shall not relieve the **CONTRACTOR** of the duty of making its own inspections and of itself rejecting improper or defective Work, by its employees, subcontractors, suppliers and agents. The failure of a **CITY** inspector to notice or reject improper or defective Work shall not waive any rights of the **FORESTER** to have the **CONTRACTOR** take corrective action at the **CONTRACTOR'S** cost and expense to remedy such deficiencies or defects when discovered. The use of **CITY** inspectors shall not relieve the **CONTRACTOR** of its duty to maintain a safe workplace.
- 21. WORKMANSHIP.** Workmanship shall conform to the best standard practice of a given trade in Southeastern Wisconsin. Equipment, procedures and materials used must be suitable to and compatible with the nature of the Work, the work site and prevailing year round weather conditions that affect the Work and the work site.
- 22. UTILITIES.** The **CONTRACTOR** has the obligation of contacting Digger's Hotline to obtain utility locations, clearances, hookups, or cutoffs prior to any tree planting.
- 23. CLEANUP.** The **CONTRACTOR** shall at all times keep all areas related to the Work, including all rights-of-way, easements, streets, highways, alleys and private or public property adjacent to the work site, in a clean and sanitary condition, free from any rubbish, debris, surplus or waste materials that have accumulated as a result of the Work.

Within twenty-four (24) hours after the completion of the Planting Process of a specified tree, the **CONTRACTOR** shall remove all surplus materials, tools, equipment or plants, leaving the work site and the sites of easements and areas related to the Work, unobstructed, clean and sanitary, ready for their intended use and in as safe a condition as their nature will reasonably permit. Should the **CONTRACTOR** neglect any such duty, the **FORESTER** may cause any such Work to be performed at the **CONTRACTOR'S** cost and expense.

- 24. PAYMENT OF EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS.** The **CONTRACTOR** shall promptly pay all employees, subcontractors and suppliers for all work, labor, services, supplies, or materials which they may directly or indirectly furnish in the fulfillment of this Contract and the **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 the Work. The **CONTRACTOR**, as a condition of payment, shall execute an Affidavit Respecting Construction Lien Waivers/Releases and file such document with the **CITY** Director of Public Works.
- 25. LIQUIDATED DAMAGES FOR DELAYS IN CONTRACT COMPLETION.** In the event that the **CONTRACTOR** fails to fully and completely perform the Work within the Contract term, the **CONTRACTOR** shall pay to the **CITY** for such default the sum of One Hundred Dollars (\$100.00) per day, for each and every day's delay in the fulfillment of this Contract provision. This sum shall be considered and treated not as a penalty, but as fixed, agreed and liquidated damages due the **CITY** from the **CONTRACTOR**.
- 26. RIGHTS OF CITY UPON CONTRACTOR DEFAULT.** The **CONTRACTOR** recognizes the right of the **CITY** to suspend the Work, to order the revision of nonconforming Work, to re-let all or part of the Work, or to itself perform the Work as may be required to ensure the timely completion of the Work or to replace improper or defective Work, as determined necessary by the **FORESTER**. No provision of this Paragraph 26 may be construed to relieve the **CONTRACTOR** of its obligations under this Contract.
- 27. OVERPAYMENTS AND SETOFFS UNRELATED TO THE CONTRACT.** The **CONTRACTOR** will promptly, upon receipt of written demand from the **CITY** Director of Public Works, refund any overpayments received thereby. Should the **CONTRACTOR** not comply with said request within thirty (30) days of receipt of written notice, the **CONTRACTOR** shall pay the **CITY** interest for said amount at the rate of one and one-half percent (1.5%) per month on the unpaid balance, until paid in full. Should the **CONTRACTOR** owe the **CITY** any money which is lawfully due and payable on any account receivable or on any personal property tax, forfeiture or fee, whether or not related to the Work under this Contract, the **CONTRACTOR** authorizes the **CITY** to deduct said amount from any payment due the **CONTRACTOR** hereunder.
- 28. SAFETY PRECAUTIONS.** The **CONTRACTOR**, during the performance of the Work, shall assume control of the work site and put up and properly maintain, at the **CONTRACTOR'S** cost and expense, adequate barriers, warning signs, lights and such other devices and take such measures as will make the work site as safe as the nature of the premises will reasonably permit to protect frequenters as well as persons using abutting private or public property, from any and all dangers associated with the Work, during both day and night hours. The **FORESTER** may order the **CONTRACTOR**, by a time or date, to take designated safety measures and the failure of the **CONTRACTOR** to promptly obey said order shall result in liquidated damages of Five Hundred Dollars (\$500.00) per day for each day said order is not complied with. The **CONTRACTOR** shall be fully responsible for making the work site as safe as its nature will reasonably permit and may not rely upon any inspections, instructions or orders of the **FORESTER** or the **CITY** inspectors or lack thereof, in this regard. The **CONTRACTOR** has an obligation to check warning and safety devices on a daily basis.
- 29. PAYMENT – ACCEPTANCE OF THE WORK.** Payment shall be made by the **CITY** on a monthly basis upon submission of an invoice for completed Work to the **CITY** Director of Public Works, within fifteen (15) days after the **FORESTER** executed a document accepting the Work as being performed in accordance with this Contract, subject to the following:
- a. The **CITY** may withhold payment if the **CONTRACTOR** is not in compliance with any order issued by the **FORESTER**. Payment will be reduced by the amount of any claim which the **CITY** may have against the **CONTRACTOR** for improper, defective, or rejected Work, liquidated damages due to delay in the

schedule of time for the Work completion, or in taking safety precautions, by the amount of setoffs authorized by this Contract, or for any other primary liability of the **CONTRACTOR** for which the **CITY** could be secondarily liable, which secondary liability was not assumed by the **CITY** under this Contract.

b. Work shall not be accepted by the **FORESTER** until all employees, subcontractors and suppliers have been fully paid for all work, labor, services, supplies or materials provided thereby, and affidavits, lien waivers or releases have been procured and filed with the **CITY** Director of Public Works.

**30. INDEPENDENT CONTRACTORS, WORKERS AND UNEMPLOYMENT COMPENSATION.** The **CONTRACTOR** acknowledges that it is an independent contractor and that its employees and agents are not the employees of the **CITY** for purposes of Worker's and Unemployment Compensation or any other purpose. The **CONTRACTOR** shall be responsible for Worker's and Unemployment Compensation with respect to its employees.

**31. PROHIBITIONS AS TO ASSIGNMENT, SUBCONTRACTING AND JOINT VENTURES.** The **CONTRACTOR** may not assign this Contract, enter into a joint enterprise or sublet any Work without the express written approval of the **FORESTER**, and the **CITY** is not liable for any cost and expenses arising therefrom. Listed subcontractors, major suppliers, and dumping and disposal sites are excepted from this prohibition. An unlawful assignment, joint enterprise or subletting shall render this Contract voidable by the **FORESTER** as of the date thereof, and the **CITY** will not be obligated to pay to the **CONTRACTOR** any money for any Work performed by an unauthorized party. If this contract is voided, the **CONTRACTOR** will continue to be responsible for maintaining the safety of the work site until relieved of this obligation by the **FORESTER** or until another contractor takes possession of the work site. The **CONTRACTOR** will be responsible for any cost, loss, expense, attorney fees, or damages the **CITY** may incur in enforcing this provision.

