



Agenda
Public Works Committee Meeting
625 52nd Street, Room 202
Monday, August 29, 2016
5:30 PM

Chairperson David F. Bogdala
Vice Chairperson Mitchell Pedersen
Alderspersion Jesse Downing

Alderspersion John Fox
Alderspersion Kevin E. Mathewson
Alderspersion G. John Ruffolo

Call to Order
Roll Call
Citizens Comments

Approval of the minutes of the meeting held on August 8, 2016 and special meeting held on August 15, 2016.

1. Request from Ark Apartments, LLC for paved carriage walks at 4007 45th Street. (District 10) (deferred from the July 11, 2016 and July 25, 2016 meetings)
2. Request from Robert Pozza (622 77th Street) for paved carriage walk. (District 12) (deferred from the August 8, 2016 meeting)
3. Acceptance of Project 16-1423 Kennedy Park Revetment Repair (Approximately 38th Street to 40th Place) which has been satisfactorily completed by A.W. Oakes & Son, Inc. (Racine, Wisconsin). The final amount of the contract is \$42,400.00. (District 1) (referred to Parks)
4. Lease by and between the City of Kenosha, Wisconsin (a Wisconsin Municipal Corporation) and M.J. Electric, LLC (A Foreign Corporation). (District 11)
5. Change Order #2 (Contract Deadline Only) for Project 15-1016 (39th Avenue – 45th Street to 52nd Street, 45th Street – 39th Avenue to Pershing Blvd). (District 10)

ALDERPERSONS' COMMENTS

IF YOU ARE DISABLED AND NEED ASSISTANCE, PLEASE CALL 653-4050 BY NOON BEFORE THIS MEETING TO MAKE ARRANGEMENTS FOR REASONABLE ON-SITE ACCOMMODATIONS.

PUBLIC WORKS COMMITTEE
- MINUTES -

MONDAY, AUGUST 8, 2016
5:30 PM

Chairperson David F. Bogdala
Vice Chairperson Mitchell Pedersen
Aldersperson Jesse Downing

Aldersperson John Fox
Aldersperson Kevin E. Mathewson
Aldersperson G. John Ruffolo

The regular meeting of the Public Works Committee was held on Monday, August 8, 2016 in Room 202 of the Municipal Building. At roll call the following members were present: Chairperson David F. Bogdala, Vice Chairperson Mitchell Pedersen, Alderspersons Jesse Downing, John Fox, Kevin E. Mathewson and G. John Ruffolo. The meeting was called to order at 5:31 PM. Staff members in attendance were Shelly Billingsley, Director of Public Works; Greg Holverson, Assistant City Engineer; Ryan Spackman, Senior Civil Engineer; Mayor Antaramian; Matthew Knight, Deputy City Attorney; Barbara Brattin, Library Director; Aldersperson Rose and Aldersperson Wilson.

Citizen's Comments – None

Approval of minutes of regular meeting held on July 25, 2016.

It was moved by Aldersperson Ruffolo, seconded by Aldersperson Pedersen to approve. Motion passed 6-0.

1. Request from Robert Pozza (622 77th Street) for paved carriage walk. (District 12)
A public hearing was held, no one spoke. It was moved by Aldersperson Pedersen, seconded by Aldersperson Fox to approve. After some discussion it was then moved by Aldersperson Pedersen, seconded by Aldersperson Ruffolo to defer to the next meeting. Motion passed 6-0.
2. Award of Contract for Project 16-1211 Municipal Office Building – Air Handler Replacement (625 52nd Street) to J & H Hearing, Inc. (Port Washington, Wisconsin) in the amount of \$74,000.00. (District 2)
It was moved by Aldersperson Ruffolo, seconded by Aldersperson Downing to approve. Motion passed 6-0.
3. Distribution Easement Agreement with We Energies for Parcels 08-222-29-400-001 (4071 88th Avenue) and 08-222-32-101-004 (9900 52nd Street). (District 16) (Airport Commission 4-Ayes, 0-Noes)
It was moved by Aldersperson Ruffolo, seconded by Aldersperson Downing to approve. Motion passed 6-0.
4. Intergovernmental Cooperation Agreement between the Village of Somers and the City of Kenosha Regarding Reconstruction of 27th Street and Resurfacing of 28th Street.
It was moved by Aldersperson Ruffolo, seconded by Aldersperson Pedersen to approve. Motion passed 6-0.
5. Acceptance of Project 15-1529 Uptown Library Basement Renovation – Tile and Base (2419 63rd Street) which has been satisfactorily completed by Dickow-Cyzak Tile Co. (Kenosha, Wisconsin). The final amount of the contract is \$21,685.00. (District 3) (Library Board 6-Ayes, 0-Noes)
It was moved by Aldersperson Mathewson, seconded by Aldersperson Pedersen to approve. Motion passed 6-0.

