

AGENDA
PUBLIC SAFETY & WELFARE COMMITTEE MEETING
Monday, December 27, 2010
Kenosha Municipal Building Room 202
5:00 pm

Chairman: Jesse L. Downing
Vice Chair: Anthony Kennedy
Commissioners: Michael J. Orth
Lawrence Green
Rocco J. LaMacchia, Sr.

Call to Order
Roll Call

A. APPROVAL OF MINUTES

A-1. Approval of minutes of regular meeting held on December 13, 2010.

B. DEFERRED TO COMMITTEE

- B-1. Aldermanic request for a 4 Way Stop for 62nd Place and 95th Avenue.
(District 17) (Staff recommends denial) (Deferred from the meeting held on December 13, 2010)
- B-2. Proposed Ordinance To Repeal and Recreate Various Sections of Chapter 15 Related to Off-Premises Signs. *(Referred back from Common Council meeting of December 6, 2010) (Deferred from the meeting held on December 13, 2010)*

C. REFERRED TO COMMITTEE

C-1. Animal Control Agreement Between the City of Kenosha and Clawz and Pawz.

DIRECTOR AND/OR SUPERINTENDENT COMMENTS
CITIZEN COMMENTS/COMMISSIONER COMMENTS

OTHER BUSINESS 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.

PUBLIC SAFETY & WELFARE COMMITTEE
- MINUTES -
Monday, December 13, 2010

The regular meeting of the Public Safety & Welfare Committee was held on Monday, December 13, 2010 in Room 202 of the Kenosha Municipal Building. The meeting was called to order at 5:15 pm. The following members were present: Chairman Downing, Alderman Kennedy, Orth, Green, and LaMacchia. Staff members in attendance were Kevin Risch, Chief Morrissey, Matt Knight, and Paula Blise.

It was moved by Alderman Kennedy, seconded by Alderman Green, to approve the minutes of the meeting held on Monday, November 29, 2010. Motion passed 5-0.

It was moved by Alderman Orth, seconded by Alderman Kennedy, to take item C-1 out of order. Motion passed 5-0.

- B-1. Proposed Ordinance To Repeal and Recreate Various Sections of Chapter 15 Related to Off-Premises Signs. *(Referred back from Common Council meeting of December 6, 2010)*
Public Hearing: Jason Saari, Adams Outdoor Advertising, 102 E Badger Rd, Madison, WI 53713, handed out information and was present to answer any questions. Mark Rausch, Clear Channel, 908 Silvernail Rd, Pewaukee, WI 53072, handed out information and was present to answer any questions.
Staff/Alderman: Matt Knight and Paula Blise were present to answer any questions. The committee asked that the two sign companies give them an inventory and a list of pros and cons to the proposed ordinance for the next meeting.
It was moved by Alderman Kennedy, seconded by Alderman Green, to defer to the next meeting. Motion passed 5-0.
- C-1. Reconsideration of Proposed Ordinance To Renumber Sections 11.147 to 11.148; 11.148 to 11.149; 11.149 to 11.15; 11.15 to 11.16; 11.16 to 11.17 and To Create Section 11.147, Entitled "Synthetic Marijuana".
Staff/Alderman: Chief Morrissey was present to answer any questions.
It was moved by Alderman Orth, seconded by Alderman Kennedy, to reconsider. Motion passed 5-0. It was moved by Alderman Kennedy, seconded by Alderman Green, to approve. Motion passed 5-0.
- C-2. Proposed Ordinance To Amend Section 14.01.B.6, Entitled "Special Revenue Fund".
Public Hearing: Alderman Nudo and Alderman Bogdala, District 17, were present to answer any questions.
It was moved by Alderman Kennedy, seconded by Alderman Green, to approve. Motion passed 5-0.
- C-3. Aldermanic request for a 4 Way Stop for 62nd Place and 95th Avenue. *(District 17)*
Public Hearing: Alderman Bogdala asked that this be deferred to the next meeting.
It was moved by Alderman Orth, seconded by Alderman Green, to defer to the next meeting. Motion passed 5-0.

ALDERMAN COMMENTS: Alderman Kennedy, Alderman Orth, and Chairman Downing all spoke on item B-1.

ADJOURNMENT - *There being no further business to come before the Public Safety & Welfare Committee, it was moved, seconded and unanimously carried to adjourn at 6:15 pm.*



ENGINEERING DIVISION
MICHAEL M. LEMENS, P.E.
DIRECTOR OF ENGINEERING

FLEET MAINTENANCE
MAURO LENCI
SUPERINTENDENT

PARK DIVISION
JEFF WARNOCK
SUPERINTENDENT

STREET DIVISION
JOHN H. PRIJIC
SUPERINTENDENT

WASTE DIVISION
ROCKY BEDNAR
SUPERINTENDENT

ADMINISTRATION SUPERVISOR
JANICE D. SCHROEDER

B-1

DEPARTMENT OF PUBLIC WORKS

Ronald L. Bursek, P.E., Director

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

DATE: December 9, 2010

TO: Public Safety and Welfare Committee

FROM: Kevin Risch, P.E., Civil Engineer KKR 12-9-10

SUBJECT: Aldermanic Request for Traffic Study at 62nd Place and 95th Avenue. (District 17)

Alderman Bogdala has requested a traffic study be completed at the above intersection due to the perception that this intersection is confusing to those that are traveling through it. The current intersection has E/W Yield control on 62nd Place. Additionally, both the north Leg and the west leg of the intersection are dead end roadways.

A study was conducted at this intersection on Thursday, Nov. 18, 2010. The traffic count, as well as our field observations has concluded that the predominant movement at this intersection is an "L" movement where vehicles are either traveling WB to SB or NB to EB. (See attached map). Additionally, there is good sight distance at this intersection. During the time spent in the field, we did not observe anything unusual other than the normal hesitations that exist at Yield control intersections. An accident history obtained shows no accidents in the last 3 years.

At this time staff does not recommend making any changes to the signage at this intersection.

