

**AGENDA  
PUBLIC WORKS  
COMMITTEE**

**MONDAY, DECEMBER 2, 2013  
ROOM 202  
5:30 P.M.**

**Eric Haugaard, Chairman  
Jan Michalski, Vice Chairman  
Steve Bostrom**

**Scott N. Gordon  
Patrick Juliana  
G. John Ruffolo**

- A-1 Approval of minutes of regular meeting held on November 18, 2013.
- B-1 Award of Professional Service Contract for Project 13-1417 Lawn Park Area Tree Removal #2 to Droprite Tree & Landscape (Somers, Wisconsin) in the amount of \$50,000.00. *(Park Commission approved 3-0) (deferred at the November 18, 2013 meeting)*
- B-2 Ordinance by Alderperson David F. Bogdala – To Repeal and Recreate Subparagraph 1.03 A. (of the Code of General Ordinances) entitled “Order of Business”, to Amend Subparagraph 1.03 A.9.c. entitled “Speaker Sign-up” and to Repeal and Recreate Subparagraph 1.03 A.9.e entitled “Public Hearings”. *(also referred to Finance Committee and Stormwater Utility Committee) (PSW & L/P Committees approved as amended 3-0) (referred on the 11/4/13 Common Council agenda) (deferred at the November 18, 2013 meeting)*
- C-1 Request from Patrick Zuchowski (6606 32<sup>nd</sup> Avenue) for variance in parkway. **(District 8)**
- C-2 Request from Estella Padilla (3101 60<sup>th</sup> Street) to pave the lawn park area along 31<sup>st</sup> Avenue. **(District 3)**
- C-3 Petition to vacate a portion of the alley between 20<sup>th</sup> Avenue and 21<sup>st</sup> Avenue, south of 48<sup>th</sup> Street. (Clair/Juliana) **(District 7)** *(City Plan Commission approved 8-0) (referred on November 18, 2013 Common Council agenda)*

INFORMATIONAL: Project Status Report

CITIZENS COMMENTS/ALDERMAN COMMENTS RELATED ONLY TO JURISDICTION OF PUBLIC  
WORKS COMMITTEE

IF YOU ARE DISABLED AND IN NEED OF ASSISTANCE CALL 653-4050 BEFORE NOON ON THE DATE INDICATED FOR 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.

PUBLIC WORKS COMMITTEE  
- MINUTES -

MONDAY, NOVEMBER 18, 2013  
5:30 P.M.

Eric Haugaard, Chairman  
Jan Michalski, Vice Chairman  
Steve Bostrom

Scott N. Gordon  
Patrick Juliana  
G. John Ruffolo

The regular meeting of the Public Works Committee was held on Monday, November 18, 2013 in Room 202 of the Municipal Building. The following members were present: Chairman Eric Haugaard, Vice Chairman Jan Michalski, Aldermen Steve Bostrom, Scott N. Gordon, and G. John Ruffolo. Alderman Patrick Juliana was absent. The meeting was called to order at 5:31 PM. Staff members in attendance were Mike Lemens, Shelly Billingsley and Alderman David Bogdala.

- A-1 Approval of minutes of regular meeting held on October 21, 2013 and special meeting held on October 30, 2013.  
*It was moved by Alderman Gordon, seconded by Alderman Michalski to approve. Motion passed 5-0.*
- C-1 Request for fence installation at Seed to Harvest Community Garden (42<sup>nd</sup> Street & 32<sup>nd</sup> Avenue) by Walkin In My Shoes. **(District 10)** *(signed copy of the Seed to Harvest Community Garden agreement is posted on the Aldermen webpage)*  
*A public hearing was held. Jo Wynn, 7911 60<sup>th</sup> Avenue, spoke. It was moved by Alderman Gordon, seconded by Alderman Michalski to defer for 60 days. Motion passed 5-0.*
- C-2 Award of Professional Service Contract for Project 13-1417 Lawn Park Area Tree Removal #2 to Droprite Tree & Landscape (Somers, Wisconsin) in the amount of \$50,000.00. *(Park Commission approved 3-0)*  
*It was moved by Alderman Bostrom, seconded by Alderman Ruffolo to defer. Motion passed 5-0.*
- C-3 Ordinance by Alderperson David F. Bogdala – To Repeal and Recreate Subparagraph 1.03 A. (of the Code of General Ordinances) entitled “Order of Business”, to Amend Subparagraph 1.03 A.9.c. entitled “Speaker Sign-up” and to Repeal and Recreate Subparagraph 1.03 A.9.e entitled “Public Hearings”. *(also referred to Finance Committee and Stormwater Utility Committee) (PSW & L/P Committees approved as amended 3-0) (referred on the 11/4/13 Common Council agenda)*  
*A public hearing was held. Alderman David Bogdala, sponsor, spoke. It was moved by Alderman Bostrom, seconded by Alderman Ruffolo to approve amendment by sponsor. It was then moved by Alderman Gordon, seconded by Alderman Michalski to defer. After some discussion it was moved by Alderman Bostrom, seconded by Alderman Michalski to open a public hearing, motion passed 5-0. Alderman David Bogdala and Virginia Hoekstra spoke. The motion to defer passed 3-2.*
- C-4 Approval of Addendum to Agreement By and Between the City of Kenosha (A Municipal Corporation) and Waste Management of Wisconsin, Inc. (A Wisconsin Corporation). *(also referred to Finance Committee)*

*It was moved by Alderman Michalski, seconded by Alderman Gordon to approve.  
Motion passed 5-0.*

C-5 Change Order for Project 13-1025 56<sup>th</sup> Street Resurfacing (56<sup>th</sup> Street – Sheridan Road to 13<sup>th</sup> Avenue). **(District 2)**

*It was moved by Alderman Gordon, seconded by Alderman Michalski to approve.  
Motion passed 5-0.*

**INFORMATIONAL:**

1. Contractor Performance – Mike Lemens and Shelly Billingsley spoke.
2. Project Status Report – Shelly Billingsley spoke. There will be a launch party for Simmons Ball Field on November 23, 2013 and all are invited.