**32. INDEMNITY AND HOLD HARMLESS AGREEMENT.** The **CONTRACTOR** agrees that it will defend, indemnify and hold harmless the **CITY** and its officers, agents, employees and representatives, from and against any and all liability, loss, charges, damages, claims, judgments, costs, expenses or attorney fees, which they may hereafter sustain, incur or be required to pay as a result of any action taken or not taken by the **CITY** or its officers, agents, employees or representatives to supervise or oversee the adequacy of safety precautions taken by the **CONTRACTOR** or as a result of the willful or negligent act or omission of the **CONTRACTOR** and its subcontractors, suppliers, assigns, employees, officers, agents or representatives, or resulting from the **CONTRACTOR'S** failure to perform or observe any of the terms, covenants and conditions of this Contract, should any person or party, as a result thereof, suffer or sustain personal injury, death or property loss or damage, or a violation of any other right protected by law.

**33. INSURANCE.** The **CONTRACTOR** prior to performing the Work and during the Contract term shall carry the insurance policies in the following minimum limits, which shall be written and enforceable in accordance with the laws of the State of Wisconsin.

- Commercial General Liability: General Aggregate – One Million (\$1,000,000.00) Dollars; each occurrence – One Million (\$1,000,000.00) Dollars.
- Automobile Liability :
  - ◆ Bodily Injury per Person – One Million (\$1,000,000.00) Dollars;
  - ◆ Bodily Injury per Accident – One Million (\$1,000,000.00) Dollars;
  - ◆ Property Damage -- Two Hundred Thousand (\$200,000.00) Dollars; OR a combined single limit of One Million (\$1,000,000.00) Dollars.
- Worker's Compensation: Statutory limits.

Said insurance coverage shall be verified by a Certificate of Insurance issued to the **CITY**, which shall provide that should any of the described policies be cancelled or terminated before the expiration date thereof, the issuing company will endeavor to mail thirty (30) days written notice to the **CITY**.

- 34. COOPERATION.** The **CONTRACTOR** shall permit **CITY** employees and representatives to have reasonable access to the work site at all times.
- 35. SEVERABILITY.** It is mutually agreed that in case any provision of this Contract is determined by a Court of law to be unconstitutional, illegal or unenforceable, then it is the intention of the parties that all other provisions of this Contract shall remain in full force and effect.
- 36. NONDISCRIMINATION.** In the performance of the Work under this Contract, the **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. The Work is to be performed in accordance with the Federal Americans With Disabilities Act.
- 37. NO THIRD PARTY BENEFICIARIES.** This Contract is intended to be solely for the benefit of the parties hereto.
- 38. 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, said amendment to be attached and incorporated herein, it being expressly understood that the **CITY** Director of Public Works must approve any amendment of this Contract.
- 39. NOTICES.** Notices required by or relevant to this Contract shall be furnished by the **CONTRACTOR** to the **CITY** by personal service or by certified mail with return receipt, sent or delivered to the **FORESTER**, Director of Public Works and the City Clerk at the Municipal Building, 625 – 52<sup>nd</sup> Street, Kenosha, Wisconsin 53140, with a copy to the City Attorney at the foregoing address.

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

**PAUL SWARTZ NURSERY & GARDEN SHOP, INC.**  
**30728 93<sup>rd</sup> Street, Burlington, Wisconsin, 53105**

- 40. EXECUTION AUTHORITY.** **CITY AND CONTRACTOR** each certify that they have authority under their respective organizational structure and governing laws to execute this Contract.

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

**CITY OF KENOSHA, WISCONSIN,  
A Municipal Corporation**

BY: \_\_\_\_\_  
MICHAEL LEMENS, Director,  
Department of Public Works

Date: \_\_\_\_\_

BY: \_\_\_\_\_  
DIRK NELSON, City Forester

Date: \_\_\_\_\_

STATE OF WISCONSIN)  
: SS.  
COUNTY OF KENOSHA)

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2012, **MICHAEL LEMENS, Director of Public Works**, and **DIRK NELSON, City Forester**, of the **CITY OF KENOSHA, WISCONSIN**, a municipal corporation, to me known to be such Director of Public Works and City Forester of said municipal corporation, 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: \_\_\_\_\_



**CITY OF KENOSHA, WISCONSIN  
PARK DIVISION**

**CONTRACT SPECIFICATIONS AND SPECIAL CONDITIONS  
FOR PARKWAY TREE PLANTING**

**Project No. 12-1412**

**WORK TO BE PERFORMED.** Work will consist of tree providing and planting trees on lawn park areas and public right-of-way within the City of Kenosha. This shall include removing debris from the site and the proper disposal thereof. All labor, supervision, equipment, and materials necessary for the execution of the work shall be provided by the Contractor at no additional cost to the City.

**LOCATION OF WORK.** Work will consist of tree planting on lawn park areas and public right-of-way, within the City of Kenosha. Total trees to be planted may be up to approximately one hundred eighty (180). The Contractor shall be given planting locations lists on a monthly basis, or as planting locations become available.

**SUPERVISION.** Contractor shall consult the Kenosha Park Division concerning details and scheduling of all work. Contractor must have a responsible person in charge at all times to whom the Kenosha Park Division may issue directives, who shall accept and act upon such directives. A name, phone number and address must be made available to the Kenosha Park Division of Contractor's responsible person(s).

**INSPECTIONS.** The contractor shall call the Kenosha Park Division at 262-653-4080 between 7:00 A.M. and 8:00 A.M. on the morning of each day work will be performed to inform the Kenosha Park Division of locations for that day's work. The Kenosha Park Division may conduct inspections of Contractor's work at any time without notification.

**SAFETY.** Contractor shall be responsible for contacting Digger's Hotline (1-800-242-8511) and making sure the sites are marked prior to any tree planting.

**SCHEDULE.** Planting operations shall commence no later than May 14, 2012 and the time limit for completion of work is November 30, 2012, with any outstanding tree plantings that have not occurred being placed on future planting contracts where no time extension is granted. The Kenosha Park Division may prioritize the plantings and redirect the Contractor having given a reasonable lead time to make the changes in scheduling.

**WORK HOURS.** The contractor shall schedule work between the hours of 7:00 A.M. and 6:00P.M., Monday through Saturday, unless authorized by the City to do otherwise.

**DISCONTINUANCE OF WORK.** The Contractor shall immediately cease any practice obviously hazardous, as determined by the City, upon receipt of either written or oral notice from the City Forester, or his designee.

**APPLICABLE SPECIFICATIONS AND STANDARDS.** *American Standard for Nursery Stock, ANS Z60.1.*, Current Edition. American Nursery and Landscape Association, 1000 Vermont Avenue, N.W., Suite 300, Washington D.C. 20005.