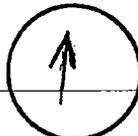
KKR:kkp

cc: Alderman David Bogdala – w/a
Ronald L. Bursek, Director of Public Works– w/a
Michael M. Lemens, Director of Engineering/City Engineer – w/a
Randy LaClaire – w/a
File – w/a

CITY OF KENOSHA

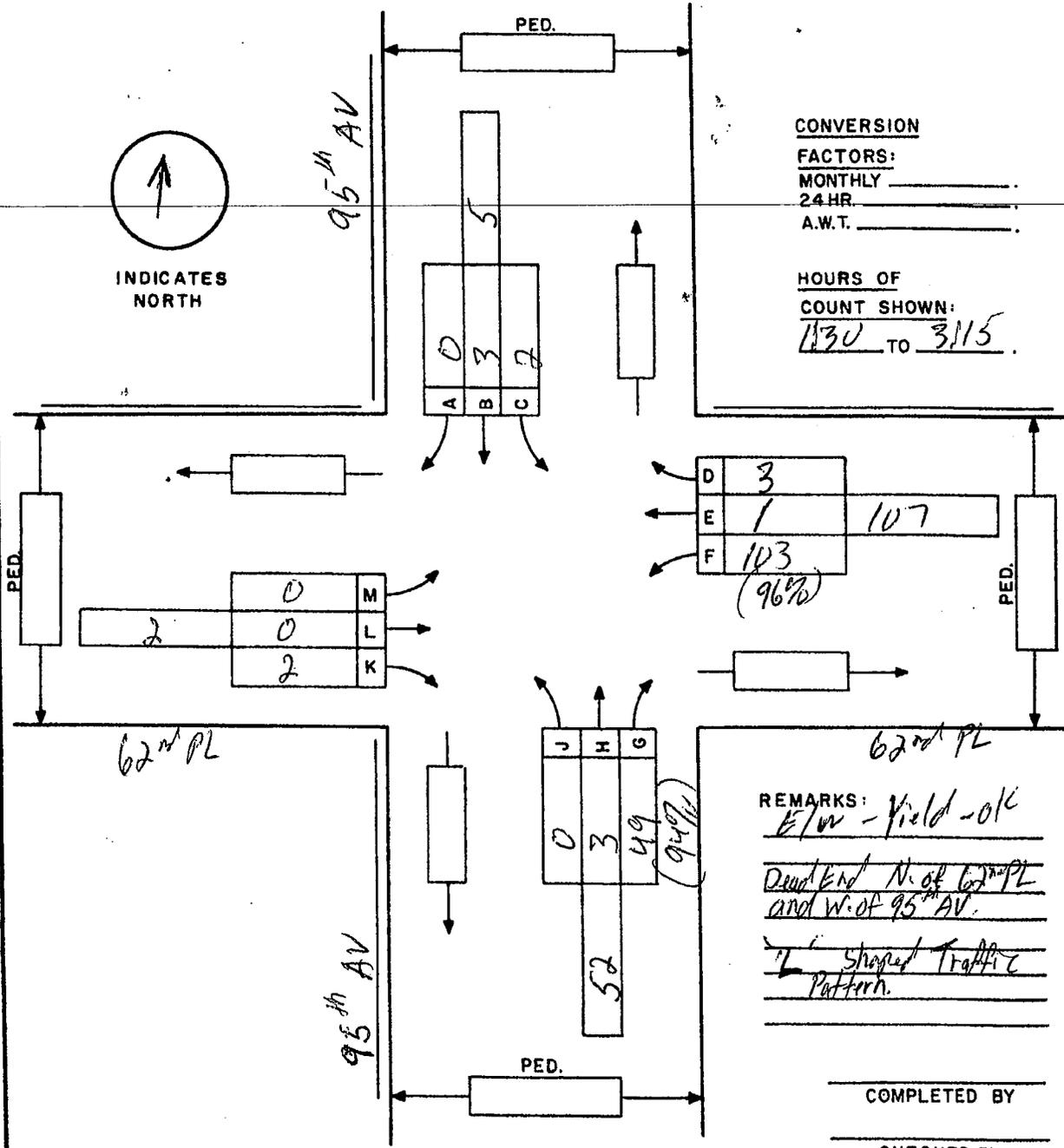
VEHICLE VOLUME COUNT
GRAPHIC SUMMARY SHEET

INTERSECTION 95th AV AND 62nd PL
 DATE 11/18/14 DAY Thurs/Fri WEATHER OK TIME 1:30 TO 3:15 PM



CONVERSION
FACTORS:
MONTHLY _____
24 HR. _____
A.W.T. _____

HOURS OF
COUNT SHOWN:
1:30 TO 3:15



REMARKS:
E/W - Yield - OK
Dead End N. of 62nd PL
and W. of 95th AV.
L shaped Traffic
Pattern.

COMPLETED BY _____

CHECKED BY _____

ORDINANCE NO. _____

DRAFT 11.04.10

BY: MAYOR

**TO REPEAL AND RECREATE VARIOUS SECTIONS OF
CHAPTER 15 OF THE CODE OF GENERAL ORDINANCES
RELATED TO OFF-PREMISE SIGNS.**

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

Section One: Repeal definitions of “off premise” and “on-premise” in Section 15.02 of the Code of General Ordinances for the City of Kenosha, Wisconsin.

Section Two: Definitions of “on-premise commercial sign” and “off-premise commercial sign” in Section 15.02 of the Code of General Ordinances for the City of Kenosha, Wisconsin are hereby created as follows:

Off-Premise Commercial Sign. A Sign identifying or advertising a business, owner, operator, product, service or commercial activity not located or available on the Premise where the Sign is located or directing persons to a different location from where the Sign is located.

On-Premise Commercial Sign. A Sign identifying or advertising a business, owner, operator, product, service or commercial activity located or available on the Premise where the Sign is located.

Section Three: Section 15.03 of the Code of General Ordinances for the City of Kenosha, Wisconsin is hereby repealed and recreated as follows:

15.03 PROHIBITION/~~PERMIT AND LICENSE REQUIREMENT~~

A. ~~Sign Permit/License Requirement.~~ It shall be unlawful for any person to erect, place, replace, move, establish, originally paint, construct, install, convert, substantially alter, rebuild, enlarge, remodel, relocate, illuminate, or maintain any Sign defined in this Ordinance in the City contrary to the applicable provisions, standards and requirements of this Ordinance. ~~without first obtaining a permit and/or license, where required by this Ordinance. A Sign Permit and/or license may be issued with reasonable conditions consistent with the purpose of this Ordinance.~~

B. Kenosha Water Utility Water Tower Signs Exempt. Signs placed or allowed on elevated water towers owned and maintained by the Kenosha Water Utility shall be exempt from the requirements and prohibitions proscribed in this Chapter.

