

**Intergovernmental Cooperation Agreement Between the  
County of Kenosha, the City of Kenosha, and the Town of Paris  
Under Section 66.0301, Wisconsin Statutes Respecting Jurisdiction**

The County of Kenosha, a quasi-municipal corporation created pursuant to § 2.01(3), Wisconsin Statutes and authorized to enter into contracts pursuant to § 59.01, Wisconsin Statutes with its principal place of business located at 1010 56<sup>th</sup> Street, Kenosha, Wisconsin, 53140 (hereinafter "County"), the City of Kenosha, Wisconsin, a Wisconsin municipality with offices at 625 52<sup>nd</sup> Street, Kenosha, Wisconsin 53140 (hereinafter "City"), and the Town of Paris, a Wisconsin municipality with offices at 16607 Burlington Road, Union Grove, WI 53182 (hereinafter "Town")(collectively, the County, City, and Town together are hereinafter "the Parties") enter into this Intergovernmental Cooperation Agreement (hereinafter "IGA"), under the authority of § 66.0301, Wisconsin Statutes.

**RECITALS**

WHEREAS, the Parties to this IGA anticipate that a prospective Primary User, as that term is defined herein, will locate within the City Growth Area, as that term is defined herein, said Primary User bringing to the location a development comprising quality design and construction of improvements and employment for an estimated five hundred (500) people; and

WHEREAS, the Parties are desirous of facilitating the location of the prospective Primary User within the City Growth Area; and

WHEREAS, in order to locate within the City Growth Area, the prospective Primary User will need City services, including, but not limited to, water service and sanitary sewer service; and

WHEREAS, a petition by unanimous consent for annexation to the City for parcels contiguous to the City that are currently under the jurisdiction of the Town has been circulated and filed with the City, said parcels exist within the proposed City Growth Area and include the location proposed for the use of the prospective Primary User; and

WHEREAS, to facilitate the location of the prospective Primary User within the City Growth Area, the Parties are desirous to articulate their mutual cooperation and their lack of discord in these regards, and enter into this IGA.

**AGREEMENT**

THEREFORE, in consideration of the promises, mutual covenants, and obligations set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

## SECTION I – AUTHORITY

The County, the City, and the Town enter into this IGA under the authority of §66.0301, Wisconsin Statutes.

## SECTION II – DEFINITIONS

**A. General** – Words in this IGA, unless technical in nature or otherwise defined herein, are given their common, ordinary, dictionary meaning.

**B. Special** – for purposes of this IGA, the following words or phrases have the following, respective meanings:

1. The terms “City”, “County”, “IGA”, “Parties”, and “Town” have the meanings given in the introduction to this agreement.

2. “City Growth Area” means the area currently in the Town subject to annexation into the City pursuant to this IGA. The City Growth Area is depicted on **Exhibit A** as the “Direct Annexation Area” and particularly described in **Exhibit B**. To the extent that there is any discrepancy between **Exhibit A** and **Exhibit B**, the legal description in **Exhibit B** will prevail. The City Growth Area comprises approximately six hundred fifty eight and fifty-five one-hundredths (658.55) acres.

3. “Commencement of Construction” or “Commence Construction” means that an applicant for a building permit has received an issued building permit for an improvement on property annexed into the City pursuant to this IGA, which building permit is consistent with a site plan review or conditional use permit.

4. “Effective Date” means May 13, 2014.

5. “Full Tax Year” means the tax year for property-tax calculation consideration commencing on the January 1 immediately ensuing the granting of an occupancy permit for specific improvements made by the Primary User. The Full Tax Year described in Subsection V.A. may be different than the Full Tax Year described in Subsection V.B.

6. “Highway” has the meaning given in § 340.01(22), Wisconsin Statutes.

7. “Initial Improvement” means the first improvement made by the Primary User to real property annexed into the City from the City Growth Area, for which an occupancy permit was issued by the City.