**MATERIALS.** All plant material shall conform to American Standard for Nursery Stock. Plants shall be true to species and variety specified, and nursery grown in accordance with good horticultural practices under climatic conditions similar to those in the locality of the planting sites. Trees shall conform to the measurement specified unless approved in writing by the City. Use of larger plants shall not increase the price to the City. Substitutions of plant material will not be permitted unless authorized in writing by the Kenosha Park Division. The attached Exhibit "A" notes the species, numbers and sizes of trees to be planted under this contract.

Mulching material shall consist of aged or composted wood chips or shredded bark and shall be free of material injurious to plant growth. Wood chips shall be one-eighth (1/8") inch nominal thickness, with at least fifty (50%) percent having an area of not less than one (1 sq. in.) square inch, and no piece having an area of more than six (6 sq. in.) square inches.

Water shall be supplied by the Contractor for the initial watering and be suitable for irrigation and free from ingredients harmful to plant life.

**CERTIFICATION.** All plant materials, shipments, and deliveries shall comply with State and Federal laws and regulations governing the inspection, shipping, selling, and handling of plant stock. A certificate of inspection, or a copy thereof, for injurious insects, plant diseases and other plant pests shall be made available upon request. The certificate shall bear the name and address of the source of the plant stock.

**TRANSPORTATION AND STORAGE OF PLANT MATERIAL.** During transportation of plant material, care shall be taken to prevent injury and drying out of the trees. Should the roots be dried out, large branches torn, broken balls of earth broken or loosened, or areas of bark torn, the City may reject the injured tree(s) and order them replaced at no additional cost to the City.

Plants must be protected at all times from the sun or drying winds. Those that cannot be planted immediately upon delivery shall be kept in the shade, well-protected, with the root balls covered with wood chips or other acceptable material, and kept well watered.

**EXCAVATION OF PLANTING AREAS.** The contractor shall notify Digger's Hotline to verify the location of underground utilities prior to each excavation. The Contractor shall be responsible for assuring that utility marking is complete before planting begins. The Contractor shall be responsible for all damages resulting from neglect or failure to comply with this requirement.

The City Forester shall be notified after the site is marked by Digger's Hotline to locate the tree on the lawn park area. The City will mark the planting site with a white "T" where the tree(s) shall be planted no later than two (2) working days after such notification.

Excavated planting holes that will not be planted with a new tree may pose an immediate and considerable hazard to the public. These open holes shall be adequately barricaded with appropriate warning devices.

Where soil conditions or below ground obstructions which cannot be remedied are encountered, the Kenosha Park Division will designate alternate planting locations. The Kenosha Park Division will incur any costs associated with such relocation.

**PLANTING OPERATIONS.** Trees must be protected from excessive vibrations. Trees shall not be thrown or bounced off a truck or loader to the ground. Trees shall not be dragged, lifted, or pulled by the trunk or foliage parts in a manner that will loosen the roots in the ball.

Trees shall be set with the top of the root collar at or slightly above finished grade. Trees shall be set so they will be at the same depth one (1) year after planting.

After the tree has been set and one-half of the backfilling is completed to support the root ball, strings, wire baskets, burlap and other wrappings shall be removed from the top one-half of the root ball. The balance of the wrappings may be left intact around the bottom half of the root ball. If the root collar is deep in the ball, excess soil shall be removed away from the trunk using hands, not tools.

Planting holes shall be backfilled with excavated soil. When the holes are approximately two-thirds (2/3) full, they shall be thoroughly watered to eliminate air pockets. After this initial watering, excavated soil shall be installed to the top of the hole and watered. Puddled soil conditions shall be prevented by avoiding compaction once the soil is wet.

All trees shall be mulched over the root system with a three (3") inch to four (4") inch layer of aged wood chips or shredded bark immediately after planting. Mulching material shall be pulled back no less than three (3") inches and no more than six (6") inches from the trunk.

Plants shall be thoroughly watered after planting to nursery standards. Contractor is responsible for initial watering that shall be completed the day of planting.

All twine, rope, transit guards, or wrappings, ribbons, and plant labels secured around the trunk or branches shall be removed after planting is complete.

**CLEANUP.** Soil, branches and wrapping materials, rejected trees or other debris resulting from any tree planting shall be promptly cleaned up and removed. The work area shall be kept safe and neat at all times until the cleanup operation is completed. Under no circumstances shall the accumulation of soil, branches or other debris be allowed upon a public property in such a manner as to result in a public hazard.

**GUARANTEED PERIOD AND PLACEMENT.** The Contractor shall guarantee that all trees are healthy and in a flourishing condition for one (1) year from the date of acceptance. The guarantee does not include vandalism, storm damage, animal damage, or mechanical damage unrelated to Contractor's activities.

The Contractor shall remove and replace, without cost, and as soon as weather conditions permit, all plants not in a healthy and flourishing condition as determined by the Kenosha Park Division at any time during the guarantee period. Replacements shall be subject to all requirements stated in this specification.

**EVIDENCE.** In all situations involving injury or property damage, Contractor shall not perform further work until photography, police reports and other evidence-gathering activities are completed. The Kenosha Park Division will supply guidelines for this situation. The Contractor shall not make any

statements to anyone regarding liability for damages or injuries, or the cause of the situation. All such questions shall be directed to the Kenosha Park Division at 262-653-4080.

**PAYMENTS.** Payments will be made on a monthly basis unless otherwise agreed upon between the parties. Payments will be made within fifteen (15) working days after City receives an invoice or application for payment, with adequate cost breakdown to certify payment due. Payments will be on a per tree basis.

**ASSIGNMENT AND SUBCONTRACTING.** No contract shall be assigned or subcontracted without the written consent of the Kenosha Park Division. In no case will consent relieve the Contractor from the Contractor's contractual obligation, nor will it change the terms of the contract. Any assignee or subcontractor approved by the Kenosha Park Division shall be required to submit Certificates of Insurance as per the Contract requirements prior to any plantings.

PROPOSAL FOR PARKWAY TREE PLANTING  
 2012 KENOSHA STREET TREES  
 PROJECT NO. 12-1412

Common Name	Botanical Name	Size	Root	Unit	Quantity	Unit Price	Total	Vendor
Charitcheer Gallery Pear	<i>Pyrus calleryana</i> "Charitcheer"	2"	B&B	Each	25	165.00	4,125.00	
Japanese Tree Lilac	<i>Syringa reticulata</i> "Ivory Silk" tree form	2"	B&B	Each	15	165.00	2,475.00	
Skylark Honeylocust	<i>Gleditsia triacanthos</i> <i>emeris</i>	2"	B&B	Each	20	175.00	3,500.00	
Red Jewel Crabapple	<i>Malus</i> "Jewelchoie"	2"	B&B	Each	20	150.00	3,000.00	
Silver Linden	<i>Lilja tomentosa</i>	2"	B&B	Each	30	165.00	4,950.00	
Mayabei Maple	<i>Acer niyabei</i>	2"	B&B	Each	20	175.00	3,500.00	
Scarlet Sentinel Maple	<i>Acer rubrum</i> "Scarlet"	2"	B&B	Each	40	170.00	6,800.00	
European Hornbeam	<i>Carpinus betulus</i>	2"	B&B	Each	10	170.00	1,700.00	
Sub-Total							30,050.00	
Street Occupancy Permit Allowance							\$50.00	
TOTAL (Subtotal + Permit Allowance)							30,100.00	