*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 6:33pm.*



**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

November 19, 2013

To: Eric J. Haugaard, Chairman, Public Works Committee  
 Michael J. Orth, Chairman, Park Commission

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

Subject: **Professional Service Contract for Parkway Tree Removal Project #13-1417**

**BACKGROUND INFORMATION**

The City of Kenosha Public Works – Park Division has received three proposals to complete list #2 of the Parkway Tree Removal Contract for 2013. Staff has reviewed the proposals and has chosen Droprite Tree & Landscape, LLC, Somers, Wisconsin, based on their references, experience and standard quoted rates.

Contractor	Proposal Amount
Droprite Tree & Landscape, Somers, WI	\$44,306.50
Affordable Tree Care, Sturtevant, WI	\$49,403.00
Asplundh Tree, Schofield, WI	\$52,124.00

The 2013 tree removal list #2 contract includes removing approximately 129 trees.

**RECOMMENDATION**

Approve the Agreement between the City of Kenosha and Droprite Tree & Landscape, Somers, Wisconsin, for \$50,000.00 to include their quote of \$44,306.50 with \$5,693.50 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.

SAB/kjb

**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 \$50,000**

**CONTRACT AMOUNT: \$44,306.50**

**COMPENSATION FOR ADDITIONAL REMOVAL AS REQUIRED BY THE CITY OF KENOSHA: NOT TO EXCEED \$5,693.50**

**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 **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 "**CONTRACTOR**".

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

**WHEREAS, CONTRACTOR** has submitted to **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 **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, **CITY** and **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, and includes designees.

d. **“OVERPAYMENT”** means any money **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 **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 **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 CONTRACTOR.** The **CONTRACTOR**, for the sum of Forty-Four Thousand Three Hundred Six (\$44,306.50), 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, **CONTRACTOR** will perform additional services as directed by the **CITY** and as otherwise authorized in the Proposal not to exceed an additional Twelve Thousand Seven Hundred Ninety-Five (\$12,795.00). In the event of a conflict between the Request for Proposal, the Proposal and this Contract, the terms and conditions of the Contract shall control and supersede the other documents. The Work comprises the removing of the trees specified in Instructions to Bidders in accordance with the Specifications and Special Conditions, which 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 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 the 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 April 1, 2014, whichever is earlier.
- b. Respecting the warranty, until expiration of 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 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 and will assure professional quality of 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 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 or 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 **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 right-of-ways, 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 **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 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 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** which the **CITY** could be secondarily liable for, which secondary liability was not assumed by **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 Workers' 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 exempt 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 take 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 provisions 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: \_\_\_\_\_  
MICHAEL M. 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 \_\_\_\_\_, 2013 **MICHAEL M. LEMENS, Director of Public Works,** and **DIRK NELSON, City Forester,** of the **CITY OF KENOSHA, WISCONSIN,** a municipal corporation, to me known to be the persons who executed the foregoing instrument, and to me known to be such Mayor and City Clerk/Treasurer of said City, and acknowledged 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: \_\_\_\_\_

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

BY: \_\_\_\_\_  
Daniel Tessman, Managing Member

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

**STATE OF WISCONSIN )**

**:SS.**

**COUNTY OF KENOSHA )**

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013, **Daniel Tessman, Managing Member**, of **DROPRITE TREE & LANDSCAPE SERVICE, LLC**, a Wisconsin limited liability company, to me known to be such Managing Member of said company, and acknowledged to me that he executed the foregoing instrument as such officer as the agreement of said limited liability company, 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. 13-1417

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 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 <b>116</b> Trees (includes removal, stump grinding, topsoil & seed)	Lump Sum = \$ <u>41,256.5</u>
Line 2: Street Occupancy Permit Allowance	= \$ <u>50.00</u>
<b>Total: (Line 1 + Line 2)</b>	= \$ <u>41,306.5</u>

All work shall be completed no later than March 1, 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:

- \$ 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.

Cash Discount Terms:

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

Net 15 Days

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

Respectfully submitted,

Firm: Droprite Tree and Landscape LLC

Signature: Daniel Kasman

Title: Manage Member

Address: P.O. Box 163 Somevs WI 53121

Phone: 262 989-6611

Fax: 262 859-0369

<p><b>Optional:</b> (For informational purposes ONLY)</p> <p>Are you a minority owned business? Yes _____ No _____</p>
--



CITY OF KENOSHA  
REFERENCE SHEET

1. Name: City of Franklin  
Contact: Derry  
Address: 7979 West Ryan Rd.  
Phone: 414 425 8881 Fax: 414 425-7315

2. Name: Pleasant Prairie  
Contact: Garx Sullivan  
Address: 8600 Green Bay Rd  
Phone: 262-694-1403 Fax: 262-694-2941

3. Name: Town of Oconomowoc  
Contact: Owen Salzman  
Address: W359 N6812 Brown St.  
Phone: 920-474-4449 Fax: 920-355-4091

