

**AGENDA**  
**BOARD OF PARK COMMISSIONERS**  
**Kenosha Municipal Building - Room 204**  
**Monday, October 27, 2014 - 5:00 pm**

<b>Chairman:</b>	<b>Scott N. Gordon</b>	<b>Vice Chairman:</b>	<b>Keith W. Rosenberg</b>
<b>Commissioner:</b>	<b>Kurt Wicklund</b>	<b>Commissioner:</b>	<b>Rocco J. LaMacchia, Sr.</b>
<b>Commissioner:</b>	<b>Jack Rose</b>		

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

Approval of the minutes of the meetings held on October 13, 2014 and October 20, 2014.

1. Approval for a permanent name for the Anderson Park Dog Park. *(District 9) (Deferred from the meeting on 9/29/14)*
2. Award of Professional Service Contract for Project 14-1417 Parkway Tree Removal Phase II to Droprite Tree & Landscape LLC *(Somers, Wisconsin)* in the amount of \$89,000. *(Also referred to Public Works)*
3. Resolution by Park Commission - To Adopt the Master Plan for Pennoyer Park.

**INFORMATIONAL ITEMS:**

1. Project Status Report
2. Discussion of Non-Resident User Fee for City Dog Parks

**DIRECTOR AND/OR SUPERINTENDENT COMMENTS**  
**CITIZEN COMMENTS/COMMISSIONER COMMENTS/OTHER BUSINESS PERTAINING TO**  
**PARKS COMMISSION MATTERS 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, October 13, 2014**

A meeting of the Board of Park Commissioners was held on Monday, October 13, 2014 in Room 204 of the Kenosha Municipal Building. The meeting was called to order at 5:31 pm by Chairman Gordon.

At roll call, the following members were present: Commissioners LaMacchia, Wicklund, Rose and Rosenberg. Staff members in attendance were Michael Lemens, Director of Public Works; Shelly Billingsley, Deputy Director of Public Works/City Engineer; and Alderperson Curt Wilson.

It was moved by Commissioner LaMacchia, seconded by Commissioner Rose, to approve the minutes from the meetings held on September 26, 2014 & October 6, 2014. Motion carried unanimously.

1. Resolution By Finance Committee - To Amend the City of Kenosha Capital Improvement Program for the Comprehensive Outdoor Recreation Plan & Master Plan Implementation for the Anderson Fishing Pier. *(District 9) (Also referred to Finance)*  
Staff: Shelly Billingsley spoke.  
Public Hearing: Margaret Heller spoke.  
It was moved by Commissioner LaMacchia, seconded by Commissioner Wicklund, to approve. Motion carried unanimously.
2. Award of Contract for Project 13-1419 Anderson Park Fishing Pier *(8730 22<sup>nd</sup> Avenue)* to NuGen Johnson *(Sussex, WI)* in the amount of \$109,000. *(District 9) (Also referred to Public Works)*  
Staff: Shelly Billingsley spoke. Michael Lemens answered questions.  
It was moved by Commissioner LaMacchia, seconded by Commissioner Rosenberg, to approve. Motion carried unanimously.
3. Resolution By Finance Committee - To Amend the City of Kenosha Capital Improvement Program for 2012 By Increasing PK11-001 "Outdoor Rec Plan-Simmons Island" in the Amount of \$58,063 With Outside Funding from Game Time Playground Grant Funding Award in the Amount of \$58,063 for a Net Change of \$0. *(Also referred to Finance)*  
Staff: Shelly Billingsley spoke.  
It was moved by Commissioner LaMacchia, seconded by Commissioner Rose, to approve. Motion carried 4-1 (Chairman Gordon voting nay).
4. Change Requests.  
Staff: Shelly Billingsley spoke.  
It was moved by Commissioner Rose, seconded by Commissioner LaMacchia, to approve. Motion carried unanimously.

**INFORMATIONAL ITEMS:**

1. Project Status Report – Shelly Billingsley spoke.

CITIZEN COMMENTS: Greg Kishline asked for a formal request to have an item added to an agenda for discussion on sliding rentals for the Southport Beach House. Tammy Conforti wanted to Thank Ryan Douglas at LandQuest for the rehab on a house and making it a community project.

COMMISSIONER COMMENTS: Commissioner Rose commented on the rehab of a house with Tammy Conforti's comments. Commissioner Wicklund thanked Jeff Warnock for giving him a tour of the Southport Beach House.

ADJOURNMENT - There being no further business to come before the Board of Parks Commissioners, it was moved, seconded and unanimously carried to adjourn at 5:49 pm.

**BOARD OF PARK COMMISSIONERS**  
**Minutes of Meeting held Monday, October 20, 2014**

A special meeting of the Board of Park Commissioners was held on Monday, October 20, 2014 in Room 202 of the Kenosha Municipal Building. The meeting was called to order at 6:47 pm by Acting Chairman Rosenberg.