6. Approval of Settlement Agreement by and between the City of Kenosha, Wisconsin with Magill Construction Company, Inc.
CLOSED SESSION: The Public Works Committee may go into Closed Session regarding this item, pursuant to §19.85(1)(g), Wisconsin Statutes to confer with legal counsel regarding this matter. The Public Works Committee may or may not reconvene into open session.
It was moved by Alderperson Ruffolo, seconded by Alderperson Mathewson to go into closed session at 6:05 PM. Motion passed 6-0. At 7:23 PM it was moved by Alderperson Ruffolo, seconded by Alderperson Downing to open the meeting back up. It was moved by Alderperson Ruffolo, seconded by Alderperson Downing to approve. Motion passed 6-0.

ALDERPERSONS' COMMENTS

ADJOURNMENT – There being no further business to come before the Public Works Committee, it was moved, seconded and unanimously approved to adjourn the meeting at 7:24 PM.

PUBLIC WORKS COMMITTEE
- MINUTES -

MONDAY, AUGUST 15, 2016
6:30 PM

Chairperson David F. Bogdala
Vice Chairperson Mitchell Pedersen
Aldersperson Jesse Downing

Aldersperson John Fox
Aldersperson Kevin E. Mathewson
Aldersperson G. John Ruffolo

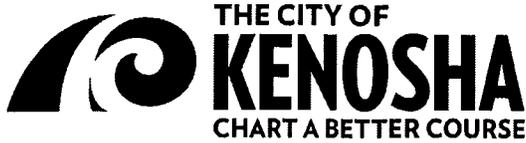
A special meeting of the Public Works Committee was held on Monday, August 15, 2016 in Room 202 of the Municipal Building. At roll call the following members were present: Chairperson David F. Bogdala, Vice Chairperson Mitchell Pedersen, Alderspersons Jesse Downing, John Fox, Kevin E. Mathewson and G. John Ruffolo. The meeting was called to order at 6:30 PM. Staff members in attendance were Shelly Billingsley, Director of Public Works; Aldersperson LaMacchia and Aldersperson Haugaard.

Citizen's Comments – None

1. Resolution by Sponsor: Aldersperson Rocco J. LaMacchia, Sr., Co-Sponsors: Aldersperson David F. Bogdala, Aldersperson Scott Gordon, Aldersperson G. John Ruffolo, Aldersperson Mitchell H. Pedersen, Aldersperson John Fox, Aldersperson Kevin Mathewson, Aldersperson Jack Rose – Resolution to Urge the Kenosha Unified School District Board to Follow the Recommendation of its Committee Regarding the Naming of the New Stadium.
The sponsor of the resolution spoke. It was moved by Aldersperson Mathewson, seconded by Aldersperson Ruffolo to open a public hearing. Motion passed 6-0. Todd Andrews spoke during the public hearing. It was moved by Aldersperson Mathewson, seconded by Aldersperson Pedersen to approve. Motion passed 6-0.
2. Request for use of City-owned Vacant Lot (Harbor Park Parcel J) by Kenosha Common Markets, Inc. on Saturday, August 27, 2016. (District 2)
A public hearing was held, Ray Forgianni spoke. It was moved by Aldersperson Ruffolo, seconded by Aldersperson Mathewson to approve. Motion passed 6-0.

ALDERPERSONS' COMMENTS – None

ADJOURNMENT – *There being no further business to come before the Public Works Committee, it was moved, seconded and unanimously approved to adjourn the meeting at 6:38 PM.*



CATHY AUSTIN, PE
Deputy Director of Public Works/City Engineer

August 26, 2016

To: David F. Bogdala, Chairperson
Public Works Committee

From: Cathy Austin, PE 
Deputy Director of Public Works/City Engineer

Cc: Alderperson Anthony Kennedy
District 10

Subject: ***Request from Ark Apartments, LLC for paved carriage walk at 4007 45th Street***

BACKGROUND INFORMATION

Previously the manager of Ark Apartments, LLC had requested paved carriage walk at 4007 45th Street. The manager has spoken to Alderperson Kennedy and let him know that she no longer requests a paved carriage walk at 4007 45th Street.

RECOMMENDATION

Staff recommends request be received and filed.

CMA/kjb



SHELLY BILLINGSLEY, MBA, PE
Director of Public Works

July 11, 2016

To: David Bogdala, Chairperson, Public Works Committee

From: Shelly Billingsley, M.B.A., P.E. *Shelly Billingsley* 7-8-16
Director of Public Works

Cc: Anthony Kennedy
District 10

Subject: ***Request from Ark Apartments, LLC for paved carriage walk at 4007 45th Street***

BACKGROUND INFORMATION

The property owner located at 4007 45th Street is requesting to re-install their two carriage walks. The property is currently on the 39th Avenue Resurfacing and 45th Street Resurfacing project and Ark Apartments is requesting to keep their two existing carriage walks. The carriage walks are 6 foot by 8 foot each. The installation of the carriage walks is the responsibility of the property owner to pay, and the property owner will be signing a waiver for their possible replacement.