4. Name: Village of Greendale  
Contact: Cris  
Address: 6351 Industrial Loop  
Phone: 414 312-1908 Fax: 414 423-2109

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 Somer 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: 10/23/13

STATE OF Wisconsin )  
COUNTY OF Kenosha ) :SS  
Subscribed and sworn to before me  
This 23 day of October, 2013.  
Notary Public, Jodi D. McKinney County Wisconsin  
My Commission Expires / is: 12-21-14

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



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

November 12, 2013

To: Eric Haugaard, Chairman, Public Works Committee  
Patrick Juliana, Chairman, Stormwater Utility Committee

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

Cc: David F. Bogdala  
District 17

Subject: ***Ordinance by Alderperson David F. Bogdala – To Repeal and Recreate Subparagraph 1.03 A. of the Code of General Ordinances Entitled “Order of Business”, to Amend Subparagraph 1.03 A.9.c. Entitled “Speaker Sign-Up” and to Repeal and Recreate Subparagraph 1.03 A.9.e Entitled “Public Hearing”***

**BACKGROUND/ANALYSIS**

Staff received a referral from the Legal Department for an Ordinance change by Alderperson Bogdala which was referred to the Public Works Committee and Stormwater Utility Committee on the Common Council agenda for the November 4, 2013 meeting.

**RECOMMENDATION**

Staff has no recommendation.

**DRAFT 11/14/13**

This version represents a change made by the Sponsor pursuant to Paragraph 1.03E.2. of our Code of General Ordinances. It does not reflect amendments recommended by Committees to the prior version.

**SPONSOR: ALDERPERSON DAVID F. BOGDALA**

**TO REPEAL AND RECREATE SUBPARAGRAPH 1.03 A. OF THE CODE OF GENERAL ORDINANCES ENTITLED "ORDER OF BUSINESS", TO AMEND SUBPARAGRAPH 1.03 A.9.c. ENTITLED "SPEAKER SIGN-UP" AND TO REPEAL AND RECREATE SUBPARAGRAPH 1.03 A.9.e. ENTITLED "PUBLIC HEARINGS"**

The Common Council of the City of Kenosha, Wisconsin, do ordain as follows:

**Section One:** The Subparagraph of 1.03 A. of the Code of General

Ordinances for the City of Kenosha, Wisconsin, is hereby repealed and recreated as follows:

**A. Order of Business.**

The order of business of the Common Council is not subject to change through a motion to suspend the rules, with the exception of subparagraph 1.03A.9.a. The business of the Council shall be conducted in the following order:

1. Call to order by presiding Officer.
2. Roll Call. If a quorum is not present, the meeting shall thereupon be adjourned to a specific date and hour.
3. Invocation.
4. Pledge of Allegiance.
5. Approval of the minutes, subject to corrections, of the previous meeting and of any other regular or special meeting where the minutes have not been approved.
6. Non-Agenda matters referred to Committees, Boards, Commissions and authorities by the Mayor.
7. Presentations, Commendations and Awards by Mayor.
8. Awards and commendations from Boards, Commissions, Authorities and Committees.
9. Citizen's Comments.
  - a. Maximum Total Time Limit: Forty-five (45) minutes for all speakers. The Common Council by a majority vote of the members present, may extend the time period to permit all speakers who have signed up pursuant to subparagraph 9.c., an opportunity to speak.
  - b. Maximum Individual Time Limit: Five (5) minutes for each individual speaker, with no extension or use of another person's time.
  - c. Speaker Sign-Up: Speakers must personally sign in with the City Clerk/Treasurer between 6:30 P.M. and the 7:00 P.M., prior to commencement of the Common Council meeting and provide their home address, including city, village or town. Only speakers who are timely signed in will be permitted to speak. The City Clerk/Treasurer, during Citizen's Comments, will call speakers forward, two (2) at a time.
  - d. Rules: Citizens are bound by the same rules as the Common Council, with particular reference to "Decorum in Debate", per Robert's Rules of Order, revised.
  - e. Public Hearings: §1.03 E.3.c. of the Code of General Ordinances shall remain applicable to Citizen's Comments on agenda items.
10. Economic Development Reports and other presentations authorized by the Mayor.
11. Agenda matters referred to Committees, Boards, Commissions and Authorities.
12. Communications, Petitions, and Reports of Departments.
13. Reports and recommendations from the Committee on Licenses/Permits.
14. General Ordinances, first reading.
15. Zoning Ordinances, first reading.
16. General Ordinances, second reading.
17. Zoning Ordinances, second reading.
18. Resolutions.

19. Appointments/Reappointments by the Mayor.
20. Public construction and improvement contracts.
21. Other contracts and agreements.
22. Reports and recommendations from Committee on Finance.
23. Reports and recommendations from the Committee on Public Works.
24. Reports and recommendations from the Committee on Public Safety and Welfare.
25. Reports and recommendations of Boards and Commissions
26. Such other matters as are authorized by law or regular business.
27. Legislative report.
28. Mayor's comments.
29. Alderpersons comments

The Mayor shall appoint one (1) or more members of the City Clerk's Office to read the Agenda, take minutes and conduct roll calls at meetings of the Common Council.

~~The order of business of the Common Council is not subject to change through a motion to suspend the rules.~~

**Section Two:** Subparagraph **1.03 A.9.e.** of the Code of General

Ordinances for the City of Kenosha, Wisconsin, is hereby repealed and recreated as follows:

**e. Public Hearings :** **§1.03 EF.3.c.** of the Code of General Ordinances shall remain applicable to Citizen's Comments on agenda items.