Name of Firm: PAUL SWARTZ NURSERY  
 By: ROSS SWARTZ  
 Address of Firm: 30728 93rd STREET  
 State: WISCONSIN  
 Telephone: 62-537-8083

Title: PRESIDENT  
 City: BURLINGTON SALEM TOWNSHIP KENOSHA CTY  
 Zip: 53105  
 Fax: 262-537-8092

CITY OF KENOSHA, WISCONSIN

PARK DIVISION

PROPOSAL FOR PARKWAY TREE PLANTING

Project No. 12-1412

City of Kenosha  
625 - 52nd Street, Room 305  
Kenosha, Wisconsin 53140

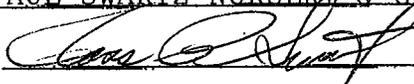
Department of Public Works:

The Undersigned has reviewed the proposal documents noted in the 2012 City of Kenosha Tree Specifications, or waived said right, and hereby submits the following Proposal to plant said trees in accordance with City of Kenosha specifications at the following prices, to be firm for sixty (60) days from date of Proposal, subject to Proposal being accepted within that time and a Contract entered into for that price.

- Work to be completed by AS REQUESTED BY ~~2011~~ NOVEMBER 30, 2012
- Alternate itemized and included with response? Yes X No
- Warranty Offered: NONE: EXCEPT VARIETIES AND SIZE TRUE TO  
NURSERY STANDARDS
- Comments:

Respectfully submitted,

Firm: PAUL SWARTZ NURSERY & GARDEN SHOP, INC.

Signature: 

Address: 30728 93rd STREET BURLINGTON, WI 53105

Phone: (262) 537-8083

Fax: (262) 537-8092

Date: 3-15-2012

Cash Discount Terms:      %      Days, Net 30 Days

Email Address (optional): ross@paulswartznursery.com

Minority Owned Business: Yes      No X

Shelly Billingsley/Documents/Forestry/Planting/Proposal for Parkway Tree Planting.doc



**CITY OF KENOSHA  
REFERENCE SHEET**

1. Name: KENOSHA COUNTY PUBLIC WORKS/PARKS DEPT.

Contact: JON RUDIE

Address: P.O. BOX 549 BRISTOL, WI 53104

Phone: (262) 857-1861 Fax: \_\_\_\_\_

2. Name: RACINE COUNTY PUBLIC WORKS

Contact: JIM METZGER

Address: 14200 WASHINGTON AVE. STURTEVANT, WI 53177

Phone: (262) 886-8440 Fax: (262) 886-8480

3. Name: VILLAGE OF WATERFORD

Contact: REBECCA EWALD

Address: 123 NO RIVER ST. WATERFORD, WI 53185

Phone: (262) 2534-7912 Fax: \_\_\_\_\_

4. Name: BUSCHMAN HOMES, LLC.

Contact: GARY BUSCHMAN

Address: 7500 W. GRAND AVE. SUITE 22 GURNEE, IL

Phone: (847) 265-0230 Fax: \_\_\_\_\_



# Information #1

April 9, 2012

TO: Michael Orth  
Park Commission Chairman

FROM: Shelly Billingsley, P.E.  
Director of Engineering



SUBJECT: Project Status Report

- Project #10-1415 Lakefront Water Feature** – Work is scheduled to begin in April (Camosy Construction).
- Project # 08-1443 Bike and Pedestrian Connections** - Plans have begun but a major focus on bike paths has been to complete the Bike Path crossing at Washington Road and the extension through Nash Park. Once these projects have been bid, design will be completed on this third phase. (Citywide)
- Project #11-1415 CORP Implementations** – Consultant services for the design work associated with the grants and the work identified in the CORP will begin upon the execution of the Master Contract. Priority will be first given to Strawberry Creek, Anderson Pool and the projects that have received grant funding. (Citywide)
- Project #11-1416 Petzke Park Mass Grading** –The parking lot has received the base material and will be paved in the spring. The contractor is working when they can due to the weather conditions. Construction is scheduled to be completed in early July. [BCF Construction] (1)
- Project #12-1419 - Strawberry Park Mass Grading, Trail and Shelter** – Design work on the master plan implementation has begun. [SAA Design Group] (16)
- Project #12-1423 Sunrise Park Grading and Trail** – Design work on the master plan implementation and grant identified additions has begun [SAA Design Group] (5)
- Project #11-1419 Park Fee Study** – The report is 90% complete. Staff is reviewing the draft document and making additional changes and adding data. The next step will be to discuss possible recommendations for inclusion into a section of the report. Staff is anticipating that the draft document will be given to Park Commissioners in May. (Citywide)
- Project #11-1421 Southport Beachhouse Restoration (Wisconsin Coastal Management Grant)** – Consultant services for the design work associated with this project will begin after a kickoff meeting. [Enberg Anderson] (12)
- Project #11-1422 Peorio Pond Invasive Control (DNR/EPA Grant)** – The pond has been filled with clay, stone and topsoil per WDNR requirements. The existing site has been sprayed with Polymer to keep the soil from eroding during the winter months and to allow for the fill to settle. In spring the site will be re-graded, seeded, fertilized and mulched for final restoration. (1 and 4)
- Project #11-1423 Southport Shoreline Repair** – Staff has submitted for the shoreline maintenance permit and once obtained will begin rebuilding the shoreline in Southport Park. (12)
- Project #11-1125 Pennoyer Beach Outfall Stormwater Infiltration Basin (GLRI Grant)** – Work is schedule to begin in April (SWU) (1 and 6)
- Project #11-1137 Pike River Monitoring (WI Coastal Management Grant)** – waiting approval of the contract by City of Racine. (1 and 4)
- Project #12-1136 Pike River Monitoring (Fund for Lake Michigan Grant)** – Recommend approval of the contract with the City of Racine Health Department. (1 and 4)
- Project #12-1414 Anderson Pool Modifications and Splash Pad** – Design work on the master plan implementation has begun. Preliminary plans from SAA are expected next week. [SAA Design Group] (9)
- Project #12-1420 Shagbark Trail Development** – Staff is recommending design work be completed by SAA as outlined in the Stewardship Grant (10)
- Project #12-1425 Washington Park Pool Stair Modifications** – Per Health Department Inspection the stairs to the slides at Washington Pool need repair. Staff is currently advertising for request for quotes. Quotes are due March 7, 2012. (6)
- Project #12-1410 Tree Removal** – Staff is recommending approval of contract (Citywide).
- Project #12-1412 Tree Planting** – Staff is recommending approval of contract (Citywide).
- Project #12-1133 Tree Pruning** – Staff is recommending approval of contract (SWU) (Citywide)
- Design Work-** Staff is working on the following projects:  
Revisions to the Google Map, Park Fee Study, Southport Park Trail Grant, Simmons Island Park Boardwalk Grant , Peorio Pond Play Area, Museum Fountain.