The area is shown on the Google Maps and pictures supplied.

RECOMMENDATION

Staff recommends, due to use as carriage walk, regular concrete to be used.

RBS

July 6, 2016

City of Kenosha

Attn: Shelley Billingsley - DPW

RE: Ark Apartments, LLC

4007 - 45th Street

Kenosha, WI 53144

Dear Ms. Billingsley,

Ark Apartments is requesting paved parkway along 45th Street and 40th Avenue currently most of the parkway is paved. We are requesting paved parkway for tenant on street parking. If additional information is needed as part of this request please don't hesitate to contact me at the number below.

Guadalupe Torres

Leasing Agent for Ark Apartments, LLC

5110 - 60th Street office
Kenosha, WI 53144

(262) 653-9060



SHELLY BILLINGSLEY, MBA, PE
Director of Public Works

August 5, 2016

To: David F. Bogdala, Chairperson
Public Works Committee

From: Shelly Billingsley, MBA, PE
Director of Public Works

Shelly Billingsley 8-5-16

Subject: Request from Robert Pozza for Paved Carriage Walk (622 77th Street) (District 12)

BACKGROUND INFORMATION

The Kenosha Water Utility had a project on 77th Street – 6th Avenue to 7th Avenue as a result all carriage walks were removed per current policy. Robert Pozza of 622 77th Street is requesting to have a paved carriage walk due to handicapped needs.

RECOMMENDATION

Staff recommends approval of a paved carriage walk to be installed and paid for by the owner.

SAB/kjb

July 20, 2016

Dear Shelly,

It has been called to my attention that I must speak for the retainment of my carriage pathway
In front of my residence at 622 77th Street. This pathway serves our needs to the entrance of
Our home and is handicapped accessible for our handicap needs. It is located in the middle of
Our property and in case of emergency would accommodate us punctually. In the winter time
It would be more accommodating and is necessary for us.

It would be to our satisfaction that this carriage pathway be installed as it was before the
Reconstruction of 77th Street. It would better meet our needs.

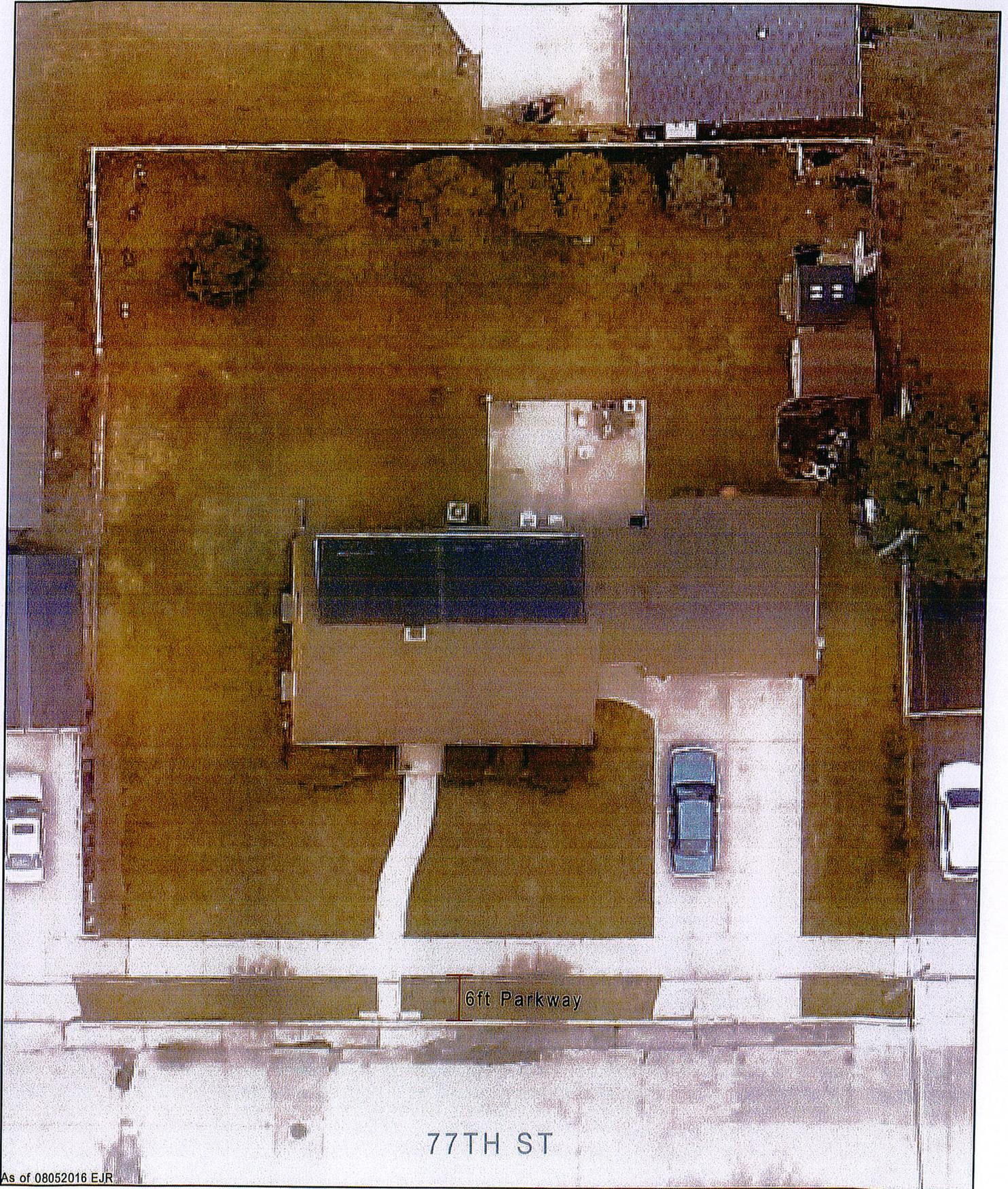
Thank you very much to your consideration to this matter.