Section Four: Section 15.04 of the Code of General Ordinances for the City of

Kenosha, Wisconsin is hereby repealed and recreated as follows:

15.04 PERMITTED AND PROHIBITED SIGNS

Signs shall be permitted or prohibited (not permitted) in the City in certain Zoning Districts in accordance with Table 1, attached hereto and incorporated herein. See Section 15.12 for Prohibited Signs and ~~Section 15.15 I. for Prohibited Off-Premise Signs.~~

Section Five: Section 15.07 of the Code of General Ordinances for the City of

Kenosha, Wisconsin is hereby repealed and recreated as follows:

15.07 SIGN PERMIT

A. Sign Permit Required. A Sign Permit from the Administrator shall be required for any Person to erect, place, replace, move, establish, originally paint, construct, install, convert, substantially alter, rebuild, enlarge, remodel, relocate, or illuminate any ~~On-Premise or Off-Premise~~ Sign upon private property, whether a Permanent or Portable Sign, unless exempted from this requirement by this Ordinance.

B. Exemptions.

1. Noncommercial signs that are:

a. less than 16 square feet

b. not permanent

2. Table 1 of this Ordinance identifies Signs which require or do not require a permit.

3. The repair, routine maintenance or repainting of any existing Sign shall not be considered a substantial alteration or other activity requiring a permit hereunder.

BC. Application. A Sign Permit for a Permanent or Portable Sign, except as otherwise provided in this Ordinance, shall not be granted or issued until after a fully completed application form has been filed with the Administrator by a licensed Sign erector showing the plans and specifications, dimensions, material, setback, elevation, projections, and details of the proposed Sign nor until all provisions of this Ordinance relating to such Sign shall be complied with, nor until after the payment of the prescribed fee for every such permit. The Administrator may prescribe the form of all applications for the various forms of permits herein required.

CD. Fees. The Common Council shall, from time to time, establish the permit fees. Permit fees shall be waived for any permit under this Chapter applied for by the City of Kenosha, City of Kenosha Redevelopment Authority, Library, or Museum.

DE. Portable Sign Permits. Portable Signs shall be permitted only upon the issuance of a Portable Sign Permit granted and issued by the Administrator subject to the following conditions and restrictions:

1. A Portable Sign Permit shall allow the use of a Portable Sign for a specified period of time, not to exceed thirty (30) consecutive days.

2. Only two (2) Portable Sign Permits shall be issued with respect to the same Premise in any calendar year.

3. All Portable Signs shall be anchored and supported in a manner which reasonably prevents the possibility of Signs becoming hazards to public health and safety. Any Portable Sign weighing in excess of fifty (50) pounds must conform to the requirements of the City Building Code.

4. Portable Signs shall not exceed thirty-two (32) square feet of Sign Face area per side.

F. Off-Premise Commercial Signs

Subject to the provisions of Wisconsin Statutes §§ 62.23 (7) (h) and (hc) no sign permit may be issued to erect, place, replace, move, establish, originally paint, construct, install, convert, substantially alter, rebuild, enlarge, remodel, or relocate any off-premise commercial sign.

Section Six

Section 15.12 of the Code of General Ordinances for the City of

Kenosha, Wisconsin is hereby repealed and recreated as follows:

15.12 PROHIBITED SIGNS

All Signs not expressly permitted are prohibited in any location in the City. The following Signs are specifically prohibited:

1. Signs containing statements, words or pictures of an obscene or pornographic nature.
2. A Sign, handbill, notice or poster affixed to a tree, fence, pole, Street Sign, Traffic Sign or other structure not constructed or intended for use as a Sign base, which is not authorized by this Ordinance.
3. Revolving Signs.
4. Roof Signs.
5. Signs which are structurally dangerous, or unsafe.
6. Abandoned/Obsolete Signs.
7. Flashing and Animated Signs.
8. Deteriorated Signs.
9. Signs used beyond time limits provided in this Ordinance.
10. Off-premise commercial signs.

Section Seven

Section 15.15 of the Code of General Ordinances for the City of

Kenosha, Wisconsin is hereby repealed and recreated as follows:

15.15 OFF-PREMISE SIGNS

A. Purpose. This Section is intended to protect the public health, safety and welfare by regulating the construction, materials, ~~placement/location~~, size, height, spacing and maintenance of Off-Premise Commercial Signs. This Section is designed to ensure that Off-Premise Commercial Signs are

compatible with other Signs and land uses, and are not detrimental to the aesthetic quality of the community. All Off-Premise Commercial Signs ~~permitted-existing~~ in the City shall be maintained in accordance with the following conditions and restrictions:

B. Illumination. The light rays from any Off-Premise Commercial Sign which is externally illuminated shall be cast directly upon the Sign Face surface and shall not be visible to motor vehicle operators, except as may be reflected from the Sign Face. The illumination of Off-Premise Commercial Signs will not be permitted between 12:00 A.M. and 5:00 A.M. No Off-Premise Commercial Sign shall contain flashing elements or video displays.

C. Wind Load Requirement. Off-Premise Commercial Signs shall be maintained so as to withstand a wind load/pressure of not less than thirty (30) pounds to the square foot.

D. Nonconforming Off-Premise Commercial Signs. Any existing Off-Premise Commercial Sign constructed, erected and installed in accordance with applicable State and local laws, rules and regulations established on the effective date of this Ordinance and which Sign becomes Nonconforming by the provisions herein, shall be a Nonconforming use and any Sign which, as a result of subsequent amendments hereto becomes Nonconforming, shall also be a Nonconforming use and is to be subject to Section 7.0 of the Zoning Ordinance.

No Nonconforming Off-Premise Commercial Sign structure shall be altered or reconstructed, unless the alteration or reconstruction is in compliance with the provisions of Section 7.0 of the Zoning Ordinance. For the purpose of this Section only, the term "altered or reconstructed" shall not include painting, rustproofing or changing of advertising message.