At roll call, the following members were present: Commissioners Wicklund and Rose. Commissioner LaMacchia and Chairman Gordon were excused. Staff member in attendance was Michael Lemens, Director of Public Works.

1. Award of Contract for Project 14-1120 Eichelman Park Beach Water Quality Improvements Phases I & II (*6125 3rd Avenue*) to A.W. Oakes & Son, Inc. (*Racine, Wisconsin*) in the amount of \$395,000. (*Stormwater Funds only*) (*District 2*) (*Also referred to Stormwater Utility and Public Works*)  
It was moved by Commissioner Rose, seconded by Commissioner Wicklund to approve. Motion carried unanimously.
2. Approval of the Rules for the Dog Park.  
Commissioner Wicklund suggested the department send out a letter to veterinarians in the city for bordetella. A certificate is required for bordetella if bordering dogs.  
It was moved by Commissioner Wicklund, seconded by Commissioner Rose, to approve. Motion carried unanimously.

ADJOURNMENT - There being no further business to come before the Board of Parks Commissioners, it was moved, seconded and unanimously carried to adjourn at 6:53 pm.



ENGINEERING DIVISION  
SHELLY BILLINGSLEY, P.E.  
CITY ENGINEER  
PARK DIVISION  
JEFF WARNOCK  
SUPERINTENDENT  
FLEET MAINTENANCE  
MAURO LENCI  
SUPERINTENDENT

STREET DIVISION  
JOHN H. PRIJIC  
SUPERINTENDENT  
WASTE DIVISION  
ROCKY BEDNAR.  
SUPERINTENDENT

**DEPARTMENT OF PUBLIC WORKS**

MICHAEL M. LEMENS, P.E., DIRECTOR  
SHELLY BILLINGSLEY, P.E., DEPUTY DIRECTOR

MUNICIPAL BUILDING 3 · 625 - 52ND ST · RM 305 · KENOSHA, WI 53140  
TELEPHONE (262) 653-4050 · FAX (262) 653-4056  
EMAIL PUBLICWORKS@KENOSHA.ORG

Dear Kenosha Police K9 Unit Officers Chico, Edy, and Miky,

As you may know, Kenosha is currently building its first dog park within Anderson Park. What you might not have heard is the city Parks Commission hopes to name this pioneering dog park in memorial to your unit.

We Parks Commissioners understand you already train there. The nose leaves no doubt that area is already, in a sense, yours. So we feel naming the new park after your unit is the least we can do.

Being both Commissioners and human we have a great fondness for ceremony. At some point in time there will be an official grand opening at the park. We hope one of your unit might be present. We'd even like to offer the honor of biting apart the ceremonial yellow ribbon. But if that is not really your sort of thing we'll just use the gold scissors instead.

The Parks Commission would like to make one more request. With your permission we would like to invite retired US Marine Corps and Afghanistan veteran Boo to be the Special Guest of Honor on this day. Boo and his handler Lance Corporal James Minton were featured in a recent Kenosha News article.

It is our pleasure to nominate your hard-working and effective unit for this honor. Thank you for your past and continued service to all Kenoshans.

The City of Kenosha Parks Commission,

Scott N. Gordon, Chairman

Keith W. Rosenberg, Vice-Chairman

Rocco J. LaMacchia Sr., Member

Jack Rose, Member

Kurt Wicklund, Member

cc: Mayor Keith Bostrom  
Chief John Morrissey  
Council President Daniel J Prozanski Jr  
Director Michael Lemons  
Superintendent Jeff Warnock



ENGINEERING DIVISION  
SHELLY BILLINGSLEY, P.E.  
CITY ENGINEER  
PARK DIVISION  
JEFF WARNOCK  
SUPERINTENDENT  
FLEET MAINTENANCE  
SUPERINTENDENT

STREET DIVISION  
JOHN H. PRIJIC  
SUPERINTENDENT  
WASTE DIVISION  
ROCKY BEDNAR  
SUPERINTENDENT

DEPARTMENT OF PUBLIC WORKS  
MICHAEL M. LEMENS, P.E., DIRECTOR  
SHELLY BILLINGSLEY, P.E., DEPUTY DIRECTOR

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

October 23, 2014

To: Eric J. Haugaard, Chairman, Public Works Committee  
Scott N. Gordon, Chairman, Park Commission  
From: Shelly Billingsley, P.E. *Shelly Billingsley*  
Director of Engineering /City Engineer  
Subject: **Professional Service Contract for Parkway Tree Removal Phase II Project #14-1417**

**BACKGROUND INFORMATION**

The City of Kenosha Public Works – Park Division has received four proposals to complete the Parkway Tree Removal Phase II Contract for 2014. Staff has reviewed the proposals and has chosen Droprite Tree & Landscape, LLC, based on their references, experience and standard quoted rates.