8. “Primary User” means a business entity that satisfies all of the following criteria:

a. the business entity that as of the Effective Date, already employs approximately five hundred (500) people within the County and has been conducting a search for the location for a new distribution center of approximately one million square feet, which would result in the employment of an estimated 500 additional persons within the City, and is estimated to result in an additional Seventy Million Dollars in assessed value;

b. within one (1) year of the Effective Date, the business entity, or its agent, has purchased real property within the City Growth Area; and

c. within two years of the Effective Date, the business entity has Commenced Construction on the real property of a facility; and

d. within three (3) years of the Effective Date, the business entity has completed construction of the facility comprising a new distribution center and associated office space of approximately one million square feet, secured an occupancy permit from the City, and has at least four hundred fifty(450) people employed at the facility comprising a mix of full-time and part-time employment, as defined by the United States Department of Labor.

For purposes of this definition of “Primary User,” “business entity” includes affiliated business entities that have common ownership.

### **SECTION III – GROWTH AREA ANNEXATION**

During the term of this IGA, only petitions for direct annexations within the City Growth Area from the Town to the City by unanimous approval made pursuant to § 66.0217(2), Wisconsin Statutes will be allowed. During the term of this IGA, the Town will not contest any direct annexations by unanimous approval from the City Growth Area.

### **SECTION IV – FIVE-YEAR MORATORIUM ON ANNEXATIONS OUTSIDE OF THE CITY GROWTH AREA**

The Town and the City agree to a five-year moratorium from the Effective Date of this IGA on any annexations to the City of parcels outside City Growth Area. Unless required by court order, during this five-year moratorium, the City will not accept any annexation petition or pass any ordinance of annexation that annexes property from the Town to the City for property that lies outside the City Growth Area, without Town approval.

### **SECTION V – PAYMENTS**

**A. First Lump Sum Payment.** The City shall make a one-time, lump sum payment to the Town in the amount of Five Hundred Thousand dollars (\$500,000) after the City receives the entirety of the taxes from the Primary User for the Full Tax Year, which taxes are to be based on the fully assessed value of the land and the Initial Improvement of the Primary User. Payment to Town shall be made by City within 30 days of receipt of the final tax payment from Primary User to City for the Full Tax Year.

**B. Conditional Lump Sum Payment.** If after the occupancy permit is issued for the Initial Improvement identified in Subsection V.A., the Primary User Commences Construction of a second improvement, other than an accessory structure, the City shall be obligated to make a one-time, lump sum payment to the Town in an amount equal to twenty-five percent (25%) of the collected tax for the Full

Tax Year, based on the mill rate of the City of Kenosha, applied to the assessed incremental value of the land and improvements of the Primary User that are directly attributable to the second improvement by the Primary User within the City Growth Area. In order for the Town to receive a payment under this Subsection B, the Primary User must Commence Construction of the second improvement prior to December 31, 2019. Payment shall be made by the City for the Full Tax Year associated with the second improvement, in accordance with the procedures set forth in Subsection V.A., above.

**C. Effect of the Creation of a TIF District.** Any payment made under Subsections V. A. or B. above shall be made by the City to the Town regardless of whether any portion of the included area is in a Tax Incremental Financing District (herein, "TIF District"). In the event that the property owned by the Primary User is included in the TIF District, the City and the Town shall agree to a mutual accommodation regarding the timing of the payment(s).

**D. In Lieu of Taxes.** Although the Parties acknowledge that since owners of real property in the Town do not pay taxes to the Town, a written agreement is not necessary under §66.0217(14)(a)1., Wisconsin Statutes, to the extent that such an agreement is ever deemed necessary, the Parties agree that this section satisfies such requirement.

## **SECTION VI - COOPERATION**

The Town and the City are supportive of this IGA, and proposed development project, and will work cooperatively to ensure the location is suitable for the prospective Primary User.