Nonconforming Off-Premise Commercial Signs may continue in use only when in compliance with the following:

1. The Sign must have been actually in existence as of the effective date of this Ordinance.
2. The Sign may be sold, leased, or otherwise transferred without affecting its Nonconforming status, but its location may not be changed. ~~A Nonconforming Sign removed as a result of a Street Right-of-Way taking or for any other reason may be relocated only if the Sign is made to conform to this Ordinance.~~
3. The Sign must have been constructed, erected, and installed in accordance with applicable State and local laws, rules and regulations that were in effect at the time this Ordinance was enacted, and must continue to be maintained in accordance with this Ordinance. Failure to adhere to rules and regulations associated with construction, erection and installation of Off-Premise Signs, including failure to obtain permit approvals, shall render the Sign illegal.
4. In accordance with Section 62.23(7)(h), Wisconsin Statutes, the Sign must remain substantially the same as it was on the effective date of this Ordinance and may not be enlarged or expanded. Any extension, enlargement, rebuilding, changing the materials of the Sign structure, changing the size of the Sign structure materials, adding catwalks, adding guys or struts for stabilization of the Sign or structure, adding lights to a non illuminated Sign, changing the height of the Sign above ground or re-erection of the Sign is prohibited. The Sign may not be structurally altered so as to prolong the life of the Sign.
5. The Sign may continue in use as long as it is not destroyed, extended, expanded, abandoned, or discontinued. A Sign is deemed destroyed when it is rendered any or all of the following descriptions: dismantled, ~~blown down~~, removed or modified from its original state. A Sign shall be deemed expanded if any or all of the following standards are met: increase in size, mass, volume or scope in any direction;

provide greater detail; to spread out; to increase or grow in extent; or, to increase in width or circumference. A Sign is deemed abandoned or discontinued if for a period of twelve (12) months or longer, it is composed of obsolete advertising matter, or is without advertising matter, or is in need of substantial repair provided that any period of involuntary discontinuance which occurs during the period a street is closed shall not be considered. A Sign is deemed abandoned or discontinued if the name of the owner does not appear thereon and if the name and address of the current owner is not readily ascertainable from records on file with the Department of Neighborhood Services and Inspections.

An unsafe to abandoned Sign is declared a public nuisance, which shall be abated by the owner within sixty (60) days of receiving notice from the Department. After sixty (60) days, the Sign may be removed by the Department, and the cost thereof shall be placed on the tax roll as a special assessment and become a lien against the benefited property, unless paid sooner.

E. Identification of Sign Erector. On every Off-Premise Sign erected, the erector shall, in a permanent manner, state the name and address of the Sign erector that erected the Sign, the permit number, and the date of its erection. Such information must be readable from a distance of at least one (1) foot.

F. Off-Premise Sign License.

1. License Required. An annual Off-Premise Sign License for each Off-Premise Sign Face.

2. Fees. The fee for such License shall be calculated for each Sign Face. License fees are not proratable. License fees shall be deposited in a special revenue fund, which shall be used to offset the City's cost associated with the annual inspection and licensing of each Sign Face. The Common Council shall, from time to time, establish the License Fees.

3. Term. Every License issued hereunder shall expire on the first (1st) day of July of the year following the date of issuance.

G. Replacement Sign Credits. Off-Premise Signs constructed as a result of Replacement Sign Credits granted prior to June 16, 2008, shall be subject to the Ordinance standards enacted March 6, 1995. An Off-Premise Sign Permit shall be obtained prior to the expiration of subject credits.

H. Off-Premise Signs in City Parks or Recreation Areas. This section does not apply to off-premise signs placed in City parks or recreational areas pursuant to authorization for non-permanent placement, from the Parks Commission.

Section Eight: To repeal and recreate the line pertaining to off-premises in Table 1

of Chapter 15 of the Code of General Ordinances for the City of Kenosha, Wisconsin as follows:

SIGN DESCRIPTIONS	B-1/B2-/B-3	IP	M-1/M-2	RG/RS/RD/RR	RM
Off-Premise <u>Commercial Signs</u> [Refer to Section 15.15]	PERMITTED ONLY IN B-2 <u>NOT PERMITTED</u>	NOT PERMITTED	<u>NOT PERMITTED</u>	NOT PERMITTED	NOT PERMITTED

Section Nine:

This Ordinance shall become effective upon passage and

publication.

ATTEST: _____ City Clerk

APPROVED: _____ Mayor

Passed:

Published:

Drafted By:
EDWARD R. ANTARAMIAN
City Attorney

ANIMAL CONTROL SERVICES AGREEMENT

By And Between

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

And

**CLAWZ AND PAWZ,
a Wisconsin General Partnership
4800 25th Avenue
Kenosha, Wisconsin 53140**

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, hereinafter referred to as "**CITY**", and **CLAWZ AND PAWZ**, a Wisconsin general partnership, hereinafter referred to as "**CONTRACTOR**".

WITNESSETH:

WHEREAS, CONTRACTOR submitted to **CITY** a written proposal to provide animal control services within the City of Kenosha, Wisconsin, and **CITY** accepted said proposal.

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

1. DEFINITIONS.

- a. **"AGREEMENT"** shall mean this Agreement, Request for Proposals, Proposal, Terms and Conditions, Qualification Assessment Questionnaire, Certificate of Insurances, Notices, and such other documents as are referenced herein. Any of such documents which are not physically attached to this Agreement are on file in the office of the City Clerk/Treasurer, and are incorporated into this Agreement by reference.
- b. **"ANIMAL(S)"** shall mean Domestic Animal(s) and Wild Animals(s).
- c. **"CITY"** shall mean the City of Kenosha, Wisconsin.
- d. **"CONTRACTOR"** shall mean **CLAWZ AND PAWZ**, a Wisconsin general partnership.
- e. **"DOMESTIC ANIMAL(S)"** shall mean dogs, cats and Vietnamese Pot-Bellied Pigs (defined in Section 14.024 of the **CITY** Code of General Ordinances).
- f. **"EMPLOYEE(S)"** means officer or employee of **CONTRACTOR**.
- g. **"EXCLUDED WILD ANIMAL(S)"** shall mean birds, rabbits, chipmunks, squirrels and rodents unless injured or dangerous.
- h. **"OVERPAYMENT"** means any money **CONTRACTOR** received which **CONTRACTOR** was not entitled to receive under this Agreement, including, but not limited to, excess payment made in error and payment for defective and/or rejected Work which was not redone or replaced and accepted by the **CITY**.

- i. **"WILD ANIMAL(S)"** shall mean all animals, except Domestic Animals.
- j. **"WORK"** means any contractual endeavor undertaken by **CONTRACTOR** to fulfill the terms of this Agreement within the City of Kenosha, including, but not limited to, the providing of labor, services and equipment.

