

**GRANT F. LANGLEY**  
City Attorney

**RUDOLPH M. KONRAD**  
**LINDA ULISS BURKE**  
**VINCENT D. MOSCHELLA**  
Deputy City Attorneys



**THOMAS O. GARTNER**  
**SUSAN D. BICKERT**  
**STUART S. MUKAMAL**  
**THOMAS J. BEAMISH**  
**MAURITA F. HOUREN**  
**JOHN J. HEINEN**  
**SUSAN E. LAPPEN**  
**JAN A. SMOKOWICZ**  
**PATRICIA A. FRICKER**  
**HEIDI WICK SPOERL**  
**KURT A. BEHLING**  
**GREGG C. HAGOPIAN**  
**ELLEN H. TANGEN**  
**MELANIE R. SWANK**  
**JAY A. UNORA**  
**DONALD L. SCHRIEFER**  
**EDWARD M. EHRlich**  
**LEONARD A. TOKUS**  
**MIRIAM R. HORWITZ**  
**MARYNELL REGAN**  
**G. O'SULLIVAN-CROWLEY**  
**KATHRYN Z. BLOCK**  
**ELOISA DE LEÓN**  
**ADAM B. STEPHENS**  
**KEVIN P. SULLIVAN**  
**BETH CONRADSON CLEARY**  
**THOMAS D. MILLER**  
**JARELY M. RUIZ**  
**ROBIN A. PEDERSON**  
**DANIELLE M. BERGNER**  
**CHRISTINE M. QUINN**  
**MARGARET C. DAUN**  
Assistant City Attorneys

August 16, 2011

To the Honorable Common Council  
Of the City of Milwaukee  
Room 205 – City Hall

Re: Resolution Relating to the Claim of JAMES WILCOX  
C.I. File No. 11-L-63

Dear Council Members:

We return the enclosed document which has been filed with the City Clerk, and ask that it be introduced and referred to the Committee on Judiciary & Legislation with the following recommendation.

Claimant, James Wilcox, 4360 North 14th Street, Milwaukee, WI 53209, alleges through his attorney, Wagner, Falconer & Judd, Ltd., 325 North Corporate Drive, Suite 100, Brookfield, WI 53045, that on April 4, 2011 he sustained injuries when he fell into an open and unbarricaded manhole near North 14<sup>th</sup> Street and Congress. They further claim that a construction crew for K.S. Energy Services, Inc. had been working at the location on behalf of the City. They claim damages in the amount of \$50,000.00.

Our investigation reveals that the Infrastructure Services Division (ISD) reviewed their records relative to this incident. They found that the ISD had no work in the intersection of North 14<sup>th</sup> Street and West Congress Street on or around April 4, 2011. The review also found that Wisconsin Gas Company, 5400 North Green Bay Avenue, Milwaukee, WI 53209-9933 was issued Public Way Excavation Permit No. 201106-0066 for work in this area. It is possible that K.S. Energy Services, Inc. was working for them. Since the City was not engaged in this work, it cannot be held liable. Therefore, we recommend that this claim be denied.

Very truly yours,

GRANT F. LANGLEY  
City Attorney

JAN A. SMOKOWICZ  
Assistant City Attorney

JAS:ms  
Enclosure  
1029-2011-2072:172542

OFFICE OF THE CITY ATTORNEY