## **SECTION VII - SERVICE AREA**

The Kenosha Water Utility, a wholly-owned utility of the City, has applied for an amendment to its sewer service area to include a portion of the City Growth Area, with Southeast Wisconsin Regional Planning Commission, which application is attached hereto as **Exhibit C**. The Town will support that application for amendment.

## **SECTION VIII – ROADS**

**A. Improvement of Roadways Within or Adjacent to the City Growth Area.** The City, to the exclusion of the County or Town, will be responsible for roadway improvements determined to be necessary by a traffic impact analysis undertaken pursuant to the site plan review or conditional use permit application for any development on parcels annexed into the City from the City Growth Area. Nothing herein will be construed to prohibit the City from shifting some or all of its obligations under this Subsection A to a developer or owner of a parcel within the City Growth Area.

**B. Cooperation by County and Town.** The Town and County will cooperate with the City on all efforts to obtain funding from third parties for improvement on the roadway described in Subsection VIII D, included, but not limited to, Wisconsin Transportation Economic Assistance grants, and similar funding sources on condition that such cooperation is at no direct cost to the Town or County.

**C. Annexations.** Annexation into the City of parcel from the City Growth Area that is adjacent to a Federal, State, County, or Town Highway, will include extension of the City boundary into the center of

the Highway. With the exception of the provisions of Subsection VIII D., extension of the City boundary into a Highway or across a Highway does not constitute a transfer of jurisdiction to the City for purposes of maintenance of the Highway.

**D. Jurisdictional Transfer of 38th Street.** Upon the annexation into the City of all parcels abutting 38<sup>th</sup> Street from its intersection with the 1-94 west frontage road to 128th Avenue, a jurisdictional transfer of 38th Street from its intersection with the 1-94 west frontage road to 128th Avenue as generally depicted in **Exhibit A**, from the County to the City will occur.

## **SECTION IX – TERM**

The term of this IGA is five (5) years from the Effective Date. Notwithstanding anything herein to the contrary, the boundaries between the City and the Town specified in this IGA shall not be permanent. The parties recognize that there may be payment(s) obligations pursuant to Subsection V. B. from City to Town that extend beyond the term of this IGA.

## **SECTION X – AGREEMENT VOID**

A. This IGA is void upon the occurrence of either of the following

1. By May 13, 2017, no business entity satisfies the definition of Primary User in paragraph II.B.8. of this IGA; or

2. By May 13, 2016, no business entity that could qualify as a Primary User as defined in paragraph II. B. 8. or its agent has Commenced Construction of an improvement that would qualify under subparagraph II. B. 8. a.; or

3. By May 13, 2015, no business entity that could qualify as a Primary User as defined in paragraph II. B. 8. or its agent has taken title of real estate in the City Growth Area that would accommodate improvements contemplated in subparagraph II. B. 8. a.; or

4. By December 31, 2014, no business entity that could qualify as a Primary User as defined in paragraph II. B. 8. or its agent has entered into an enforceable offer to purchase land in the City Growth Area that would accommodate improvements contemplated in subparagraph II. B. 8. a.; this provision voiding the IGA may be initiated by a letter from all owners of property annexed into the City from the City Growth Area to this effect.

B. If this IGA is void, any action taken otherwise in conformity with this IGA with regard to completed annexation will not be undone.

## **SECTION XI - AMENDMENT**

The City and Town, upon mutual agreement, may extend the geographic boundaries of the City Growth Area without the consent of the County. All other provisions of this IGA may be amended by mutual consent of all parties.

## **SECTION XII - INDEMNIFICATION**

(a) Subject to all statutory and common law protections and defenses, the Town agrees to indemnify, defend and hold City harmless from and against any and all injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising directly from any actions taken by the City pursuant to the moratorium imposed under Section IV, herein, except to the extent as such claims or liability arise by virtue of the negligence or willful misconduct of the City or any of its agents, contractors, consultants, officers or employees. This indemnification also does not apply to any claim asserted by the Town against the City pursuant to Section XV.