**Engineering Division**  
Shelly Billingsley, P.E.  
Director/City Engineer  
**Fleet Maintenance**  
Mauro Lenci  
Superintendent  
**Parks Division**  
Jeff Warnock  
Superintendent

**Street Division**  
John H. Prijic  
Superintendent  
**Waste Division**  
Rocky Bednar  
Superintendent

**DEPARTMENT OF PUBLIC WORKS**  
**Michael M. Lemens, P.E., Director**

Municipal Building · 625 52<sup>nd</sup> ST · RM 305 · Kenosha, WI 53140  
Telephone (262) 653-4050 · Fax (262) 653-4056

April 4, 2012

To: Michael Orth, Chairman  
Park Commission

From: Shelly Billingsley, P.E. *Shelly Billingsley*  
Director of Engineering / City Engineer

CC: Rocco LaMacchia  
District 5

Anthony Kennedy  
District 10

Subject: ***Informational Item – Stewardship Grants for Sunrise and Shagbark***

**BACKGROUND INFORMATION**

Staff has received and executed the attached Outdoor Recreation Aids Grant Agreements for the following Parks and Amounts:

- Sunrise Park Trail Development from the Recreational Trails Act Grant \$90,000 (\$45,000 grant and \$45,000 CIP)
- Shagbark Park Trail Development from the Acquisition and Development of Local Parks Grant \$213,610.00 (\$106,805.00 Grant and \$106,805.00 CIP)
- Shagbark Park Trail Development from the Recreational Trails Act \$32,000 (\$16,000 Grant and \$16,000 CIP)

**RECOMMENDATION**

Informational Only – No Action Required. The additional grants will be coming.

**Notice:** Collection of this information is authorized under ss. 23.09(11), 23.09(26), 350.12(4), 23.33, and 30.92, Wis. Stats., and chs. NR 7, NR 50, NR 51, and NR 64, Wis. Admin. Code. Personally identifiable information collected will be used for program administration and may be made available to requesters as required under Wisconsin's Open Records Law [ss.19.31 - 19.39, Wis. Stats].

<b>Grantee/Project Sponsor</b>		<b>Project Number</b>	
City of Kenosha		RTA-530-12 (S-ADLP3-12-1134)	
<b>Project Title</b>			
City of Kenosha - Shagbark Park Trail Development			
<b>Period Covered by This Agreement</b>		<b>Name of Program</b>	
March 5, 2012 Through June 30, 2014		Recreational Trails Act	
<b>Project Scope and Description of Project</b>			
<p>The City proposes to develop an accessible 8 ft. crushed limestone trails (approx 8,261 lf). The overall project also includes bridge crossing, native landscaping and prairie restoration, and park benches. Trails will connect to adjacent schools and sledding hill. Note: Project also assisted with state Stewardship funds</p>			
<b>PROJECT FINANCIAL ASSISTANCE SUMMARY:</b>		The following documents are hereby incorporated into and made part of this agreement:	
<b>Total Project Cost</b>	\$32,000.00	<ol style="list-style-type: none"> <li>1. <i>Chapter NR 50, Wisconsin Administrative Code</i></li> <li>2. <i>Application Dated</i></li> </ol>	
<b>Cost-Share Percentage</b>	50%		
<b>State Aid Amount</b>	\$16,000.00		
<b>Project Sponsor Share</b>	\$16,000.00		

## **A. General Conditions:**

1. The State of Wisconsin Department of Natural Resources (Department) and the Sponsor mutually agree to perform this agreement in accordance with the Recreational Trails Act and with the project proposal, application, terms, promises, conditions, plans, specifications, estimates, procedures, maps and also any assurances attached and made a part of this agreement.
2. This agreement, together with any referenced parts and attachments, shall constitute the entire agreement and previous communications or agreements pertaining to the subject matter of this agreement are superseded. Any revisions, including cost adjustments, must be made by an amendment to this agreement or other written documentation, signed by both parties, prior to the termination date of the agreement. Time extensions and scope changes to the agreement may be granted to the Sponsor by the Department in writing without the requirements of Sponsor signature.
3. Failure by the sponsor to comply with the terms of this agreement shall not cause the suspension of all obligations of the State if, in the judgment of the Secretary of the Department, such failure was due to no fault of the Sponsor. In such case, any amount required to settle at minimum costs any irrevocable obligations properly incurred shall be eligible for assistance under this agreement, at the Department's discretion.

## **The Project Sponsor:**

4. Agrees to comply with all applicable Wisconsin Statutes and Wisconsin Administrative codes in fulfilling terms of this agreement. In particular, the Sponsor agrees to comply with the provisions of Chapter NR 50, Wis. Adm. Code, as well as comply with all applicable local and state contract and bidding requirements. The sponsor should consult its legal counsel with questions concerning contracts and bidding.
5. May decline the offer of financial assistance provided through this agreement, in writing, at any time prior to the starting of the project and before expending any funds. After the project has been started or funds expended, this agreement may be rescinded, modified, or amended only by mutual agreement in writing.
6. Agrees, to save, keep harmless, defend and indemnify the Department and all its officers, employees and agents, against any and all liability claims, costs of whatever kind and nature, for injury to or death of any person or persons, and for loss or damage to any property (state or other) occurring in connection with or in any way incident to or arising out of the occupancy, use, service, operation or performance of work in connection with this agreement or omissions of Sponsor's employees, agents or representatives.
7. Agrees to reimburse the Department of any and all funds the Department deems appropriate in the event the Sponsor fails to comply with the conditions of this agreement or project proposal as described, or fails to provide public benefits as indicated in the project application, proposal description or this agreement. In addition, should the Sponsor fail to comply with the conditions of this agreement, fail to progress due to non-appropriation of funds, or fail to progress with or complete the project to the satisfaction of the Department, all obligations of the Department under this agreement may be terminated, including further project cost payment.
8. Agrees, in connection with the performance of work under this agreement, not to discriminate against any employee or applicant for employment because of age, race, religion, color, disability, handicap, sex, physical condition, developmental disability as defined in s. 51.01(5), Wis. Status, sexual orientation or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the Sponsor further agrees to take affirmative action to ensure equal employment opportunities, as required by law. The Sponsor agrees to post in conspicuous places available, for employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the nondiscrimination clause.

## **The Department:**

9. Promises, in consideration of the covenants and agreements made by the Sponsor, to obligate for the Sponsor the amount of \$16,000.00, and to tender to the Sponsor that portion of the obligation which is required to pay the Department's share of the costs based upon the state providing 50 percent of eligible project costs. The Sponsor promises, in consideration of the promises made by the Department, to execute the project described in accordance with this agreement.
10. Agrees that the Sponsor shall have sole control of the method, hours worked, and time and manner of any performance under this agreement other than as specifically provided in this document. The Department reserves the right only to inspect the job site or premises for the sole purpose of insuring that the performance is progressing or has been completed in compliance with the agreement. The Department takes no responsibility of supervision or direction of the performance of the agreement to be performed by the Sponsor or the Sponsor's employees or agents. The Sponsor is an Independent Contractor for all purposes, not an employee or agent of the Department. The Department further agrees that it will exercise no control over the selection and dismissal of the Sponsor's employees or agents.

## **B. Special Conditions:**

- a. Property acquired or developed with assistance from this program shall not be converted to uses inconsistent with public outdoor recreation without the approval of this Department.