2. WORK TO BE PERFORMED BY CONTRACTOR.

a. **Domestic Animal Control.** **CONTRACTOR** shall provide Domestic Animal Control Services within the City of Kenosha, Wisconsin, consisting of the capture of stray Domestic Animals. **CONTRACTOR** shall transport captured Domestic Animals to the Kenosha County Humane Society, Inc. (hereinafter "Humane Society"). **CONTRACTOR** shall also report Domestic Animal abuse to the Police Department.

b. **Dead Animal Control.** **CONTRACTOR** shall remove and dispose of dead Animals (excluding horses and farm animals) on public rights-of-way and on private and public property at the request of the **CITY** Police Department or Kenosha County Health Division.

c. **Injured and Dangerous Domestic Animal Control.** Injured and dangerous Domestic Animals shall be captured and handled as required by law, including being taken to the Humane Society for rabies observation, where such action is deemed appropriate by **CONTRACTOR** or requested by the **CITY** Police Department or Kenosha County Health Division.

d. **Cooperation.** **CONTRACTOR** shall cooperate with the Kenosha County Health Division, and the **CITY** Police Department in performing the Work, and the **CONTRACTOR'S** Employees shall testify at any hearings, trials or legal proceedings, upon request.

e. **Trapping Certain Wild Animals and Cats.** **CONTRACTOR** shall trap stray cats and Wild Animals at the request of the **CITY** Police Department or Kenosha County Health Division, except Excluded Wild Animals. **CONTRACTOR** shall respond to calls from Joint Services Dispatch. **CONTRACTOR** shall check traps on a daily basis. The **CONTRACTOR** shall also pick up traps on a daily basis when a Wild Animal or cat is trapped and lawfully dispose of the trapped animal following pickup. The parties recognize that attempts to trap Wild Animals and cats are not always successful. **CONTRACTOR** shall use professional judgment and discretion to cease trapping efforts when **CONTRACTOR** deems there is little likelihood of success. **CONTRACTOR** shall possess all Wisconsin Department of Natural Resources required permits to trap and dispose of Wild Animals.

f. **Availability.** **CONTRACTOR** shall be available by phone or pager during the Work schedule.

g. **Health Matters.** **CONTRACTOR** shall cooperate with the Kenosha County Health Division in the abatement of health related nuisances within the City caused by Domestic or Wild Animals. **CONTRACTOR**, when necessary, shall take Domestic Animals to the Humane Society for purposes of impounding, examination and veterinary care in a manner required by the City Contract with the Humane Society, City Ordinances and State law. The Kenosha County Health Division has authority to request the Work, but has no authority under this Agreement to order or direct the Work of **CONTRACTOR**.

h. Work Schedule. **CONTRACTOR** shall perform the Work in accordance with the following schedule:

(1) Respond to emergency calls from Joint Services Dispatch for Animal Control under Sections 2.a., b. and c., of this Agreement as determined by the Kenosha Police Department, twenty-four (24) hours a day, seven (7) days per week. An "emergency" shall be defined as a situation involving an Animal that is or may be injured, sick, disabled or an immediate threat to the public health, safety and welfare.

(2) Respond to non-emergency calls for Animal Control under Sections 2.a., b. and c. of this Agreement, and Trapping Wild Animal and cat calls under Section 2. e. of this Agreement Monday through Friday, excluding City holidays, between the hours of 8:00 A.M. and 5:00 P.M. (Normal Work Schedule). **CONTRACTOR** may operate live Wild Animal and cat traps during such other times as **CONTRACTOR** deems appropriate.

(3) Respond to calls for Dead Animal Control under Section 2.c. of this Agreement during holidays, weekends and between the hours of 3:00 P.M. and 8:00 A.M. on those days for which the **CITY** of Kenosha Street Division is open for business.

i. Access To Animal. In performing the Work, **CONTRACTOR** shall not be required to disturb, remove, tear out, repair or restore any portion of a building, structure, porch, deck, or other manmade improvements (hereinafter "**Improvement**"), for the purpose of gaining access to, trapping or removing a live or dead Animal. **CONTRACTOR** does not assume the responsibility or liability for disturbing or altering an Improvement. If the property owner requests **CONTRACTOR** to disturb or alter an Improvement, the property owner may request **CONTRACTOR** to separately negotiate an agreement for such service outside the scope of this Agreement. If **CONTRACTOR** and property owner separately contract for such service, such service shall be deemed to be outside of the scope of this Agreement and shall not be compensated.

j. Employees. Only Employees appointed by the **CITY** Common Council as Humane Officers shall perform the duties of Humane Officers under Section 14.076 of the Code of General Ordinances and Chapter 173, Wisconsin Statutes, within the City of Kenosha. **CONTRACTOR** shall provide the **CITY**, Police Department, and the Kenosha County Health Division with a list of personnel providing services under this Agreement, including home addresses, telephone numbers, work schedules and a calling sequence. Employees must take all training required by the **CITY** Police Chief.

k. Reports. **CONTRACTOR** shall furnish full and complete monthly reports to the **CITY** Finance Director on forms furnished by the **CITY** Finance Director together with such additional information as may be requested by the **CITY** Finance Director.

l. Wisconsin Humane Officer Training Course. A minimum of one (1) person providing services under this Agreement shall have successfully completed the Wisconsin Humane Officer Training Course and shall file with the City Clerk/Treasurer and the Police Chief a copy of the Certification thereof. This Certification must be obtained, renewed and maintained as required by Chapter ATCP 15, Wisconsin Administrative Code during the term of this Agreement.

m. City Humane Officer. The Common Council of the City of Kenosha may appoint one (1) or more persons providing services under this Agreement who is/are a State certified Humane Officer under Subsection 2.l. of this Agreement as a City Humane Officer

under Section 173.03, Wisconsin Statutes. In such event, the City Humane Officer shall have the powers and duties provided under Section 173.07, Wisconsin Statutes which shall be exercised in cooperation with the CITY Police Chief and Assistant Police Chiefs.