Contractor	Proposal Amount
Droprite Tree & Landscape, LLC, Somers, WI	\$81,311.00
Asplundh Tree Expert Co., Schofield, WI	\$84,346.50
Lakeside Tree Care, Kenosha, WI	\$96,050.00
Arbor Images, Inc., Burlington, WI	\$108,050.00

The 2014 tree removal list contract includes removing approximately 216 trees.

**RECOMMENDATION**

Approve the Agreement between the City of Kenosha and Droprite Tree & Landscape, LLC (Somers, Wisconsin) for \$89,000 to include their quote of \$81,311 with \$7,689 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/Emerald Ash Borer Program.

SAB/kjb

**2014 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 \$89,000.00**

**CONTRACT AMOUNT: \$81,311.00**

**COMPENSATION FOR ADDITIONAL REMOVAL AS REQUIRED BY THE CITY OF KENOSHA:  
NOT TO EXCEED \$7,689.00**

**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**”.

**WITNESSETH:**

**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 Eighty-One Thousand Three Hundred Eleven dollars and 00/100 cents (\$81,311.00), 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 Seven Thousand Six Hundred Eighty-Nine and 00/100 cents (7,689.00) 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 obligations 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 Three Hundred Dollars (\$300.00) 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:**

- \$1,000,000 Each occurrence
- \$2,000,000 General Aggregate

**Automobile Liability: (owned, non-owned, leased)**

- \$1,000,000 Bodily Injury (per person)
  - \$1,000,000 Bodily Injury (per accident)
  - \$200,000 Property Damage (per accident)
- OR**
- \$1,000,000 Combined Single Limit (each accident)

**Umbrella Liability:**

- \$2,000,000 Each Occurrence
- \$2,000,000 Aggregate

**Workers Compensation:**

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

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**.

The **CITY** shall be named as an additional insured with respect the insurance coverages listed above and the **CITY** shall be provided with an additional insured endorsement certifying that the **CITY** is an additional insured with respect the insurance coverages listed above.

- 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 \_\_\_\_\_, 2014, **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

PROPOSAL FOR PARKWAY TREE REMOVAL

Project No. 14-1417

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

Department of Public Works:

**PROPOSALS DUE: October 22<sup>nd</sup>, 2014 by 2:00 P.M.**

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 **216** Trees (includes removal, stump grinding, topsoil & seed)  
Lump Sum =

\$ 81,261

Line 2: Street Occupancy Permit Allowance

= \$ 50.00

**Total: (Line 1 + Line 2)**

= \$ 81,311

All work shall be completed no later than December 31, 2014 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:

- \$ 40.00 (per tree, top soil and seed)
- \$ 14.00 per inch (from 1" to 16")
- \$ 15.00 per inch (from 17" to 29")
- \$ 18.00 per inch (from 30" to 35")
- \$ 22.00 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.

Cash Discount Terms:

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

Net 15 Days

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

Respectfully submitted,

Firm: Droprite Tree and Landscape LLC

Signature: Daniel Treeman

Title: Manage Member

Address: P.O. Box 163 Somers WI 53171

Phone: 262 989-6611

Fax: 262 859-0369

**Optional:** (For informational purposes ONLY)

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

STATE OF WI )  
COUNTY OF Kenosha :SS

Daniel Tessmann, 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 WI. 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 Somers WI 53171

**TELEPHONE NUMBER:** 262 989-6611

**STATUTORY SWORN STATEMENT**

Daniel Tessmann, also deposes and says 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.

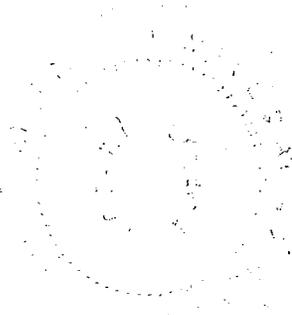
[Corporate Seal]

Signed: Daniel Tessmann  
Typed Name: Daniel Tessmann  
Title: Managing Member  
Date: 10/22/14

STATE OF Wisconsin )  
COUNTY OF Kenosha :SS

Subscribed and sworn to before me  
This 22nd day of October, 2014.  
Notary Public, Diane S. Miles County, Wisconsin  
My Commission Expires / is: 3/15/15

Diane S. Miles





ENGINEERING DIVISION  
SHELLY BILLINGSLEY, P.E.  
CITY ENGINEER

PARK DIVISION  
JEFF WARNOCK  
SUPERINTENDENT

FLEET MAINTENANCE  
MAURO LENCI  
SUPERINTENDENT

STREET DIVISION  
JOHN H. PRIJIC  
SUPERINTENDENT

WASTE DIVISION  
ROCKY BEDNAR  
SUPERINTENDENT

**DEPARTMENT OF PUBLIC WORKS**

MICHAEL M. LEMENS, P.E., DIRECTOR  
SHELLY BILLINGSLEY, P.E., DEPUTY DIRECTOR

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

October 24, 2014

To: Scott N. Gordon, Chairman,  
Park Commission

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

Subject: Resolution by Park Commission - To Adopt the Master Plan for Penoyer Park.