- b. All facilities constructed with assistance from this program must be accessible to persons with disabilities. All facilities developed with these grant funds shall be connected by linkage trails to a main walkway and/or parking lot.
- c. All regulatory permits and approvals, including water and wetland regulatory permits and approvals, required by federal, state or local agencies must be obtained prior to project construction and complied with fully during project construction.
- d. In connection with the performance of work under this agreement, the sponsor agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01(5), Wis. Stats., sexual orientation, arrest or conviction record or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the sponsor further agrees to take affirmative action to ensure equal employment opportunities.
- e. The sponsor shall implement and maintain proper soil erosion and sediment control best management (BMPs) practices during construction of the project. Erosion and sediment control BMPs shall be accomplished using the guidelines in the Wisconsin Stormwater Technical Standards available via the internet at <http://dnr.wi.gov/runoff/stormwater/techstds.htm>. BMPs shall be properly installed, and maintained to function as intended until the project site is stabilized. All temporary erosion and sediment control practices (e.g. silt fence, etc.) shall be removed once the construction site has undergone final stabilization. Construction sites associated with land disturbing activities over one acre and grading sites of 10,000 sq. ft., or more on the bank of a navigable waterway require an erosion control and stormwater management plan prepared by the sponsor. Construction sites disturbing one or more acres of land require coverage under a construction site stormwater discharge permit prior to commencing any land disturbing construction activity.
- f. This grant is funded through a grant from the US Department of Transportation, Federal Highway Administration under the Recreational Trails Program authorized under Section 1112 of the Transportation Efficiency Act for the 21st Century which amended 23 USC 206. This procurement will be subject to regulations set forth in (1) Title 23, U.S. Code, Highways, (2) the Regulations issued pursuant thereto and, (3) the policies and procedures promulgated by the Federal Highway Administrator relative to the above designated project. This procurement shall be subject to the regulations contained Section 20.219, Recreational Trails Program, of the Catalog of Federal Domestic Assistance, <http://www.cfda.gov>. The grantee shall maintain the financial information and dated records used in the preparation or support of the cost submission for the grant in effect on the date of execution for this grant until three years after the final voucher has been approved by the Federal Highway Administration. The department, US Department of Transportation, or their agents, or any of their duly authorized representatives, shall have access to such books, records, documents, and other evidence for the purpose of inspection, audit and copying. The grantee shall provide proper facilities for such access and inspection. In addition, they shall have access to all records which relate to any dispute, appeal, or litigation, or the settlement of claims arising out of such performance, or costs or items to which an audit exception has been taken.
- g. Stormwater permits are required if grading >1 acre, and filling or grading in wetlands requires a Corps of Engineers & DNR permits.

*The persons signing for the Sponsor represents both personally and as an agent of his or her principal that he or she is authorized to execute this agreement and bind his or her principal, either by a duly adopted resolution or otherwise.*

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES  
FOR THE SECRETARY

By   
(Signature)

By   
Mary Rose Teves, Director  
Bureau of Community Financial Assistance

Director of Public Works  
(Title)

3-14-12  
(Date)

3-5-2012  
(Date)

**Notice:** Collection of this information is authorized under ss. 23.09(11), 23.09(26), 350.12(4), 23.33, and 30.92, Wis. Stats., and chs. NR 7, NR 50, NR 51, and NR 64, Wis. Admin. Code. Personally identifiable information collected will be used for program administration and may be made available to requesters as required under Wisconsin's Open Records Law [ss.19.31 - 19.39, Wis. Stats].

<b>Grantee/Project Sponsor</b>  City of Kenosha	<b>Project Number</b>  S-ADLP3-12-1134 (RTA-530-12)								
<b>Project Title</b>  City of Kenosha - Shagbark Park Development									
<b>Period Covered by This Agreement</b>  March 5, 2012 Through June 30, 2014	<b>Name of Program</b>  Acquisition and Development of Local Parks								
<b>Project Scope and Description of Project</b>  The City of Kenosha proposes to develop an 8' limestone surface hiking trail at their Shagbark Park and has requested Stewardship grant assistance. Other project items will include engineering, site preparation and grading, pedestrian bridge, native landscaping, and miscellaneous equipment and signage. The planned trail will provide connection to adjacent schools and sledding hill. Note: Project also assisted with RTA.									
<b>PROJECT FINANCIAL ASSISTANCE SUMMARY:</b>	The following documents are hereby incorporated into and made part of this agreement:								
<table border="0"> <tr> <td><b>Total Project Cost</b></td> <td style="text-align: right;">\$213,610.00</td> </tr> <tr> <td><b>Cost-Share Percentage</b></td> <td style="text-align: right;">50%</td> </tr> <tr> <td><b>State Aid Amount</b></td> <td style="text-align: right;">\$106,805.00</td> </tr> <tr> <td><b>Project Sponsor Share</b></td> <td style="text-align: right;">\$106,805.00</td> </tr> </table>	<b>Total Project Cost</b>	\$213,610.00	<b>Cost-Share Percentage</b>	50%	<b>State Aid Amount</b>	\$106,805.00	<b>Project Sponsor Share</b>	\$106,805.00	<ol style="list-style-type: none"> <li>1. <i>Chapter NR 51, Wisconsin Administrative Code</i></li> <li>2. <i>Application Dated 07/15/2011</i></li> </ol>
<b>Total Project Cost</b>	\$213,610.00								
<b>Cost-Share Percentage</b>	50%								
<b>State Aid Amount</b>	\$106,805.00								
<b>Project Sponsor Share</b>	\$106,805.00								

## A. General Conditions:

1. The State of Wisconsin Department of Natural Resources (Department) and the Sponsor mutually agree to perform this agreement in accordance with the Acquisition and Development of Local Parks and with the project proposal, application, terms, promises, conditions, plans, specifications, estimates, procedures, maps and also any assurances attached and made a part of this agreement.
2. This agreement, together with any referenced parts and attachments, shall constitute the entire agreement and previous communications or agreements pertaining to the subject matter of this agreement are superseded. Any revisions, including cost adjustments, must be made by an amendment to this agreement or other written documentation, signed by both parties, prior to the termination date of the agreement. Time extensions and scope changes to the agreement may be granted to the Sponsor by the Department in writing without the requirements of Sponsor signature.
3. Failure by the sponsor to comply with the terms of this agreement shall not cause the suspension of all obligations of the State if, in the judgment of the Secretary of the Department, such failure was due to no fault of the Sponsor. In such case, any amount required to settle at minimum costs any irrevocable obligations properly incurred shall be eligible for assistance under this agreement, at the Department's discretion.