**Section Four:** This Ordinance shall become effective upon passage and publication.

ATTEST: \_\_\_\_\_ City Clerk

APPROVED: \_\_\_\_\_ Mayor

Passed:

Published:

Drafted By:  
 MATTHEW A. KNIGHT  
 Deputy City Attorney

**DRAFT 10/28/13**

**Proposed Changes 11/11/13 Lic. & Permit Mtg.**

**Proposed Change 11/11/13 PSW and Lic. & Permit Mtgs.**

**SPONSOR: ALDERPERSON DAVID F. BOGDALA**

**TO REPEAL AND RECREATE SUBPARAGRAPH 1.03 A. OF THE CODE OF GENERAL ORDINANCES ENTITLED "ORDER OF BUSINESS", TO AMEND SUBPARAGRAPH 1.03 A.9.c. ENTITLED "SPEAKER SIGN-UP" AND TO REPEAL AND RECREATE SUBPARAGRAPH 1.03 A.9.e. ENTITLED "PUBLIC HEARINGS"**

The Common Council of the City of Kenosha, Wisconsin, do ordain as follows:

**Section One:** The Subparagraph of 1.03 A. of the Code of General

Ordinances for the City of Kenosha, Wisconsin, is hereby repealed and recreated as follows:

**A. Order of Business.**

The order of business of the Common Council is not subject to change through a motion to suspend the rules. Notwithstanding the previous sentence, the Common Council by a majority vote of the members present, may suspend the rule in subparagraph 1.03 A.9.c. to permit all speakers who have signed up pursuant to that subparagraph an opportunity to speak. The business of the Council shall be conducted in the following order:

1. Call to order by presiding Officer.
2. Roll Call. If a quorum is not present, the meeting shall thereupon be adjourned to a specific date and hour.
3. Invocation.
4. Pledge of Allegiance.
5. Approval of the minutes, subject to corrections, of the previous meeting and of any other regular or special meeting where the minutes have not been approved.
6. Non-Agenda matters referred to Committees, Boards, Commissions and authorities by the Mayor.
7. Presentations, Commendations and Awards by Mayor.
8. Awards and commendations from Boards, Commissions, Authorities and Committees.
9. Citizen's Comments.
  - a. Maximum Total Time Limit: Forty-five (45) minutes for all speakers.
  - b. Maximum Individual Time Limit: Five (5) minutes for each individual speaker, with no extension or use of another person's time.
  - c. Speaker Sign-Up: Speakers must personally sign in with the City Clerk/Treasurer between 6:30 P.M. and the 7:00 P.M., prior to commencement of the Common Council meeting and provide their home address, including city, village or town. Only speakers who are timely signed in will be permitted to speak. The City Clerk/Treasurer, during Citizen's Comments, will call speakers forward, two (2) at a time.
  - d. Rules: Citizens are bound by the same rules as the Common Council, with particular reference to "Decorum in Debate", per Robert's Rules of Order, revised.
  - e. Public Hearings: §1.03 E.3.c. of the Code of General Ordinances shall remain applicable to Citizen's Comments on agenda items.
  - f. The Common Council by a majority vote of the members present, may extend the time period to permit all speakers who have signed up an opportunity to speak.
10. Economic Development Reports and other presentations authorized by the Mayor.
11. Agenda matters referred to Committees, Boards, Commissions and Authorities.
12. Communications, Petitions, and Reports of Departments.
13. Reports and recommendations from the Committee on Licenses/Permits.
14. General Ordinances, first reading.
15. Zoning Ordinances, first reading.
16. General Ordinances, second reading.
17. Zoning Ordinances, second reading.
18. Resolutions.
19. Appointments/Reappointments by the Mayor.
20. Public construction and improvement contracts.
21. Other contracts and agreements.
22. Reports and recommendations from Committee on Finance.

- 23. Reports and recommendations from the Committee on Public Works.
- 24. Reports and recommendations from the Committee on Public Safety and Welfare.
- 25. Reports and recommendations of Boards and Commissions.
- 26. Such other matters as are authorized by law or regular business.
- 27. Legislative report.
- 28. Mayor's comments.
- 29. Alderpersons comments.

The Mayor shall appoint one (1) or more members of the City Clerk's Office to read the Agenda, take minutes and conduct roll calls at meetings of the Common Council.

~~The order of business of the Common Council is not subject to change through a motion to suspend the rules.~~

**Section Two:** Subparagraph **1.03 A.9.c** of the Code of General Ordinances

for the City of Kenosha, Wisconsin, is hereby amended as follows:

**c. Speaker Sign-Up :** Speakers must personally sign in with the City Clerk/Treasurer between 6:30 P.M. and the 7:00 P.M., prior to commencement of the Common Council meeting and provide their home address, including city, village or town. Only speakers who are timely signed in will be permitted to speak. No person may sign up someone to speak who is not present. The City Clerk/Treasurer, during Citizen's Comments, will call speakers forward, ~~two (2) at a time.~~

**Section Three:** Subparagraph **1.03 A.9.e.** of the Code of General

Ordinances for the City of Kenosha, Wisconsin, is hereby repealed and recreated as follows:

**e. Public Hearings :** ~~§1.03 EF.3.c.~~ of the Code of General Ordinances shall remain applicable to Citizen's Comments on agenda items.

**Section Four:** This Ordinance shall become effective upon passage and

publication.