## **SECTION XIII - NO THIRD PARTY BENEFICIARY**

This IGA is intended to be solely between the County, City, and the Town. Nothing in this IGA shall be interpreted as giving to any person or entity not party to this IGA any legal or equitable rights whatsoever.

## **SECTION XIV - ADMINISTRATION OF THIS IGA**

This IGA shall be administered on behalf of the Town by the Town Chair or designee, and on behalf of the City, by the City Administrator or designee. The appointment of a designee must be in writing, and the other party to this IGA must be notified in writing of the appointment.

## **SECTION XV - ENFORCEMENT**

**A. Remedies.** This IGA is intended to provide each party with the right and standing to challenge in Court any act or omission which violates this IGA. This IGA is intended to provide each party with the right and standing to seek any available legal or equitable remedy to enforce this IGA and to seek damages for the breach of this IGA.

**B. Notice of Breach/Dispute Resolution.** If a party to this IGA believes that the other party is in breach of this IGA, the aggrieved party shall promptly serve written notice of said breach upon the other party. The parties shall meet promptly thereafter and shall endeavor in good faith to resolve any dispute amicably. If the initial meeting fails to resolve the dispute, the parties shall meet again within thirty (30) days after service of the written notice. Failure or refusal of a party to meet promptly and attempt in good faith to resolve any dispute shall be deemed a waiver by such party of any right to recover any litigation expenses or attorney fees other than statutory costs; provided, however, that good faith shall not require an amendment of this IGA. This subparagraph is intended by the parties to *waive* their respective statutory right to any further notice under § 893.80(1)(a), Wisconsin Statutes, to the extent such subsection is applicable.

**C. Limitation on Commencement of Civil Action.** No civil action may be commenced until after thirty (30) days from the effective date of written notice required by this IGA, except that a party

may commence an action seeking specific performance or injunctive relief in less than thirty (30) days if, in that party's good faith judgment, such an action is necessary to protect the public health, safety or welfare.

#### **SECTION XVI - NO CHALLENGES TO THIS IGA**

City and Town hereby waive any right each may have to commence or maintain any civil action or other proceeding to contest, invalidate or challenge this IGA or any of the actions required or contemplated by this IGA, or to take any actions, either directly or indirectly, to oppose in any other way, or to initiate, promote or support the opposition of this IGA or any of the actions required or contemplated by this IGA.

#### **SECTION XVII - SUCCESSORS**

This IGA shall benefit and be binding upon the successors of Town, including any portion which may hereinafter be incorporated, and upon City. Successors include, but are not limited to, a city, village or town being a party to a consolidation, and any other governmental entity which may govern the City Growth Area.

#### **SECTION XVIII – IMPLEMENTATION**

Town and City shall each take such actions as may be necessary or desirable to implement and effectuate the provisions and intent of this IGA.

#### **SECTION XIX - INTERPRETATION**

This IGA shall be interpreted as though jointly drafted by the Parties.

#### **SECTION XX – NOTICES**

All notices required by or relating to this IGA shall be in writing. Each notice shall specifically refer to this IGA by name and shall refer specifically to the number of the paragraph(s) or subparagraph(s) to which the notice relates. Any such notice shall be delivered in person to the clerk of the party receiving the notice or to the person apparently in charge of the clerk's office during normal business hours, or shall be mailed to such clerk by certified mail, return receipt requested (or equivalent private delivery service). Each notice to the Town shall be addressed to the Town Clerk, Town of Paris, 7511 12th Street, Paris, Wisconsin 53171. Each notice to the City shall be addressed to the City Clerk, City of Kenosha, 625 52nd Street, Kenosha, Wisconsin 53140. Each party may change its address (or add addresses for facsimile, electronic mail or other communications media), for purposes of this IGA, by written notice to the other party pursuant to this paragraph. Each notice shall be effective upon delivery in person, or mailing, or upon actual receipt without regard to the method of transmission, whichever occurs first.