### The Project Sponsor:

4. Agrees to comply with all applicable Wisconsin Statutes and Wisconsin Administrative codes in fulfilling terms of this agreement. In particular, the Sponsor agrees to comply with the provisions of Chapter NR 51, Wis. Adm. Code, as well as comply with all applicable local and state contract and bidding requirements. The sponsor should consult its legal counsel with questions concerning contracts and bidding.
5. May decline the offer of financial assistance provided through this agreement, in writing, at any time prior to the starting of the project and before expending any funds. After the project has been started or funds expended, this agreement may be rescinded, modified, or amended only by mutual agreement in writing.
6. Agrees, to save, keep harmless, defend and indemnify the Department and all its officers, employees and agents, against any and all liability claims, costs of whatever kind and nature, for injury to or death of any person or persons, and for loss or damage to any property (state or other) occurring in connection with or in any way incident to or arising out of the occupancy, use, service, operation or performance of work in connection with this agreement or omissions of Sponsor's employees, agents or representatives.
7. Agrees to reimburse the Department of any and all funds the Department deems appropriate in the event the Sponsor fails to comply with the conditions of this agreement or project proposal as described, or fails to provide public benefits as indicated in the project application, proposal description or this agreement. In addition, should the Sponsor fail to comply with the conditions of this agreement, fail to progress due to non-appropriation of funds, or fail to progress with or complete the project to the satisfaction of the Department, all obligations of the Department under this agreement may be terminated, including further project cost payment.
8. Agrees, in connection with the performance of work under this agreement, not to discriminate against any employee or applicant for employment because of age, race, religion, color, disability, handicap, sex, physical condition, developmental disability as defined in s. 51.01(5), Wis. Status, sexual orientation or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the Sponsor further agrees to take affirmative action to ensure equal employment opportunities, as required by law. The Sponsor agrees to post in conspicuous places available, for employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the nondiscrimination clause.

### The Department:

9. Promises, in consideration of the covenants and agreements made by the Sponsor, to obligate for the Sponsor the amount of \$106,805.00, and to tender to the Sponsor that portion of the obligation which is required to pay the Department's share of the costs based upon the state providing 50 percent of eligible project costs. The Sponsor promises, in consideration of the promises made by the Department, to execute the project described in accordance with this agreement.
10. Agrees that the Sponsor shall have sole control of the method, hours worked, and time and manner of any performance under this agreement other than as specifically provided in this document. The Department reserves the right only to inspect the job site or premises for the sole purpose of insuring that the performance is progressing or has been completed in compliance with the agreement. The Department takes no responsibility of supervision or direction of the performance of the agreement to be performed by the Sponsor or the Sponsor's employees or agents. The Sponsor is an Independent Contractor for all purposes, not an employee or agent of the Department. The Department further agrees that it will exercise no control over the selection and dismissal of the Sponsor's employees or agents.

## B. Special Conditions:

- a. Property acquired or developed with assistance from this program shall not be converted to uses inconsistent with public outdoor recreation without the approval of this Department.

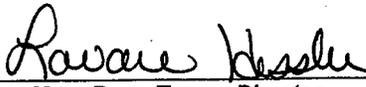
- b. All regulatory permits and approvals, including water and wetland regulatory permits and approvals, required by federal, state or local agencies must be obtained prior to project construction and complied with fully during project construction.
- c. All facilities constructed with assistance from this program must be accessible to persons with disabilities. All facilities developed with these grant funds shall be connected by linkage trails to a main walkway and/or parking lot.
- d. The Sponsor agrees to provide engineer stamped bridge plans prior to construction.
- e. All existing overhead utility services if feasible shall be buried and any new utility services provided through this project must be installed underground.
- f. The sponsor shall implement and maintain proper soil erosion and sediment control best management (BMPs) practices during construction of the project. Erosion and sediment control BMPs shall be accomplished using the guidelines in the Wisconsin Stormwater Technical Standards available via the internet at <http://dnr.wi.gov/runoff/stormwater/techstds.htm>. BMPs shall be properly installed, and maintained to function as intended until the project site is stabilized. All temporary erosion and sediment control practices (e.g. silt fence, etc.) shall be removed once the construction site has undergone final stabilization. Construction sites associated with land disturbing activities over one acre and grading sites of 10,000 sq. ft., or more on the bank of a navigable waterway require an erosion control and stormwater management plan prepared by the sponsor. Construction sites disturbing one or more acres of land require coverage under a construction site stormwater discharge permit prior to commencing any land disturbing construction activity.
- g. The Sponsor agrees to display a sign at the site acknowledging funding through the Knowles-Nelson Stewardship Program and Wisconsin Department of Natural Resources.
- h. Stormwater permits are required if grading >1 acre, and filling or grading in wetlands requires a Corps of Engineers & DNR permits.

Check here if you request advance payment totaling \$53,402.50

*The persons signing for the Sponsor represents both personally and as an agent of his or her principal that he or she is authorized to execute this agreement and bind his or her principal, either by a duly adopted resolution or otherwise.*

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES  
FOR THE SECRETARY

By   
(Signature)

By   
for Mary Rose Teves, Director  
Bureau of Community Financial Assistance

Director of Public Works  
(Title)

3-14-12  
(Date)

March 5, 2012  
(Date)

YOUR COPY

**Notice:** Collection of this information is authorized under ss. 23.09(11), 23.09(26), 350.12(4), 23.33, and 30.92, Wis. Stats., and chs. NR 7, NR 50, NR 51, and NR 64, Wis. Admin. Code. Personally identifiable information collected will be used for program administration and may be made available to requesters as required under Wisconsin's Open Records Law [ss.19.31 - 19.39, Wis. Stats].

<b>Grantee/Project Sponsor</b>  City of Kenosha	<b>Project Number</b>  RTA-528-12								
<b>Project Title</b>  City of Kenosha - Sunrise Park Trail Development									
<b>Period Covered by This Agreement</b>  February 27, 2012 Through June 30, 2014	<b>Name of Program</b>  Recreational Trails Act								
<b>Project Scope and Description of Project</b>  The City of Kenosha will develop off-road pedestrian walking trails at their local Sunrise Park. The main paved trail loop will be a 10 ft. wide - approximately .5 miles, and a secondary 6 ft. gravel chip trail will connect. Project scope items include engineering, trail construction, and related trail equipment.									
<b>PROJECT FINANCIAL ASSISTANCE SUMMARY:</b>	The following documents are hereby incorporated into and made part of this agreement:								
<table border="0"> <tr> <td><b>Total Project Cost</b></td> <td style="text-align: right;">\$90,000.00</td> </tr> <tr> <td><b>Cost-Share Percentage</b></td> <td style="text-align: right;">50%</td> </tr> <tr> <td><b>State Aid Amount</b></td> <td style="text-align: right;">\$45,000.00</td> </tr> <tr> <td><b>Project Sponsor Share</b></td> <td style="text-align: right;">\$45,000.00</td> </tr> </table>	<b>Total Project Cost</b>	\$90,000.00	<b>Cost-Share Percentage</b>	50%	<b>State Aid Amount</b>	\$45,000.00	<b>Project Sponsor Share</b>	\$45,000.00	<ol style="list-style-type: none"> <li>1. <i>Chapter NR 50, Wisconsin Administrative Code</i></li> <li>2. <i>Application Dated</i></li> </ol>
<b>Total Project Cost</b>	\$90,000.00								
<b>Cost-Share Percentage</b>	50%								
<b>State Aid Amount</b>	\$45,000.00								
<b>Project Sponsor Share</b>	\$45,000.00								

## A. General Conditions:

1. The State of Wisconsin Department of Natural Resources (Department) and the Sponsor mutually agree to perform this agreement in accordance with the Recreational Trails Act and with the project proposal, application, terms, promises, conditions, plans, specifications, estimates, procedures, maps and also any assurances attached and made a part of this agreement.
2. This agreement, together with any referenced parts and attachments, shall constitute the entire agreement and previous communications or agreements pertaining to the subject matter of this agreement are superseded. Any revisions, including cost adjustments, must be made by an amendment to this agreement or other written documentation, signed by both parties, prior to the termination date of the agreement. Time extensions and scope changes to the agreement may be granted to the Sponsor by the Department in writing without the requirements of Sponsor signature.
3. Failure by the sponsor to comply with the terms of this agreement shall not cause the suspension of all obligations of the State if, in the judgment of the Secretary of the Department, such failure was due to no fault of the Sponsor. In such case, any amount required to settle at minimum costs any irrevocable obligations properly incurred shall be eligible for assistance under this agreement, at the Department's discretion.