ATTEST: \_\_\_\_\_ City Clerk

APPROVED: \_\_\_\_\_ Mayor

Passed:

Published:

Drafted By:  
MATTHEW A. KNIGHT  
Deputy City Attorney



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

November 25, 2012

To: Eric Haugaard, Chairman  
Public Works Committee

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

cc: Kevin Mathewson  
District 8

Subject: ***Request from Patrick Zuchowski (6606 32<sup>nd</sup> Avenue) for variance in parkway.***

**BACKGROUND INFORMATION**

Mr. Zuchowski is requesting that a variance be approved for constructing a retaining wall planter in the parkway at 6606 32<sup>nd</sup> Avenue. The height of the retaining wall and planter area in the parkway does impact the parking in the right-of-way as the wall inhibits vehicle entrance as well as could possibly be considered as a potential hazard for vehicle traffic in the right-of-way due to height and break way criteria.

Attached is the letter that was sent to the property owner on November 12<sup>th</sup> as well as photos of the wall courtesy of google.

**RECOMMENDATION**

Recommend that the parkway receive a variance however the wall shall be limited to a maximum of one brick in height.

*[Handwritten signature and date: 11-25-13]*

ALDERMAN  
8th DISTRICT



KEVIN MATHEWSON  
VICE CHAIRMAN: CITY PLANNING  
COMMISSION  
PUBLIC SAFETY & WELFARE  
COMMITTEE  
PARKS COMMISSION  
6624 - 21ST AVENUE  
KENOSHA, WI 53143  
(262) 237-8501  
E-MAIL: [kmathewson@kenosha.org](mailto:kmathewson@kenosha.org)

11-20-2013

Chairman Haugaard,

Reference the application for the variance at 6606 32nd Ave, I very much support the issuing of the variance. It looks great and it has been in place for the last three years. Thank you!

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Mathewson". The signature is stylized and cursive.

Alderman Mathewson

Patrick Zuchowski  
6606 32nd Ave  
Kenosha, WI 53142  
262-945-0631

November 20th, 2013

Honorable Chairman Hugaard and Members of the Public Works Committee,

My name is Patrick Zuchowski and I live at 6606 32nd Ave. I had a rock garden installed 3 years ago on the parkway in front of my home. At the time, I asked permission from the mayor's office and my Alderman, Anthony Nudo. They both gave me permission. It was at a significant price for me to hire a landscaping company to install this and I believe it makes the property look a lot nicer and I have always kept up on my property. At this time I was notified by the City's Public Works department to remove one layer of bricks. I would like to respectfully ask you for a variance to allow me to keep the rock garden in place. I do not have the money at this time to pay for the work to be done to remove one layer and I cannot do it myself as I am disabled. Please see attached photograph.

Thank-you for your consideration.

Respectfully,



Pat Zuchowski  
6606 32nd Ave  
Kenosha, WI  
262-945-0631



**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

November 12<sup>th</sup>, 2013

Patrick Zuchowski  
6606 32<sup>nd</sup> Avenue  
Kenosha, WI 53142

Dear Property Owner,

The Public Works Department received a complaint regarding the retaining wall located in the lawn park area in front of your property at 6606 32<sup>nd</sup> Avenue. The height of retaining wall and planter area between the sidewalk and street must be lowered to one (1) row of blocks to be in compliance with Chapter 5.051 of the City Code of General Ordinances.

Please take action to lower the retaining wall around the planter by **December 13<sup>th</sup>, 2013** to avoid any further complaints or possible action by the City. If action is taken by the City, any and all costs for the work being done will be assessed to your property in the form of a special assessment. If you would like to request a variance to this ordinance you must petition the City Public Works Committee. The Committee meets November 18<sup>th</sup>, 2013 and December 2<sup>nd</sup>, 2013 at 5:00pm in room 202 of the City Municipal Building.

Your cooperation in this matter is greatly appreciated.

Sincerely,

CITY OF KENOSHA

Sean Von Bergen  
Assistant City Engineer

cc:  
file  
Alderman Kevin Mathewson  
Michael Lemens  
Shelly Billingsley  
Cathy Austin  
Ed Antaramian



Address **6603 32nd Avenue**

Address is approximate

6606 32nd Avenue - Parkway Planter





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

November 25, 2012

To: Eric Haugaard, Chairman  
Public Works Committee

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

cc: Jan Michalski  
District 3

Subject: ***Request from Estella Padilla (3101 60<sup>th</sup> Street) to pave the lawn park area along 31<sup>st</sup> Avenue***

**BACKGROUND INFORMATION**

Mrs. Padilla is requesting to pave the lawn park area in front of 3101 60<sup>th</sup> Street. The building is occupied by a Laundromat, Laundry Show. Mrs. Padilla is requesting to use concrete or bricks in the parkway from the pedestrian ramp south approximately 33 feet.

Attached are photos of the area for your use.

**RECOMMENDATION**

Recommend denial of request as the area is not needed for access to the building.

Laundry Show  
3101 60<sup>th</sup> Street  
Kenosha, WI 53144  
(262) 658-3922

November 19, 2013

ATTN: Michael Lemens

**RE: Request for approval to replace landscape on the parkway with concrete or bricks**

We are requesting for approval to replace the parkway landscape on the east side of Laundry Show, abutting 31<sup>st</sup> Avenue, with concrete to match existing conditions prior to the 60<sup>th</sup> Street Construction Project #13-1024 or brick pavers. Many of our patrons who park on 31<sup>st</sup> Avenue use this side of the building to access Laundry Show. Having concrete or bricks will facilitate access to Laundry Show, will be convenient to maintain, especially in the winter, and will also improve the aesthetics of the area.