3. COMPENSATION TO BE PROVIDED TO CONTRACTOR.
CONTRACTOR, for the price/cost below provided, will perform and complete, or will cause to be performed and completed, all Work defined in this Agreement in a good and workmanlike manner and will do so in accordance with and subject to the provisions of this Agreement. The Price/Cost charged to **CITY** by **CONTRACTOR** for the Work are set forth as follows:

a. For Basic Services. Three Thousand Five-Hundred Dollars (\$3,500.00) per month. Basic services shall include:

- (1) Maintain and staff office, and be responsible for all costs and expenses of business operation.
- (2) Have dedicated business phone line, computer with Internet and E-mail access.
- (3) Provide employees performing the Work out of office with cell phones.
- (4) Provide motor vehicles, equipment and supplies. A list of same, as of date of Agreement execution is attached hereto as Attachment "A" and incorporated herein by reference.
- (5) Maintain **CITY** supplied equipment.
- (6) Attend meetings requested by **CITY** officers.
- (7) Appear in Court or Administrative Hearings upon request of **CITY** officers.
- (8) Perform public information or public relations activities, as requested by **CITY** officers.
- (9) Attend to injured or dangerous Animals.
- (10) Complete **CITY**, Police, and Kenosha County Health Division Reports.
- (11) Capture or take custody of any Domestic Animal due to injury or neglect at the request of the **CITY** Police Department or Kenosha County Health Division.
- (12) Perform services as statutory Humane Officer.
- (13) Perform all other Work not itemized below involving Animal Control Services.

b. For Itemized Services the Price/Cost for each animal is specified below:

- (1) Capture, pickup and disposal of domestic dog, cat farm animal or Wild Animal (not trapped)..... **\$ 45.00**
- (2) Dead Animal Removal..... **\$ 30.00**
- (3) Capture, pickup and dispose of Vietnamese Pot-bellied Pig..... **\$ 40.00**
- (4) Deliver, set and retrieve Wild Animal or cat trap. Remove trapped animal, and dispose of trapped animal..... **\$ 40.00**

- (5) Pickup any dog or cat caught by a citizen, or injured Wild Animal and dispose of same..... \$ 30.00
- (6) Emergency calls after Normal Working Hours with no animal captured..... \$ 40.00
- (7) Animal capture under (1) & (3), Dead Animal Removal under (2), and Animal pickup under (5), on Holidays or weekends, or between 5:00 P.M. and 12:00 Midnight on Normal Work Schedule..... \$ 50.00
- (8) Animal capture under (1) & (3), Dead Animal Removal under (2), and Animal pickup under (5), between 12:00 Midnight & 8:00 A.M. on any day... \$ 55.50
- (9) No Animal captured during normal operating hours of 8:00 A.M. to 5:00 P.M..... \$ 22.50

4. COMMENCEMENT AND DILIGENT PROSECUTION OF WORK.

CONTRACTOR will commence and diligently prosecute the Work upon execution of the Agreement.

5. AGREEMENT TERM AND EXTENSION.

a. The initial term of this Agreement shall be January 1, 2011 through December 31, 2011. The **CITY** shall have the right to extend the initial term of this Agreement for up to two (2) additional one (1) year terms from January 1, 2012 through December 31, 2012, and from January 1, 2013 through December 31, 2013. The **CITY** shall be deemed to have exercised the option to extend the initial term of this Agreement unless **CITY** delivers to **CONTRACTOR** a written notice of non-extension stating that **CITY** has elected not to extend the initial term of this Agreement at least sixty (60) days prior to expiration of the initial term and at least sixty (60) days prior to the expiration of any extended term of this Agreement. Unless **CONTRACTOR** has received written notice of **CITY'S** election not to extend this Agreement, this Agreement shall be deemed extended for a period of one (1) year from the date of expiration of the initial term or from the date of expiration of the extended term, as the case may be, without the execution of any further instrument.

b. In the event **CITY** extends the initial term of this Agreement pursuant to Section 5.a. above, the compensation to be provided to **CONTRACTOR** pursuant to Section 3 of this Agreement shall be adjusted to reflect increases in the U.S. Department of Labor U.S. Consumer Price Index for all urban consumers, but the increase shall not exceed five (5%) percent for any given extended term of this Agreement. Any adjustment in the compensation to be provided to **CONTRACTOR** during any extended term of this Agreement shall be effective January 1 of the extended term.

c. This Agreement is subject to termination by **CITY** or reduction in the compensation to be provided **CONTRACTOR** in the event funding for animal control services is eliminated or reduced by the Common Council. In such an event, this Agreement shall terminate or the compensation to be provided to **CONTRACTOR** shall be reduced the day following action by the Common Council to eliminate or reduce funding for animal control services.

6. TERMINATION FOR CAUSE. In the event either party should fail to fulfill in a timely manner its obligations under this Agreement, the nonbreaching party shall have the right to terminate this Agreement provided written notice of such breach is given to the breaching party specifying this Agreement will be terminated in ten (10) days, if the breaching party has not rectified and remedied the purported breach to the satisfaction of the party that gave notice of the breach within said ten (10) day period. **CONTRACTOR** shall perform no new or additional Work upon receipt of a notice of termination without the advance, written permission of the **CITY** Police Chief or designee, except as necessary to cure the default, but not beyond the ten (10) day period to cure. Termination for reason of an uncured breach by **CITY** shall be through action of its Common Council taken at a duly noticed and convened meeting.

7. CITY POLICE CHIEF OR DESIGNEE'S DECISION FINAL. Should any dispute arise at any time between **CONTRACTOR** and the **CITY** as to the true meaning or requirements of this Agreement, or as to the manner of execution of the Work, or as to the quality of the Work executed, or as to the timely completion of the Work, the decision of the **CITY** Police Chief or designees shall be final and conclusive, until and unless set aside by a Court of law. **CONTRACTOR** agrees that should any decision of the **CITY** Police Chief or designee be challenged in Court, the Court may only set aside such decision if it is wholly arbitrary and capricious and/or made in complete disregard of undisputed facts.

8. METHODS, MANNER, LABOR, EQUIPMENT, MATERIALS AND SUPPLIES. **CONTRACTOR** shall have discretion to select such methods, manner, labor, equipment, materials and supplies 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. **CONTRACTOR** is responsible for furnishing all labor, equipment, material and supplies required to perform the Work, except for equipment supplied by the **CITY** under this Agreement.

9. SUSPENSION OF WORK BY CITY AND EMERGENCY REMEDY. The **CITY** Police Chief or designee shall have authority to immediately suspend the Work where he/she believes that **CONTRACTOR** is not performing the Work in accordance with this Agreement to the detriment of the public health, safety and welfare. **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 **CITY** Police Chief or designee for good cause. The **CITY** shall have the right to purchase Animal Control Services from any service provider during any period of Agreement suspension, or any period **CONTRACTOR** fails to perform the Work.