Respectfully yours


Robert G. Pozza

Carriage Walk Replacement

622 77th St - 06-123-07-103-014

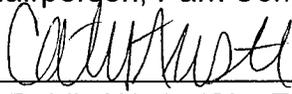




CATHY AUSTIN, PE
Deputy Director of Public Works/City Engineer

August 24, 2016

To: David F. Bogdala, Chairperson, Public Works Committee
Eric Haugaard, Chairperson, Park Commission

From: Cathy Austin, PE 
Deputy Director of Public Works/City Engineer

Subject: Acceptance of Project 16-1423 Kennedy Park Revetment Repair

Location: Approximately 38th Street to 40th Place

Please be advised that the above referenced project has been satisfactorily completed by A.W. Oakes & Son, Inc., Racine, Wisconsin. This project consisted of erosion control, traffic control, placing of revetment stone, concrete curb and gutter, concrete sidewalk, and site restoration.

It is recommended that the project be accepted in the final amount of \$42,400. Original contract amount was \$42,400 plus \$3,600 for contingency for a total of \$46,000. Funding was from CIP Line Item PK-15-002.

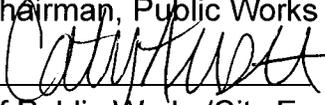
CMA/kjb



CATHY AUSTIN, PE
Deputy Director of Public Works/City Engineer

August 26, 2016

To: David Bogdala, Chairman, Public Works Committee

From: Cathy Austin, PE 
Deputy Director of Public Works/City Engineer

Cc: Scott Gordon
District 11

Subject: ***Lease by and between The City of Kenosha, Wisconsin, a Wisconsin Municipal Corporation and M.J. Electric, LLC, A Foreign Corporation (District 11)***

BACKGROUND INFORMATION

The attached lease agreement between the City of Kenosha and MJ Electric would allow MJ Electric to use Parcel Numbers 09-222-36-310-010, 09-222-36-309-001, and 09-222-36-376-001, consisting of a parking lot located on 30th Ave between 52nd St and 60th St as identified in Exhibit A. The lease agreement is for the use of the property as a laydown yard in support of construction activities for American Transmission Company. The length of the lease is for 150 days from the execution of the lease. MJ Electric has agreed to repair the fence along the western border of the identified lots in lieu of monetary compensation. Repair work will include replacement of all fence panels and replacement of posts in kind as necessary.

RECOMMENDATION

Staff recommends approval of the lease.

RBS

LEASE

By And Between

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

and

**M.J. ELECTRIC, LLC,
A Foreign Corporation**

THIS AGREEMENT, made and entered into by and between **THE CITY OF KENOSHA, WISCONSIN**, a Wisconsin municipal corporation, organized and existing under the laws of the State of Wisconsin, hereinafter referred to as "**CITY**" and **M.J. ELECTRIC, LLC**, a foreign corporation, duly organized and existing under the laws of the State of Delaware, hereinafter referred to as "**LEASEE**".

WITNESSETH:

WHEREAS, CITY owns certain parcels of real estate located at 30th Avenue, Kenosha, Wisconsin, (Parcel Numbers 09-222-36-310-010, 09-222-36-309-001 and 09-222-36-376-001), upon which a Parking Lot is located ("**PREMISES**"); and,

WHEREAS, LEASEE has requested to lease and operate a laydown yard at the **PREMISES**; and,

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

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

ARTICLE 1 - PREMISES AND USE

1.1 LEASED PREMISES. **CITY** does hereby lease, let, and demise to **LEASEE** the real estate known as Parcel Numbers 09-222-36-310-010, 09-222-36-309-001 and 09-222-36-376-001, consisting of a parking lot, as shown on Exhibit "A", attached hereto and incorporated herein by reference.