We would prefer to replace the parkway landscape from the pedestrian ramp at 60<sup>th</sup> Street to the south 32.5 feet, as shown on the sketch. If approved, we would provide our own labor and materials to do the proposed work. If you have any questions or need more information, please call me at (262) 658-3922. Thank you for taking the time to review my request.

Respectfully Yours,

Estella Padilla  
Laundry Show

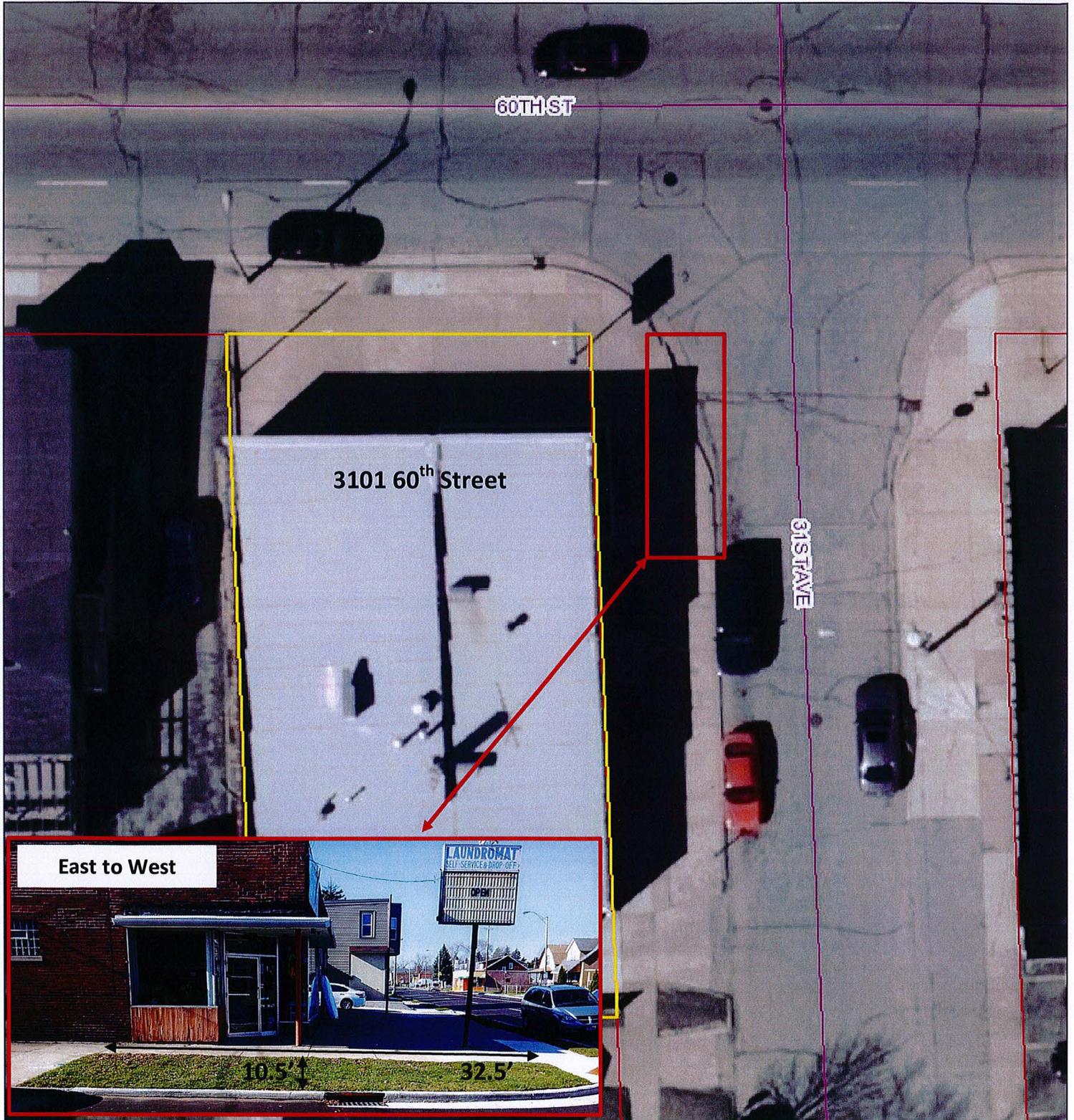
A handwritten signature in black ink, appearing to read "Estella Padilla", with a large, sweeping flourish underneath.



# Paved Parkway Request at 3101 60<sup>th</sup> Street Laundry Show



1 inch = 20 feet  
Date Printed: 11/19/2013



**DISCLAIMER** This map is neither a legally recorded map nor a survey and is not intended to be used as one. This drawing is a compilation of records, data and information located in various state, county and municipal offices and other sources affecting the area shown and is to be used for reference purposes only. Kenosha County is not responsible for any inaccuracies herein contained. If discrepancies are found, please contact Kenosha County.



**Figure 1 - Parkway Looking North**



**Figure 2 - Parkway Looking South**

<b>Planning &amp; Zoning Division</b> 625 52nd Street Kenosha, WI 53140 262.653.4030	<b>Kenosha City Plan Commission</b>  <b>FACT SHEET</b>	November 21, 2013	Item 1
<b>Petition to vacate a portion of the alley between 20th Avenue and 21st Avenue, south of 48th Street. (Clair/Juliana) (District #7) PUBLIC HEARING</b>			

**LOCATION/SURROUNDINGS:**

Site: Alley between 20th Avenue and 21st Avenue, south of 48th Street  
 Neighborhood: RG-2 General Residential

**NOTIFICATIONS/PROCEDURES:**

The Vacation has been initiated by Petition and a Lis Pendens has been filed with the Register of Deeds. Abutting property owners have been notified by Certified Mail. A Class III notice will be published by Community Development & Inspections for the Common Council meeting. The alderman of the district, Alderperson Juliana, has been notified. This item will also be reviewed by the Public Works Committee before final approval by the Common Council.