10. 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 all Work, this Agreement shall be null and void as of the date such injunction, Court order or judgment becomes final, although **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 Agreement shall be deemed modified in accordance therewith and compensation of **CONTRACTOR** shall be proportionately reduced to reflect the decrease in the scope of the Work.

11. REQUEST FOR SERVICES. **CONTRACTOR** shall comply with reasonable requests for Animal Control Service from the **CITY** Police Department, Kenosha County Health

Division, and Joint Services Dispatch.

12. 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.

13. CITY COOPERATION AND SUPPLIED EQUIPMENT. The CITY will reasonably cooperate with **CONTRACTOR** to facilitate **CONTRACTOR'S** performance of the Work. The CITY will provide equipment and services identified below. However, the CITY has no obligation to supervise or perform any part of the Work.

a. Training. Police Department will provide employees of **CONTRACTOR** with training on the investigation of animal abuse complaints and use of reasonable force in self defense.

b. Assistance. Police Department will respond to requests from **CONTRACTOR** for assistance in dealing with dangerous Animals or disorderly citizens.

c. Unreasonable Force. If an employee of **CONTRACTOR** is alleged by any person or party to have used unreasonable force in the performance of the Work, Police Department shall investigate and take appropriate action. If employee is exonerated of wrongdoing, and employee is sued by a third party, Police Department shall offer nonfinancial assistance in the defense of the lawsuit.

d. Radios. CITY shall provide two (2) hand held two-way radios and two (2) chargers therefor. **CONTRACTOR** may only use a radio channel approved by the City of Kenosha Police Department. As said channels are for emergency police use and regulated by the Federal Communications Commission, **CONTRACTOR** shall strictly comply with the City of Kenosha Police Department Policies O-223 (Radio Dispatches), O-224 (Radio and Walkie-Talkies), O-319 (Telephone Conversation, Radio Transmission), The Communication Department Policy and Procedure of Joint Services effective May 5, 1993, (Radio Procedures), and all new and amended policies and procedures related thereto, and any lawful or reasonable order or request of any dispatcher or Police supervisor.

e. Traps. CITY will provide: five (5) cat traps; four (4) raccoon traps; and, two (2) fox traps.

f. Condition and Return. **CONTRACTOR** acknowledges receipt of all items contained herein. All items of the CITY used by **CONTRACTOR** shall be returned to the CITY in the same condition as received, normal wear and tear excepted. **CONTRACTOR** shall be responsible and liable to the CITY for any lost, stolen, or damaged radios and traps.

15. LAWS, RULES AND REGULATIONS. **CONTRACTOR** shall comply with all Federal, State and local laws, rules and regulations applicable to the performance of the

Work. This Agreement shall be deemed made in and construed under the laws of the State of Wisconsin.

16. CONTRACTOR'S EMPLOYEES. Although **CONTRACTOR** performs the Work as an independent Contractor, the **CITY** Police Chief or designees shall have the right to request **CONTRACTOR** to remove or discipline any of **CONTRACTOR'S** Employees performing the Work when said Employee does not furnish quality workmanship or is uncooperative with, or in performance of the Work is disrespectful to any **CITY** personnel, governmental officer or Employee, or any citizen. **CONTRACTOR** will comply with any reasonable request.

17. INSPECTION AND AUDIT. 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 Agreement. However, only the **CITY** Police Chief, or designee, can reject the Work. The **CITY** Finance Department may audit invoices for accuracy and verification of services invoiced, request any additional information in connection with any audit, and may perform customer satisfaction surveys.

18. PAYMENT OF EMPLOYEES AND SUPPLIERS. **CONTRACTOR** shall promptly pay, so as to avoid default, all Employees, and suppliers for all Work, labor, services, supplies or materials which they may directly or indirectly furnish in the fulfillment of this Agreement.

19. RIGHTS OF CITY UPON CONTRACTOR DEFAULT. **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 such 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 **CITY** Police Chief or designee (hereinafter "Remediation"). However, none of the above actions by the **CITY** shall relieve **CONTRACTOR** of its obligations under this Agreement. The **CITY** may deduct the cost of Remediation from any payment due **CONTRACTOR** hereunder.

20. OVERPAYMENTS AND SETOFFS UNRELATED TO AGREEMENT. **CONTRACTOR** will promptly, upon receipt of written demand from the **CITY** Finance Director, refund any Overpayments received thereby. Should **CONTRACTOR** not comply with said request within thirty (30) days of receipt of written notice, **CONTRACTOR** shall pay the **CITY** interest for said amount at the rate of one and one-half (1-1/2%) percent per month on the unpaid balance, until paid in full. Should **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 Agreement, **CONTRACTOR** authorizes the **CITY** to deduct said amount from any payment due **CONTRACTOR** hereunder.

21. PAYMENT. Payment shall be made by the **CITY** on a monthly basis upon submission of invoice and any required report documentation for completed Work to the **CITY** Finance Director, within fifteen (15) days after receipt of invoice and documentation. The form of invoices and reports shall be determined by the **CITY** Finance Director. Payment will not be made for so long as any order relative to seeking compliance with this Agreement made to **CONTRACTOR** by the **CITY** Police Chief or designee is not complied with, except to the extent of payment due **CONTRACTOR** for other Work, which was properly performed and not subject to said Order. Payment will be reduced by the amount of any claim which the **CITY** may have

against **CONTRACTOR** for improper, defective, or rejected Work, by the amount of setoffs authorized by this Agreement, or for any other primary liability of **CONTRACTOR** which the **CITY** could be secondarily liable for, which secondary liability was not assumed by the **CITY** under this Agreement. The **CITY** Finance Director may withhold payment until all Employees, and suppliers of **CONTRACTOR** have been fully paid for all work, labor, services, supplies or materials provided thereby.

22. INDEPENDENT CONTRACTORS, FEDERAL AND STATE INCOME TAX WITHHOLDING, WORKERS AND UNEMPLOYMENT COMPENSATION. **CONTRACTOR** acknowledges that it is an independent Contractor and that its Employees and agents are not the Employees of the **CITY** for purposes of Federal and State Income Tax withholding, Workers and Unemployment Compensation Insurance or any other purpose. **CONTRACTOR** acknowledges that the **CITY** does not control the manner or method of the Work performed and that **CONTRACTOR** may perform similar Work for other parties under separate contracts, personal to those third parties. **CONTRACTOR** shall be responsible for Workers and Unemployment Compensation claims with respect to its Employees.