1.2 USE. **LEASEE** shall occupy and use the **PREMISES** for the sole purpose of operating a laydown yard and parking lot.

ARTICLE 2 - TERM

2.1 TERM AND POSSESSION. The term of this Lease, subject to early termination as hereinafter provided, shall commence on the date of execution and shall have a term of one hundred fifty (150) days ("TERM").

2.2 EARLY TERMINATION. Either party may terminate this Lease should there be a material breach thereof by the other, which breach is not cured within a reasonable time following written notice thereof, and a demand for curative action. Either party shall have the right, for any reason whatsoever, to terminate this Lease upon thirty (30) days written notice.

2.3 CONDITION OF PREMISES UPON TERMINATION. Upon termination of this Lease, LEASEE shall surrender the PREMISES in good order and condition, reasonable wear and tear excepted.

2.4 LEASEE'S RIGHTS UPON TERMINATION. Upon termination of this Lease, LEASEE may remove any personal property to which title has not passed to CITY, upon the condition that it be responsible for any damage to PREMISES occurring in the course of such removal.

ARTICLE 3 - CONSIDERATION

CONSIDERATION. LEASEE, in lieu of monetary consideration, agrees to replace and restore the fence which secures the west boundary of the PREMISES, for use and occupancy of PREMISES. All fence panels will be replaced with like materials approved by CITY prior to installation and when necessary, fence posts will be replaced with like materials approved by CITY prior to installation. The receipt of the fence repair is hereby acknowledged as sufficient consideration by CITY.

ARTICLE 4 - UTILITIES

LEASEE shall be responsible for payment of electric utility charges pertaining to said PREMISES.

ARTICLE 5 - IMPROVEMENTS

5.1 AUTHORIZATION AND APPROVAL. LEASEE may with the written authorization of CITY, improve PREMISES at its own cost and expense.

5.2 OWNERSHIP, TRANSFER, SURRENDER OR REMOVAL OF IMPROVEMENTS. Any and all improvements, additions or alterations made by LEASEE after authorization from CITY has been obtained, including any and all fixtures installed, shall remain in and upon the PREMISES as the property of CITY at the termination of this Lease.

5.3 UNAUTHORIZED IMPROVEMENTS. Should LEASEE make any improvements without prior CITY approval which are not satisfactory to CITY, then, upon written notice to do so, LEASEE shall remove the same, or at the option of CITY, cause the same to be changed, modified or reconstructed to the satisfaction of CITY. Should LEASEE fail to comply with such notice within thirty (30) days of receipt thereof, or should LEASEE commence to comply therewith and fail to

pursue such work diligently to completion, **CITY** may either (1) terminate this Lease or (2) effect the removal, change, modification or reconstruction thereof, and **LEASEE** shall pay the cost thereof to **CITY**, upon written demand.

ARTICLE 6 - CARE, MAINTENANCE AND REPAIR OF PREMISES

6.1 LEASEE'S RESPONSIBILITY. **LEASEE** shall at all times, be responsible for the care, maintenance and repair of **PREMISES**, including all improvements thereon, whether such work be ordinary, extraordinary, structural or otherwise, arising from any cause, and of any nature, all to be performed in a good and workmanlike manner, and in accordance with the provisions of this Lease. **LEASEE** shall, at all times:

6.1.1 Keep **PREMISES** and improvements thereon, in a clean, neat and sanitary condition.

6.1.2 Maintain improvements and perform all repair work in accordance with Federal, State and local laws, rules and regulations, upon receipt of permits and governmental approvals, where required.

6.1.3 Be responsible for snow removal from the **PREMISES**

6.1.4 Be responsible for snow removal from the sidewalk adjacent to the **PREMISES**.

6.1.5 Be responsible for landscape maintenance including mowing, for all vegetated areas associated with the **PREMISES**.

6.1.6 Be responsible for complying with all federal, state or local laws with respect to maintenance of the **PREMISES** as a parking lot and laydown yard.

6.1.7 Be responsible for any environmental cleanup required by any act or omission of **LEASEE** or its employees, sublessees, invitees or agents or arising out of its operations on **PREMISES**. **LEASEE** shall not, however, be responsible for any environmental cleanup not due to the act or omission of **LEASEE** or its employees, sublessees, invitees or agents.

6.1.8. Limit its use of the **PREMISES** as a parking lot and a laydown yard for the **LEASEE'S** project at 5555 30th Avenue. No other use of the **PREMISES** is permitted without written approval of **CITY**.

6.1.9. **LEASEE** shall maintain **PREMISES** security and secure **PREMISES** by lock and key when **PREMISES** is not in use.