**ANALYSIS:**

- A Petition has been filed by a majority of the abutting property owners to vacate a *portion* of this alley.
- The existing alley is a dead end alley extending about 450 feet in length and is unimproved.
- There are no garages that access the alley portion petitioned for vacation. A sufficient amount of signatures were collected to vacate the portion of the alley shown on the attached map.
- Approximately 200 feet of the alley will remain open for one of the homes along 20th Avenue that has a garage with alley access only. This is allowable per Ordinance.
- The existing alley right-of-way is sixteen (16') feet wide. Abutting property owners will each receive eight (8') feet of the alley if the alley vacation is approved.
- City Departments and utilities have reviewed the vacation request. The proposed vacation is in compliance with City Ordinances.

**RECOMMENDATION:**

A recommendation is made to approve the partial alley vacation, subject to the recording of all required Easements.

  
 Brian R. Wilke, Development Coordinator

  
 Jeffrey B. Labahn, Director

# City of Kenosha

District Map  
Vacation

Supplement No. V2-13

Ordinance No. \_\_\_\_\_

Clair / Juliana petition

48TH ST

21ST AVE

20TH AVE

12-223-31-232-005	12-223-31-232-021
12-223-31-232-006	12-223-31-232-020
12-223-31-232-007	12-223-31-232-019
12-223-31-232-008	12-223-31-232-018
12-223-31-232-009	12-223-31-232-017

50TH ST



Partial alley requested to be vacated



0 25 50 75 100 Feet

# City of Kenosha

District Map  
Vacation

Supplement No. V2-13

Ordinance No. \_\_\_\_\_

Clair / Juliana petition



Partial alley requested to be vacated



0 20 40 60 80  
Feet

LIS PENDENS  
STATE OF WISCONSIN

Document Number

**PLEASE TAKE NOTICE** that an application is now pending before the Common Council of the City of Kenosha, Wisconsin, the object of which is discontinued interest of the City of Kenosha, a Municipal Corporation, in the alley located between 20th Avenue and 21st Avenue, south of 48th Street, more particularly described as follows:

That part of the platted north-south alley in Block 16, Second Rice Park Addition lying adjacent to and immediately east of Lots 5, 6, 7, 8, and 9, and adjacent to and immediately west of Lots 17, 18, 19, 20 and 21, all in said Block 16, being part of the Northwest One Quarter of Section 31, Township 2 North Range 23 East, City of Kenosha, Kenosha County, Wisconsin.

Recording Area

Name and Return Address:

Brian Wilke  
Community Development & Inspections  
625 52nd Street - Room 308  
Kenosha, WI 53140

Parcel Identification Number (PIN)

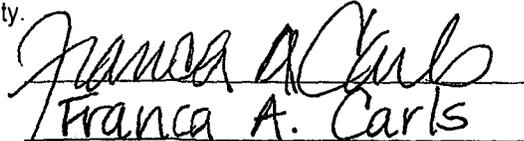
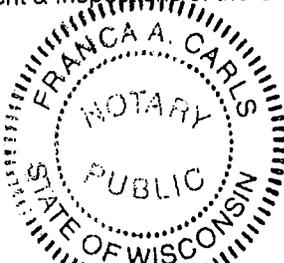
12-223-31-232-005, 12-223-31-006  
12-223-31-232-007, 12-223-31-008  
12-223-31-232-009, 12-223-31-017  
12-223-31-232-018, 12-223-31-019  
12-223-31-232-020, 12-223-31-021

Dated at Kenosha this 11<sup>th</sup> day of Nov., 2013



Rich Schroeder, Deputy Director, Community Development & Inspections

Personally came before me this 11<sup>th</sup> day of Nov., 2013, Rich Schroeder, Deputy Director of Community Development & Inspections, and acknowledged to me that he executed the foregoing instrument as such Deputy Director of Community Development & Inspections of the City of Kenosha by its authority.



Notary Public, Kenosha County, Wisconsin

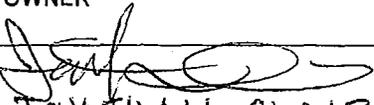
My commission expires: 5-21-17

Drafted By: Brian Wilke  
Department of Community Development & Inspections

**CONSENT PETITION TO VACATE AN ALLEY or STREET**

TO: Mayor Bosman  
Members of the Common Council

We, the undersigned adjoining property owners, do hereby consent and concur in the request to have a portion of an alley vacated as set forth on the attached map.

DATE	OWNER	ADDRESS	WILL YOU BUILD IN THE VACATED RIGHT OF WAY? *
6-11-13	 JONATHAN CLAIR	4827 21ST AVE KENOSHA, WI	POSSIBLY YES, PART OF A GARAGE
6-11-13	Cathryn Hammes	4823 21 <sup>st</sup> Ave Kenosha, WI 53140	Yes Extend garage
6-11-13	Chui Sank	4813 21 <sup>st</sup>	Extend Fence
6-11-13	Nelva Cruz	4833 21 AVE	FENCE?
6-18-13	LAMB Lk/Dawn Lamb	4901 21 <sup>st</sup> AVE	FENCE
7-29-13	Todd Miller	4822-20 <sup>th</sup> AVE	More Fence
8/25/13	Toni Vangoo	4907 21st. Ave.	Fence

\* If you answered yes, please provide information as to the type of construction to occur and the location.