23. PROHIBITIONS AS TO ASSIGNMENT, SUBCONTRACTING AND JOINT VENTURES. **CONTRACTOR** may not assign this Agreement, enter into a joint enterprise or sublet any Work without the express written approval of the **CITY** Police Chief or designee and the **CITY** is not liable for any costs and expenses arising therefrom. An unlawful assignment, joint enterprise or subletting shall render this Agreement voidable by the **CITY** Common Council as of the date thereof, and the **CITY** will not be obligated to pay to **CONTRACTOR** any money for any Work performed by an unauthorized party. The **CONTRACTOR** will be responsible for any cost, loss, expense or damages the **CITY** may incur in enforcing this provision. However, nothing contained herein shall prevent **CONTRACTOR** from assigning this Agreement to a Wisconsin business corporation which **CONTRACTOR** may form during the term of this Agreement, so long as **CONTRACTOR** possesses a majority shareholder interest in said corporation, and immediately notifies the **CITY**.

24. INDEMNITY AND HOLD HARMLESS AGREEMENT.

a. BY CONTRACTOR. **CONTRACTOR** agrees that it will, at all times relevant to this Agreement, defend, indemnify and hold harmless the **CITY** and **CITY'S** officers, agents, employees and representatives, from and against any and all liability, loss, charges, damages, claims, judgments, costs, expenses or attorneys fees, which they may hereafter sustain, incur or be required to pay as a result of any action or inaction by **CONTRACTOR** or its officers, agents, employees or representatives or as a result of the willful or negligent act or omission of **CONTRACTOR** and its suppliers, assigns, employees, officers, agents or representatives, or resulting from **CONTRACTOR'S** failure to perform or observe any of the terms, covenants and conditions of this Agreement, 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.

b. BY CITY. The **CITY** agrees that it will, at all times relevant to this Agreement, defend, indemnify and hold harmless **CONTRACTOR** and **CONTRACTOR'S** officers, agents, employees and representatives, from and against any and all liability, loss, charges, damages, claims, judgments, costs, expenses or attorneys fees, which they may hereafter sustain, incur or be required to pay as a result of following the orders and directives of any **CITY** Police Officer, 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.

25. INSURANCE. The **CONTRACTOR**, during the term of this Agreement, 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:

A. Commercial General Liability

1. Bodily Injury:
\$2,000,000.00 Each Occurrence
\$2,000,000.00 Aggregate

2. Property Damage
\$1,000,000.00 Each Occurrence
\$1,000,000.00 Aggregate

B. Automobile Liability (owned, non-owned, leased)

1. Bodily Injury:
\$2,000,000.00 Each Occurrence
\$2,000,000.00 Aggregate

2. Property Damage
\$1,000,000.00 Each Occurrence

OR

3. Combined Single Limit
\$2,000,000.00 Each Accident

C. Worker's Compensation: Statutory Limits

1. Employer's Liability
\$100,000.00 Each Accident
\$100,000.00 Disease, Each Employee
\$500,000.00 Disease, Policy Limit

D. Umbrella Liability

\$2,000,000.00 over the primary insurance coverages listed above.

E. Certificate of Insurance

The insurance coverages listed above shall be verified by a Certificate of Insurance issued to the **CITY** as Certificate Holder and shall provide that should any of the described policies be canceled before the expiration date thereof, the issuing insurer will mail thirty (30) days written notice to the Certificate Holder.

F. Additional Insured

The **CITY** shall be named as an additional insured with respect to 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 to the insurance coverages listed above.

26. SEVERABILITY. It is mutually agreed that in case any provision of this Agreement 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 Agreement shall remain in full force and effect.

27. NONDISCRIMINATION. In the performance of Work under this Agreement, **CONTRACTOR** agrees not to discriminate against any Employee, applicant for employment, or recipient of service 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.

28. NO THIRD PARTY BENEFICIARIES. This Agreement is intended to be solely for the benefit of the parties hereto. No part of this Agreement shall be construed to add, supplement, amend, abridge or repeal existing rights, benefits or privileges of any third party or parties, including, but not limited to, Employees.

29. FULL AGREEMENT - MODIFICATION. This Agreement shall be the full and complete agreement and understanding of the parties and shall supersede all prior agreements and oral or written statements or documents, inconsistent herewith. This Agreement may be modified, in writing, by the mutual agreement of the parties hereto, said amendment to be attached hereto and incorporated herein, it being expressly understood that the **CITY** Common Council must approve any amendment of this Agreement.

30. NOTICES. Notices required by or relevant to this Agreement shall be by certified mail with return receipt requested or by person service addressed to **CONTRACTOR** or **CITY** as the case may be as set forth below. Either party may designate a different address by delivering, sending or serving written notice of such change of address upon the other party. Notice shall be effective as of the date of delivery, if by hand, or mailing, if by certified mail.

If to **CONTRACTOR**:

Clawz and Pawz
Robert W. Melby, Jr.
Melissa R. Melby
4800 25th Avenue
Kenosha, Wisconsin 53140

If to **CITY**:

City Clerk/ Treasurer,
Municipal Building, Room 105
625 52nd Street
Kenosha, Wisconsin 53140

with copies to:

Office of the City Attorney
Municipal Building, Room 201
625 52nd Street
Kenosha, Wisconsin 53140

CONTRACTOR:
CLAWZ AND PAWZ,
a Wisconsin general partnership

BY: _____
ROBERT W. MELBY, JR. General Partner

Date: _____

BY: _____
MELISSA R. MELBY, General Partner

Date: _____

STATE OF WISCONSIN)
 : SS.
COUNTY OF KENOSHA)

Personally came before me this _____ day of _____, 2010,
ROBERT W. MELBY, JR., and **MELISSA R. MELBY**, to me known to be the general partners
of **CLAWZ and PAWZ**, a Wisconsin general partnership, and acknowledged to me that they
executed the foregoing instrument as such.

Notary Public, Kenosha County, WI.
My Commission expires/is: _____

Drafted By:
JONATHAN A. MULLIGAN,
Assistant City Attorney