### The Project Sponsor:

4. Agrees to comply with all applicable Wisconsin Statutes and Wisconsin Administrative codes in fulfilling terms of this agreement. In particular, the Sponsor agrees to comply with the provisions of Chapter NR 50, Wis. Adm. Code, as well as comply with all applicable local and state contract and bidding requirements. The sponsor should consult its legal counsel with questions concerning contracts and bidding.
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6. Agrees, to save, keep harmless, defend and indemnify the Department and all its officers, employees and agents, against any and all liability claims, costs of whatever kind and nature, for injury to or death of any person or persons, and for loss or damage to any property (state or other) occurring in connection with or in any way incident to or arising out of the occupancy, use, service, operation or performance of work in connection with this agreement or omissions of Sponsor's employees, agents or representatives.
7. Agrees to reimburse the Department of any and all funds the Department deems appropriate in the event the Sponsor fails to comply with the conditions of this agreement or project proposal as described, or fails to provide public benefits as indicated in the project application, proposal description or this agreement. In addition, should the Sponsor fail to comply with the conditions of this agreement, fail to progress due to non-appropriation of funds, or fail to progress with or complete the project to the satisfaction of the Department, all obligations of the Department under this agreement may be terminated, including further project cost payment.
8. Agrees, in connection with the performance of work under this agreement, not to discriminate against any employee or applicant for employment because of age, race, religion, color, disability, handicap, sex, physical condition, developmental disability as defined in s. 51.01(5), Wis. Status, sexual orientation or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the Sponsor further agrees to take affirmative action to ensure equal employment opportunities, as required by law. The Sponsor agrees to post in conspicuous places available, for employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the nondiscrimination clause.

### The Department:

9. Promises, in consideration of the covenants and agreements made by the Sponsor, to obligate for the Sponsor the amount of \$45,000.00, and to tender to the Sponsor that portion of the obligation which is required to pay the Department's share of the costs based upon the state providing 50 percent of eligible project costs. The Sponsor promises, in consideration of the promises made by the Department, to execute the project described in accordance with this agreement.
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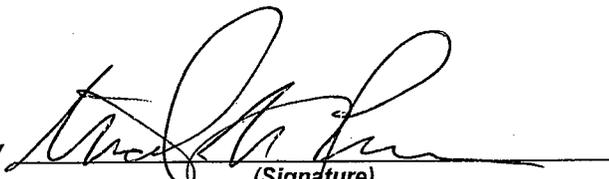
## B. Special Conditions:

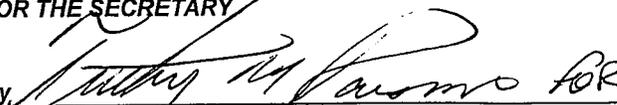
- a. Property acquired or developed with assistance from this program shall not be converted to uses inconsistent with public outdoor recreation without the approval of this Department.
- b. All facilities constructed with assistance from this program must be accessible to persons with disabilities. All facilities developed with these grant funds shall be connected by linkage trails to a main walkway and/or parking lot.

- c. All regulatory permits and approvals, including water and wetland regulatory permits and approvals, required by federal, state or local agencies must be obtained prior to project construction and complied with fully during project construction.
- d. The sponsor shall implement and maintain proper soil erosion and sediment control best management (BMPs) practices during construction of the project. Erosion and sediment control BMPs shall be accomplished using the guidelines in the Wisconsin Stormwater Technical Standards available via the internet at <http://dnr.wi.gov/runoff/stormwater/techstds.htm>. BMPs shall be properly installed, and maintained to function as intended until the project site is stabilized. All temporary erosion and sediment control practices (e.g. silt fence, etc.) shall be removed once the construction site has undergone final stabilization. Construction sites associated with land disturbing activities over one acre and grading sites of 10,000 sq. ft., or more on the bank of a navigable waterway require an erosion control and stormwater management plan prepared by the sponsor. Construction sites disturbing one or more acres of land require coverage under a construction site stormwater discharge permit prior to commencing any land disturbing construction activity.
- e. In connection with the performance of work under this agreement, the sponsor agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01(5), Wis. Stats., sexual orientation, arrest or conviction record or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the sponsor further agrees to take affirmative action to ensure equal employment opportunities.
- f. All existing overhead utility services if feasible shall be buried and any new utility services provided through this project must be installed underground.
- g. This grant is funded through a grant from the US Department of Transportation, Federal Highway Administration under the Recreational Trails Program authorized under Section 1112 of the Transportation Efficiency Act for the 21st Century which amended 23 USC 206. This procurement will be subject to regulations set forth in (1) Title 23, U.S. Code, Highways, (2) the Regulations issued pursuant thereto and, (3) the policies and procedures promulgated by the Federal Highway Administrator relative to the above designated project. This procurement shall be subject to the regulations contained Section 20.219, Recreational Trails Program, of the Catalog of Federal Domestic Assistance, <http://www.cfda.gov>. The grantee shall maintain the financial information and dated records used in the preparation or support of the cost submission for the grant in effect on the date of execution for this grant until three years after the final voucher has been approved by the Federal Highway Administration. The department, US Department of Transportation, or their agents, or any of their duly authorized representatives, shall have access to such books, records, documents, and other evidence for the purpose of inspection, audit and copying. The grantee shall provide proper facilities for such access and inspection. In addition, they shall have access to all records which relate to any dispute, appeal, or litigation, or the settlement of claims arising out of such performance, or costs or items to which an audit exception has been taken.
- h. Stormwater permits are required if grading >1 acre, and filling or grading in wetlands requires a Corps of Engineers & DNR permits.
- i. Final construction plans must be approved for structural adequacy by the Department of Natural Resources before construction begins.

**The persons signing for the Sponsor represents both personally and as an agent of his or her principal that he or she is authorized to execute this agreement and bind his or her principal, either by a duly adopted resolution or otherwise.**

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES  
FOR THE SECRETARY

By   
(Signature)

By  FOR  
Mary Rose Teves, Director  
Bureau of Community Financial Assistance

Director of Public Works  
(Title)

3-16-12  
(Date)

2-27-2012  
(Date)