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

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

SUBJECT: Public Works 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 #11-1416 - Petzke Park Mass Grading** – [BCF Construction] Waiting for close out documents. (1)
- Project #09-1121 - Forest Park Evaluation** – Staff is working on final report. (1)
- Project #10-1126 - Wetland Mitigation Bank** - [Wetlands and Waterways Consulting LLC] Staff is working with the DNR regarding comments with the recent submittal. (16)
- Project #10-1131 - River Crossing Swale Restoration** – [Applied Ecological Services] Maintenance has been performed. (17)
- Project #11-1128 - Multi-Plate Pipe Storm Sewer Inspection and Evaluation** – [Ruekert-Mielke] Staff is working with consultant on comments from draft report. (2 and 7)
- Project #11-1125 - Pennoyer Beach Outfall Stormwater Infiltration Basin (GLRI Grant)** – Punchlist Items remain. Staff is working with legal regarding items remaining. (1 and 6)
- Project #11-2013 - Harbor and Marina Dredging** – [Ruekert Mielke] Waiting for close out documents (2).
- Project #12-1420 - Shagbark Trail Development** – [Western Contractors] Punchlist items remain. (10)
- Project #12-1027 - Epoxy Pavement Markings** [Century Fence] Waiting for close out documents (City Wide)
- Project #12-1430 - Alford Park Warehouse Demolition** – [Earth Construction] Punchlist items remain. (1)
- Project #11-1025 - 122<sup>nd</sup> Avenue – 71<sup>st</sup> Street to 74<sup>th</sup> Street** – [AW Oakes] Final items remain. (Stormwater Utility funding also) (16)
- Project #13-1012 - Resurfacing I** – [Stark] Saw cutting, storm sewer, removals, curb & gutter and binder are complete on all roads. Lincoln Road and 22<sup>nd</sup> will reopen on Wednesday, November 27<sup>th</sup>, 2013. Pending approval of a change order extending the completion date for this project to June 6<sup>th</sup>, 2014, surface asphalt will be completed on all streets in the spring of 2014. [Lincoln Road intersection at 28<sup>th</sup> Avenue, Lincoln Road intersection at 22<sup>nd</sup> Avenue, 70<sup>th</sup> Street from 39<sup>th</sup> Avenue to 40<sup>th</sup> Avenue] (Stormwater Utility funding also) (13, 15)
- Project #13-1013 - CDBG Resurfacing** – [Stark] Saw cutting, storm sewer, removals, curb & gutter and pavement are complete on 13<sup>th</sup> Court and 41<sup>st</sup> Street. Restoration will be completed in the spring of 2014. [13<sup>th</sup> Court from Washington Road to 43<sup>rd</sup> Street, 41<sup>st</sup> Street from 22<sup>nd</sup> Avenue to 350 ft. east of 21<sup>st</sup> Avenue] (Stormwater Utility funding also) (6)
- Project #13-1016 Resurfacing III** – [Cicchini] All roads are complete. Punch list items remain. [34<sup>th</sup> Ave from 86<sup>th</sup> Place to 88<sup>th</sup> Place, 44<sup>th</sup> Avenue Cul-de-Sac south of 87<sup>th</sup> Place, 87<sup>th</sup> Place Cul-de-Sac west of 42<sup>nd</sup> Avenue, 26<sup>th</sup> Avenue from 34<sup>th</sup> Street to 31<sup>st</sup> Street, 40<sup>th</sup> Street from Sheridan Road to 8<sup>th</sup> Avenue] (Stormwater Utility funding also) (1, 6, 9, 14)
- Project #13-1019 – Crackfilling** – [Fahrner] Punchlist items remaining. (Citywide)
- Project #13-1024 – 60<sup>th</sup> Street Resurfacing – 39<sup>th</sup> Avenue to 30<sup>th</sup> Avenue** – [Cicchini] All road work is complete. Punch list items remain. Both 39<sup>th</sup> Avenue and 60<sup>th</sup> Street are open to two lanes of traffic in each direction. (Stormwater Utility funding also) (3, 11, 15)
- Project #13-1025 56 Street Resurfacing** – [Cicchini] Saw cutting, storm sewer, removals, curb & gutter and pavement are complete on the north side of 56<sup>th</sup> Street. Pending approval of a change order extending the completion date for this project to June 12<sup>th</sup>, 2014, the south side of the street will be completed in the spring of 2014. [56<sup>th</sup> Street from Sheridan Road to 13<sup>th</sup> Avenue] (Stormwater Utility funding also) (2)
- Project #13-1027 - Pavement Markings** – Work is complete. (Citywide)
- Project #13-1208 - Sidewalk and Curb and Gutter** – [AW Oakes] Project is complete. Punch list items remain. (Stormwater Utility funding also) (Citywide)
- Project #13-1417 - Tree Removal** – Phase II is awaiting approval. (Parks funding) (Citywide)
- Project #13-1412 - Simmons Field** – [Camosy] Kenosha Kingfish was announced and project continues. (12)
- Project #13-1527 - Northside Library Parking Lot Resurfacing** – [Cicchini] Project is complete, waiting for close out documents. (4)
- Project #13-2002 - Overpass Painting** – Project is complete, waiting for close out documents. (3, 6)
- Design Work (Public Works)** – Staff is working the following projects: Website Design, GPS Data Forms, Equipment Specifications, and SWU Projects and Parks Projects.