#### **SECTION XXI - TRIPLICATE ORIGINALS**

This IGA will be executed in triplicate, with each executed document being considered as an original.

IN WITNESS WHEREOF, the parties certify that this IGA has been duly approved by their respective governing bodies in accordance with state and local laws, rules and regulations, and each party has caused their duly authorized officers to execute this IGA on the dates written below their respective signatures.

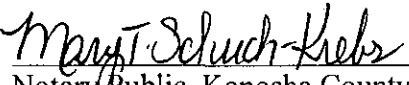
COUNTY OF KENOSHA, WISCONSIN,

By:   
JIM KREUSER, County Executive

Date: 6/11/14

STATE OF WISCONSIN )  
:SS.  
COUNTY OF KENOSHA )

Personally came before me this 9<sup>th</sup> day of June, 2014, JIM KREUSER, County Executive, of the COUNTY OF KENOSHA, WISCONSIN, to me known to be such County Executive of said County, and acknowledged to me that he executed the foregoing instrument as such officer as the agreement of said County, by its authority.

  
Notary Public, Kenosha County, WI.  
My Commission expires/is: 1/29/17



THE CITY OF KENOSHA, WISCONSIN,  
A Municipal Corporation

By: \_\_\_\_\_

KEITH G. BOSMAN, Mayor

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

May 14, 2014

By: \_\_\_\_\_

DEBRA SALAS, City Clerk/Treasurer

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

May 14, 2014

STATE OF WISCONSIN )

:SS.

COUNTY OF KENOSHA )

Personally came before me this 14<sup>th</sup> day of May, 2014, KEITH G. BOSMAN, Mayor, and DEBRA L. SALAS, City Clerk/Treasurer, of the CITY OF KENOSHA, WISCONSIN, a municipal corporation, to me known to be such Mayor and City Clerk/Treasurer of said municipal corporation, and acknowledged to me that they executed the foregoing instrument as such officers as the agreement of said City, by its authority.

Paula M Lattergrass

Notary Public, Kenosha County, WI.