6.2 TIME REQUIREMENTS FOR REPAIRS. **LEASEE** shall have thirty (30) days from the date on which the condition arose to repair any minor damage to **PREMISES**, including improvements, and one hundred twenty (120) days from the date on which the condition arose to repair any major damage to **PREMISES**, including improvements. As used herein, minor damage shall be damage to **PREMISES** or improvements which would cost Two Thousand (\$2,000.00) Dollars or less to repair, and major damage shall be damage to **PREMISES** or improvements which would cost in excess of Two Thousand (\$2,000.00) Dollars to repair. Notwithstanding the above, emergency repairs shall be conducted by **LEASEE** as soon as possible when required to preserve the **PREMISES** and improvements.

6.3 DEFAULT BY LEASEE. In the event **LEASEE** fails to exercise reasonable care for the maintenance and repair of **PREMISES** or improvements within the time provided for, or if no time is provided for, within a period of thirty (30) days following receipt of written notice, to do any such work required by this Lease, or in the event **LEASEE**, upon commencement thereof, fails to diligently continue to complete any such work, **CITY** may, at its option, either (1) terminate this Lease or (2) enter

PREMISES and improvements, without such entering causing or constituting a cancellation of this Lease or an interference with possession of **PREMISES** or improvements, and care for, maintain or repair all or any part of **PREMISES** or improvements which are in need of repair, and do all things reasonably necessary to accomplish the work required, the cost and expense of which shall be payable to **CITY** by **LEASEE**, on demand.

ARTICLE 7 - ACCESS TO PREMISES

LEASEE agrees to and shall permit **CITY** to send its representatives and employees onto **PREMISES** and improvements thereon, for the purpose of inspection and maintenance thereof. In nonemergency situations, **LEASEE** shall be provided with reasonable, advance notice of such activities by **CITY** if **LEASEE** is available to receive such notice.

ARTICLE 8 – SIGNS

LEASEE shall be permitted to place or erect appropriate signs on the **PREMISES** in accordance with City Ordinances.

ARTICLE 9 - ASSIGNMENT/SUBLEASE

LEASEE may not assign or sublease **PREMISES** without permission of **CITY**. An unauthorized assignment or sublease shall render this Lease null and void, at the option of **CITY**. **CITY** shall, however, not unreasonably withhold its consent to **LEASEE** subleasing **PREMISES** or any portion thereof, for use as a parking lot. Any assignment or sublease shall, unless waived in writing by **CITY**.

ARTICLE 10 - GOVERNMENTAL REQUIREMENTS

10.1 COMPLIANCE WITH LAW. **LEASEE**, with respect to the operation and maintenance of **PREMISES**, agrees to observe and obey any and all Federal, State and City laws, rules, regulations and ordinances, as they now exist and as they may be enacted or amended in the future, and with every lawful order given by any public officer pursuant thereto, and to require its officers, agents, employees, contractors, tenants, and suppliers to observe and obey the same.

10.2 LICENSES, CERTIFICATES AND PERMITS. **LEASEE** shall procure all licenses, certificates, permits and other authorizations required by any and all governmental authorities having jurisdiction over **PREMISES** or over **LEASEE’S** operations at **PREMISES**.

ARTICLE 11 - QUIET ENJOYMENT

CITY covenants and agrees, so long as **LEASEE** shall duly and punctually perform and observe all the terms and conditions hereof, that **LEASEE** shall peaceably and quietly have, hold and enjoy **PREMISES**, subject to the right of **CITY** to inspect **PREMISES**, and exercise other rights provided and reserved to it herein.

ARTICLE 12 - NATURAL DISASTER

LEASEE’S obligations during the term of the Lease shall neither abate nor be suspended

by virtue of any damage to **PREMISES** or improvements resulting from any natural disaster, unless **CITY** agrees otherwise or elects to terminate this Lease upon sixty (60) days advance, written notice.

ARTICLE 13 - INTERRUPTION IN USE OR ENJOYMENT

CITY shall not be liable to **LEASEE** or its sublessees for money damages arising out of any interruption in **LEASEE'S** use or enjoyment of **PREMISES** by reason of any physical damage to or destruction of **PREMISES**.