*[Handwritten signature and date: 10-24-14]*

**BACKGROUND/ANALYSIS**

The Legal Department has prepared the following Resolution by the Park Commission to adopt the Master Plan for Penoyer Park.

**RECOMMENDATION**

Staff has no recommendation.

MML/dm

**RESOLUTION \_\_\_\_\_**

**SPONSOR: PARK COMMISSION**

**TO ADOPT THE MASTER PLAN  
FOR PENNOYER PARK**

**WHEREAS,** the City of Kenosha has prepared a Master Plan for Pennoyer Park that details the park improvements and costs, a copy of which is attached hereto as Exhibit A; and

**WHEREAS,** the Board of Park Commissioners approved the Park Master Plan for Pennoyer Park at their meeting on September 2, 2014; and

**WHEREAS,** the City Plan Commission approved the Master Plan for Pennoyer Park and an Amendment to the Comprehensive Plan for the City of Kenosha; 2035 with City Plan Commission Resolution 12 - 14 at their meeting on September 18, 2014; and

**WHEREAS,** the City has duly noticed and will hold a public hearing on the proposed Amendment following the procedures in Section 66.1001(4)(d) of the Wisconsin Statutes.

**NOW, THEREFORE BE IT RESOLVED,** that the City of Kenosha Common Council hereby adopts the Master Plan for Pennoyer Park.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

ATTEST:

\_\_\_\_\_  
Debra Salas, City Clerk/Treasurer

APPROVED:

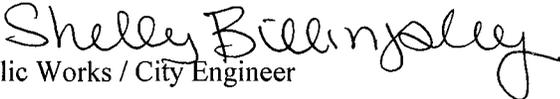
\_\_\_\_\_  
Keith G. Bosman, Mayor

Drafted By:  
EDWARD R. ANTARAMIAN  
City Attorney

October 24, 2014

# Information #1

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

FROM: Shelly Billingsley, P.E.   
Deputy Director of Public Works / City Engineer

SUBJECT: Project Status Report

- 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 #12-1415 / 13-1415 / 14-1415 CORP Implementations** – Continuing. (Citywide)
- Project #11-1417 Strawberry Park Mass Grading, Trail and Shelter (DNR Stewardship Grant)** [SAA Design Group] – Design work is being evaluated to see if any work can begin while waiting for FEMA (16)
- Project #12-1430 Alford Park Warehouse Demolition** – [Earth Construction] Project close-out documents were sent to contractor (1).
- Project #12-1421- Simmons Island Boardwalk Phase IA** (DNR Stewardship Grant) [H&H Civil Construction]. Closeout documents have been sent to the contractor. (2)
- Project #12-1432 - Peorio Park Trail** [SAA Design Group] The bid opening yielded no bids, and as a result Park and Street crews will undertake grading, clearing and grubbing, construction of the limestone path, and retaining wall. The bridge and boardwalk will go out for bid this fall for spring construction. (DNR Stewardship Grant) (1 and 4)
- Project #13-1413 - Petzke Park Phase II** [SAA Design Group] Plans and specifications are being developed for Phase II of Petzke Park with construction in Spring 2015. (1)
- Project #13-1414 - Washington Park Velodrome** [SAA Design Group] – Bids are currently being reviewed. (6)
- Project #13-1419 – Anderson Fishing Pier** – [SAA Design Group] Pending CIP Amendment (9)
- Project #14-1417 – Tree Removal** – Contract nearing completion. Phase 2 is pending approval. (City wide)
- Project #14-1418 – Tree Planting** – Contract nearing completion. (City wide)
- Project #14-1421 – Simmons Island Phase 1B** – [SAA Design Group] Design is in progress. (2)
- Project #14-1424 - Southport Beach House Roof Replacement** – Bid Opening has been moved to November 5<sup>th</sup>. The Local Historic Society made recommendations to staff and staff is working with 2 consultant/contractors to perform a conditional analysis on the existing slate. The results will be submitted to staff prior to the bid opening. (12)
- Project #14-1425 - Simmons Island Fence** – Punchlist Items and Closeout Paperwork. (2)
- Project #14-1120 – Eichelman Beach – Nutrient Improvements** – Pending CIP Amendment. (2)
- Project #14-14\_\_ - Anderson Dog Park** – Grand opening occurred on Oct. 25 (9)
- Design Work-** Misc. Park projects, ADA Accessible Playground, and finishing 2012, 2013 and 2014 CORP projects.