My Commission expires/is: 08/09/15



TOWN OF PARIS, WISCONSIN

By:   
VIRGIL GENTZ, Chairman


Date: May 15<sup>th</sup> 2014

By:   
BEVERLY MCCUMBER, Clerk/Treasurer

Date: May 15, 2014

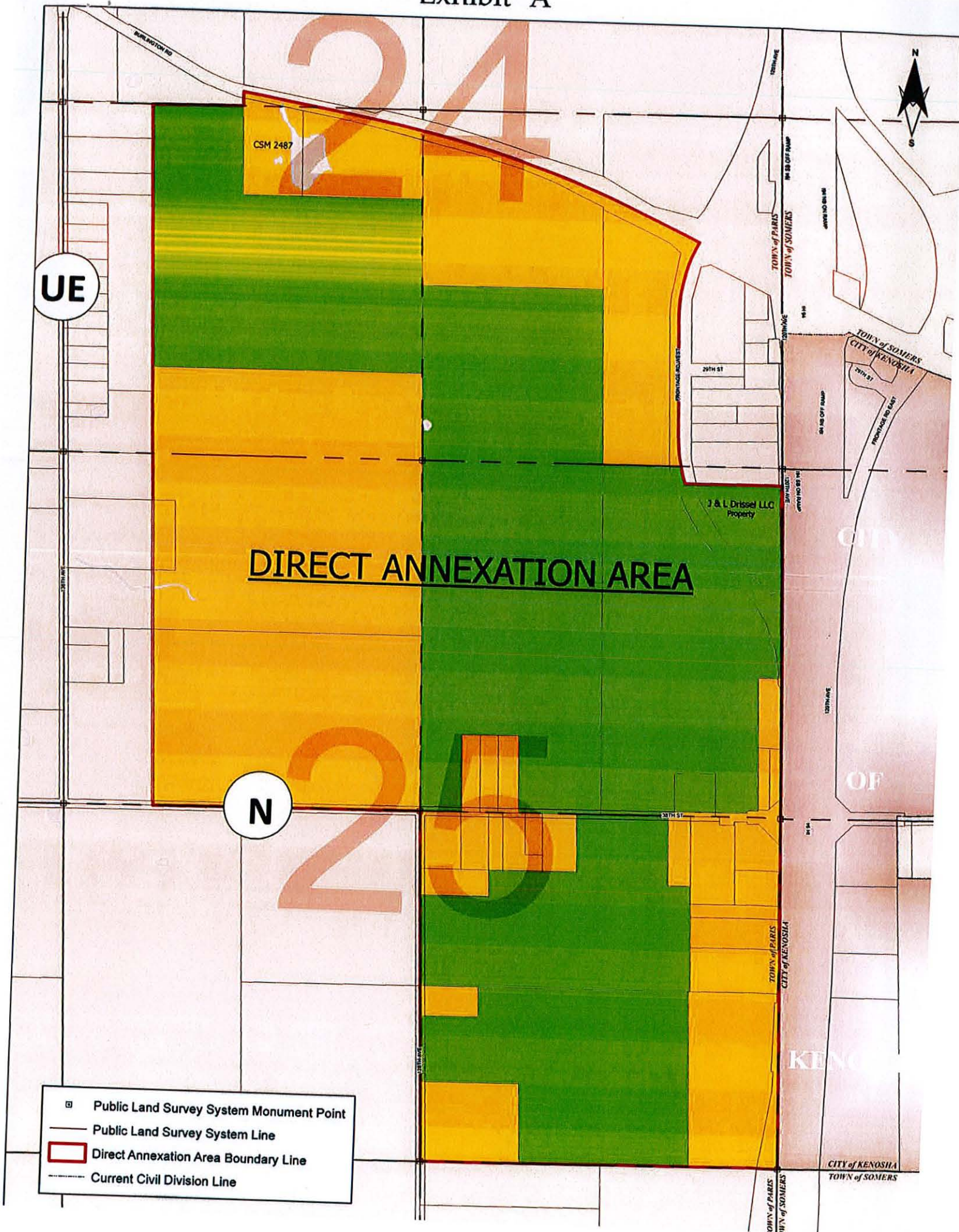
STATE OF WISCONSIN )  
:SS.  
COUNTY OF KENOSHA )

Personally came before me this 15<sup>th</sup> day of May, 2014, VIRGIL GENTZ, Chairman and BEVERLY MCCUMBER, Clerk/Treasurer, of the TOWN OF PARIS, WISCONSIN, to me known to be such Chairman and Clerk/Treasurer of said Township, and acknowledged to me that they executed the foregoing instrument as such officers as the agreement of said Town, by its authority.

  
Notary Public, Kenosha County, WI.  
My Commission expires/is: 3-15-15



# Exhibit "A"



## EXHIBIT B

### Direct Annexation Area Legal Description

#### Town of Paris

(Revised 5-9-2014)

Part of the Southeast  $\frac{1}{4}$ , part of the Northwest  $\frac{1}{4}$ , and part of the Northeast  $\frac{1}{4}$  of Section 25 in addition part of the Southwest  $\frac{1}{4}$  and part of the Southeast  $\frac{1}{4}$  of Section 24 all lands being in Township 2 North, Range 21 East of the Fourth Principal Meridian described as follows:

Begin at the Southeast corner of the Southeast  $\frac{1}{4}$  of Section 25 Township 2 North, Range 21 East; thence West along the South line of the Southeast  $\frac{1}{4}$  to the Southwest corner of said Southeast  $\frac{1}{4}$  said point being in the centerline of 128<sup>th</sup> Avenue; thence North along the West line of the Southeast  $\frac{1}{4}$  also being the center line of 128<sup>th</sup> Avenue to the Center of Section 25; said point being in the centerline of 38<sup>th</sup> Street; thence West along the South line of the Northwest  $\frac{1}{4}$  of said Section 25 also being the centerline of 38<sup>th</sup> Street known as County Trunk Highway "N" to a point being 660 feet East of the Southwest corner of the Northwest  $\frac{1}{4}$  of Section 25 Township 2 North, Range 21 East; thence Northerly parallel with and 660 feet East of the West line of the Northwest  $\frac{1}{4}$  of said Section 25 to the North line of the Northwest  $\frac{1}{4}$  of said Section 25; thence continue Northerly parallel with and 660 feet East of the West line of the Southwest  $\frac{1}{4}$  of Section 24 Township 2 North, Range 21 East to the North line of said  $\frac{1}{4}$  Section; thence Easterly along the North line of the Northwest  $\frac{1}{4}$  of said Section 24 to the West line of Certified Survey Map 2487 recorded in the Kenosha County Register of Deeds Office on August 24<sup>th</sup> 2005 as document number 1447062; thence North along the West line of Certified Survey Map 2487 to the center line of State Trunk Highway 142 also known as Burlington Road; thence Southeasterly along the center line of State Trunk Highway 142 to the intersection of State Trunk Highway 142 with the Center line of West Frontage Road as described on State Transportation Project Plat Number: 1030-22-20 recorded at the Kenosha County Register of Deeds Office on September 30<sup>th</sup> 2008; thence Southerly along the center line of West Frontage Road to a point being on the centerline of West Frontage Road that is South 57°03'45" East from the Southeast corner of parcel 45-4-221-244-0460; thence continue South 57° 03' 45" East to the intersection with the Northwest corner of parcel 45-4-221-251-0101 being lands owned by J & L Drissel LLC; thence Easterly along the North line of lands to a point on the East section line of the Northeast  $\frac{1}{4}$  of Section 25 being 132.08 feet South along the section line from the Northeast corner of the Northeast  $\frac{1}{4}$  of said Section 25; thence Southerly along the East line of the Northeast  $\frac{1}{4}$  of said Section 25 to the East  $\frac{1}{4}$  corner of said section; thence continue Southerly along the East line of the Southeast  $\frac{1}{4}$  of Section 25 to the place of beginning. Said lands being in the Town of Paris, County of Kenosha and State of Wisconsin.

EXHIBIT C

**Board of Water Commissioners**

Jan Michalski, Chairman  
Eric Haugaard, Vice Chairman  
Steve Bostrom  
Scott N. Gordon  
Patrick Juliana  
G. John Ruffolo



**Edward St. Peter**  
General Manager

4401 Green Bay Road  
Kenosha, WI 53144  
Phone (262) 653-4300  
Fax (262) 653-4303

"Providing and Protecting Kenosha's Greatest Natural Resource"

April 7, 2014

Kenneth Yunker  
Executive Director  
Southeastern Wisconsin Regional Planning Commission  
P.O. Box 1607  
Waukesha, WI 53187-1607

Subject: Kenosha Sewer Service Area Amendment

Dear Mr. Yunker:

I herewith submit the official request from the City of Kenosha Water Utility to amend the Kenosha Sewer Service Area to include a soon to be annexed area in the Town of Paris west of interstate I-94.

Attached is a map depicting the requested areas to be added to the Kenosha Sewer Service Area.

The Kenosha Water Utility requests to have these extensions placed on the Regional Planning Commission calendar at your earliest convenience.

Sincerely,  
Kenosha Water Utility

A handwritten signature in cursive script, appearing to read "Edward St. Peter".

Edward St. Peter  
General Manager

c: Board of Water Commissioners  
Dave Schilling, Chief Land Use Planner  
Keith Bosman, Mayor – City of Kenosha  
KWU Staff



# EXHIBIT C