ARTICLE 14 - INDEMNITY AND HOLD HARMLESS

14.1 LEASEE INDEMNIFIES AND HOLDS HARMLESS CITY. **LEASEE** does hereby agree that it will indemnify and hold harmless **CITY**, and its officers, agents and employees against any and all claims, liability, loss, charges, damages, costs, expenses or attorney's fees, which any of them may hereafter sustain, incur or be required to pay as a result of incidents occurring on **PREMISES** or as a result of any operations, works, acts or omissions performed on **PREMISES** by **LEASEE**, its employees, sublessees, agents or representatives, during the term of this Lease, or resulting from **LEASEE'S** failure to perform or observe any of the terms, covenants and conditions of this Lease, or resulting from any conditions of **PREMISES** or improvements thereon causing any person to suffer personal injury, death or property loss or damage; provided, however, that the provisions of this paragraph shall not apply to claims, liabilities, losses, charges, damages, costs, expenses, or attorney's fees caused or resulting from the acts or omissions of **CITY**, or any of its officers, agents or employees. Upon the filing with **CITY** of a claim for damages arising out of any incident(s) which **LEASEE** herein agrees to indemnify and hold **CITY** and others harmless, **CITY** shall notify **LEASEE** of such claim, and in the event that **LEASEE** does not pay, settle or compromise such claim, then **LEASEE** shall undertake the legal defense of such claim both on behalf of **LEASEE** and **CITY**. It is specifically agreed, however, that **CITY**, at its own cost and expense, may participate in the legal defense of any such claim, but shall have no right to control settlement under circumstances wherein the full amount of the settlement shall be paid by **LEASEE** and/or its insurers. Any judgment, final beyond all possibility of appeal, which may be rendered against **CITY**, or its officers, agents, or employees for any cause for which **LEASEE** is liable hereunder shall be conclusive against **LEASEE** as to liability and amount of damages.

ARTICLE 15 - SANITATION - STORAGE

LEASEE shall not permit any unattractive or unsanitary accumulation of trash, garbage, refuse, debris or litter on **PREMISES**, or any portion of building or lot. The piling of boxes, cartons, drums, cans, parts or other similar items outside of buildings is prohibited.

ARTICLE 16 - BENEFITS

The terms and conditions hereof shall inure to the benefit of the parties and be binding upon their successors.

ARTICLE 17 – LIABILITY INSURANCE

17.1 INSURANCE REQUIRED. The Lessee shall procure and maintain during the **TERM** of this Lease insurance policies hereinafter specified. The policies must be issued by an insurance

company or companies authorized to do business in the State of Wisconsin, licensed by the Wisconsin Office of the Commissioner of Insurance, and have an A.M. Best rating of A Class X or better.

17.2 PROOF OF INSURANCE. The Lessee, prior to executing this Lease, shall furnish a Certificate of Insurance indicating compliance with this Article including the naming of the City as an "additional insured", and proof of payment of all premiums to the City for approval. The Lessee shall provide the City with an additional insured endorsement certifying that the City is an additional insured with respect to the insurance coverages required by this Article 18. At least thirty (30) days before the expiration date of any insurance policy required by this Article 18, the Lessee shall deliver to the City a copy of the renewal Certificate of Insurance, the policy and the additional insured endorsement. Within thirty (30) days after the premium on any insurance policy required by this Article 18 becomes due and payable, the Lessee shall provide satisfactory evidence of its payment to the City. The insurance policy or policies shall contain a clause that in the event that any policy is canceled for any reason, or any material changes are made therein, the City will be notified, in writing, by the insurer at least thirty (30) days before any cancellation or change takes effect. If for any reason, the insurance coverage required by this Article 18 lapses, the lapse shall be considered a material breach of this Lease thereby subjecting this Lease to termination.

17.3 INCREASED COVERAGE. The City in consultation with the City's insurer reserves the right to increase the liability insurance requirements set forth herein during the term of this Lease or upon any extension of this Lease. The Lessee shall comply with any increases in the liability insurance requirements or be considered in material breach of this Lease thereby subjecting this Lease to termination.

17.4 FAILURE TO MAINTAIN INSURANCE. In the event the Lessee fails to furnish, deliver and maintain the insurance coverage as required in this Article 18, the City in addition to any other remedies available to it, may obtain such insurance coverage and charge the Lessee for the cost of such insurance coverage plus all appropriate administrative charges and incidental expenses associated with the transaction. The failure of the Lessee to pay any such sums upon demand shall be considered a material breach of this Lease thereby subjecting this Lease to termination. The failure of the Lessee to obtain and maintain the insurance required by this Article 18 shall not relieve the Lessee from any liability under this Lease. The insurance requirements of this Article 18 shall not be construed to conflict with the obligations of the Lessee in Article 14.

17.5 REQUIRED COVERAGE. The following insurance coverages must be in effect and continue in effect during the Term of this Lease:

- A. Commercial General Liability
 - \$1,000,000 Each Occurrence
 - \$2,000,000 General Aggregate

- B. Automobile Liability (any auto)
 - \$1,000,000 Bodily Injury (per person)
 - \$2,000,000 Bodily Injury (per accident)
 - \$500,000 Property Damage (per accident)

- C. Worker's Compensation

Statutory Limits
\$100,000 Each Accident
\$100,000 Disease, Each Employee
\$500,000 Disease, Policy Limit

D. Umbrella Liability
\$4,000,000 Each Occurrence
\$4,000,000 General Aggregate

Umbrella liability coverage to be at least as broad as the underlying Commercial General Liability, Automobile Liability, Statutory Liability and Employers Liability coverages.

ARTICLE 18 - FAILURE TO OBSERVE TERMS OF LEASE

In the event there is a breach by either party with respect to any of the provisions of this Lease or its obligations under it, the party not in breach shall give the breaching party written notice of the breach. After receipt of the written notice, the breaching party shall have thirty (30) days in which to cure the breach, provided the breaching party shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and the breaching party commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. Neither party may maintain any action or effect any remedies for breach or default unless and until the breaching party has failed to cure the breach or default within the time period provided herein. In the event of any Lease termination, **LEASEE** shall have thirty (30) days after **CITY'S** written notice of termination to remove its personal property, if any exists, from **PREMISES**.

ARTICLE 19 - INTEGRATION

This Lease is fully integrated embodying the entire agreement between the parties and any written or oral understandings to the contrary shall be of no force or effect.

ARTICLE 20 - CONSTRUCTION/SEVERABILITY

This Lease shall be construed under the laws of the State of Wisconsin. Any covenant, condition, or provision herein contained that it is held to be unlawful, invalid or unenforceable by any court of competent jurisdiction shall be considered deleted from this Lease, but such deletion shall in no way affect any other covenant, condition, or provision herein contained so long as such deletion does not materially prejudice **CITY** or **LEASEE** in its respective rights and obligations contained in the valid remaining covenants, conditions, or provisions of this Lease, and when such occurs, only such other covenants, conditions or provisions shall be deleted as are incapable of enforcement.

ARTICLE 21 - TIME OF THE ESSENCE

Time is of the essence in each and every provision of this Lease.

M. J. ELECTRIC, LLC
a Foreign Corporation

BY: *Thomas Mayo*
Thomas Mayo, Director of Contracts

Date: 8-24-16

STATE OF WISCONSIN)
 :SS.
COUNTY OF KENOSHA)

Personally came before me this 23rd day of August, 2016, _____
_____, Thomas Mayo, of **M. J. ELECTRIC, LLC**, a foreign corporation,
to me known to be such Director of Contracts, and acknowledged to me that he executed
the foregoing instrument as such officer as the agreement of said corporation, by its authority.

Renee L. Devine

Notary Public, ~~Kenosha County, WI~~ Dickinson Co., MI
My Commission expires/is: December 23, 2017

RENEE L. DEVINE
NOTARY PUBLIC - STATE OF MICHIGAN
DICKINSON COUNTY
MY COMMISSION EXPIRES DECEMBER 23, 2017

Drafted By:
MATTHEW A. KNIGHT,
Deputy City Attorney

Exhibit A

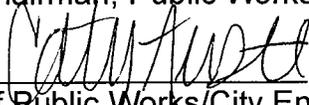




CATHY AUSTIN, PE
Deputy Director of Public Works/City Engineer

August 26, 2016

To: David Bogdala, Chairman, Public Works Committee

From: Cathy Austin, PE 
Deputy Director of Public Works/City Engineer

Cc: Anthony Kennedy
District 10

Subject: ***Change Order (Contract Deadline Only) for Project 15-1016 (39th Avenue – 45th Street to 52nd Street, 45th Street – 39th Avenue to Pershing Blvd). (District 10)***

BACKGROUND INFORMATION

The current ride of the binder on 39th Avenue is rougher than staff's expectations. Staff brought this concern to the Contractor's attention and the Contractor believes the roughness of the ride is due to the rubblization process and the inconsistencies with the base below 39th Ave and 45th St. This is due to several factors the key one being that the rubblized material tends to settle out once the concrete is broken up.

The Contractor is recommending after placing the binder course of asphalt to let traffic drive on the road for a few weeks prior to paving final surface to provide some time to allow the material to settle. Any areas that have seen settling would be repaired prior to final surface being applied.

Staff and the contractor are concerned that if we surface right away some of this settlement will continue to occur affecting our final product ride quality.

Staff and contractor would propose to restart work the week of September 26th. From this date the Contractor will need approximately two additional weeks to complete work (depending on number of areas that would need to be uncut prior to paving) with a project completion date of Oct. 7.

RECOMMENDATION

Staff recommends approval of the contract extension to October 7th, 2016.

RBS

THE CITY OF KENOSHA

CHANGE ORDER

Project Name: 39th Avenue – 45th Street to 52nd Street, 45th Street – 39th Avenue
to Pershing Blvd

Project Number: 15-1016

C.I.P. Line Item: IN-12-004 & SW-13-002

Purchase Order #: 160774

Contractor: Payne & Dolan, Inc.

Public Works Committee Action: **8/29/16**

Finance Committee: **9/7/16**

Date of Common Council Action: **9/7/16**

City and contractor agree that the above contract is amended to specify that contract completion deadline will be extended 49 days. The project will be completed no later than **October 7, 2016**.

This change order is approved by:

CONTRACTOR



CITY OF KENOSHA, MAYOR

DATE

8/25/2016

DATE