

County of Kenosha

Board of Supervisors

Resolution No. _____

A RESOLUTION TO APPROVE THE JURISDICTIONAL TRANSFER AGREEMENT OF A SECTION OF COUNTY TRUNK HIGHWAY “H” BETWEEN 52nd and 65th STREETS FROM KENOSHA COUNTY TO THE CITY OF KENOSHA

Original <u>_X_</u>	Corrected <u> </u>	2 nd Correction <u> </u>	Resubmitted <u> </u>
Date Submitted:		Date resubmitted:	
Submitted by: Public Works/Facilities and Finance/Administration Committees			
Fiscal Note Attached: <u> </u>		Legal Note Attached: <u> </u>	
Prepared By: Corporation Counsel Joseph M. Cardamone III			

WHEREAS, Kenosha County and the City of Kenosha in the State of Wisconsin have determined it to be in the best interest to jurisdictionally transfer a segment of County Trunk Highway “H” from 52nd Street to 65th Street; and

WHEREAS, as memorialized in the Intergovernmental Agreement (IGA) which is attached and incorporated by reference, the County will transfer and the City will accept full jurisdiction of and responsibility for the portion of County Trunk Highway “H” from 52nd Street to 65th Street, including the roadway and the traffic signals at the intersection of CTH H with 60th and 65th Streets; and

WHEREAS, that IGA calls for a declaration that the roadway to be transferred is a recorded highway, as that term is used in Section 82.01 (8), Wis. Stats., that has been worked by the County as a public highway in its current roadbed continuously for over sixty years; and

WHEREAS, the County Board has previously passed such a declaration as a part of the 2019 Budget Resolution, passed on November 8, 2018; and

NOW THEREFORE, BE IT RESOLVED that the Kenosha County Board of Supervisors approves the transfer of jurisdiction between Kenosha County and the City of Kenosha by approving the IGA, along with its attachments, which is attached hereto; and

BE IT FURTHER RESOLVED that the County Executive, County Clerk, Highway Commissioner and others designated by the administration are authorized to execute any and all contracts, agreements, deeds or other documents necessary to carry out the intent of this resolution, including appropriate and necessary notice to the Wisconsin Department of Transportation

Respectfully Submitted,

Public Works/Facilities Committee

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>	<u>Excused</u>
<hr/> Dennis Elverman, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<hr/> John Franco, Vice-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<hr/> Mike Skalitzky	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<hr/> Monica Yuhas	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<hr/> Joseph Cardinali	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<hr/> Mark Nordigian	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<hr/> John Poole	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Finance/Administration Committee

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>	<u>Excused</u>
_____ Terry Rose, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ Ronald Frederick, Vice-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ John O'Day	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ Jeff Wamboldt	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ Michael Goebel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ Jeffrey Gentz	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ Edward Kubicki	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Intergovernmental Agreement on Jurisdictional Transfer of Roadway
By County of Kenosha, Wisconsin and City of Kenosha, Wisconsin
For Part of County Trunk Highway "H"**

I. Parties, Purpose, Authority, Consideration.

A. Parties.

The County of Kenosha is a municipal corporation and a political subdivision of the State of Wisconsin having its principle offices located at 1010 - 56th Street, Kenosha, Wisconsin; it may be referred to as "the County" or "Kenosha County" hereinafter. The City of Kenosha is a municipal corporation having its principle offices located at 625 - 52nd Street, Kenosha, Wisconsin; it may be referred to as "City" hereinafter. Both parties are created and organized under the laws of the State of Wisconsin.

B. Purpose.

The parties enter this agreement to promote highway safety, improve roadway conditions, handle increased commercial truck traffic and encourage future economic development along a north-south corridor adjacent to the City's industrial park.

C. Authority.

The parties rely upon all the laws of the State of Wisconsin for authority to enter into this agreement, particularly Section 66.0301 of the Wisconsin Statutes on Intergovernmental Cooperation contracts.

D. Consideration.

The mutual promises set forth herein, and the benefit bestowed upon the public by this project, constitute the lawful consideration of this contract.

E. Subject Highway.

The highway that is the subject of this Intergovernmental Agreement Jurisdictional Transfer of Roadway is that portion of Kenosha County Trunk Highway "H" located between its juncture with 65th Street to its juncture with state trunk highway 158; expressly excluding the portions of CTH K that were the subject matter of an Intergovernmental Cooperative Agreement between these same parties dated March 28, 2012, and also expressly excluding any portion of STH 158; expressly including the traffic signals at the intersection of CTH H and 60th Street and the traffic signals to be installed under the terms of this agreement at the intersection of CTH H and 65th Street; this highway may be referred to as the "Transferred Highway." The Transferred Highway is a recorded highway, as that term is used in Subsection 82.01(8) of the Wisconsin Statutes that has been worked by the County as a public highway in its current roadbed continuously for over sixty years prior to entry into this Intergovernmental Agreement Transfer of Roadway.

Transferred Highway includes all interest in the right of way acquired by the County through expressed dedications and through prescription by action of law. The Transferred Highway that is subject to acquisition of interest in the right of way through prescription by action of law, is more particularly described and depicted in Exhibit A, which is attached hereto and made a part hereof. During the time that the County has worked the Transferred Highway, it has issued permits for others to occupy portions of the right of way, subject to the superior interests of the County in the right of way and subject to conditions that inure to the benefit of the County.

II. Transfer of CTH "H", Duties and Obligations.

A. Transfer of CTH "H" and Duties and Obligations of the County of Kenosha.

1. The County of Kenosha hereby gives, devises, grants, and transfers ownership, control, authority, and jurisdiction of Transferred Highway, to the City of Kenosha and its successors and assigns forever, effective five years after the County's installation of the traffic control signal lights at the intersection of CTH H and 65th Street. The Highway Commissioner will advise the Mayor and City Attorney in writing when the installation of the lights is complete and that date will control for purposes of determining the date of transfer under this paragraph. This transfer shall include all of the legal interests of the County in such land and roadway as those rights exist on the date of this agreement or which are later acquired by the County, to the date of transfer.

This transfer includes all rights of any kind relating to such Transferred Highway, and includes all rights to control the location and relocation of utilities and other installations, structures or facilities within the right of way of the Transferred Highway, whether the County obtained such rights by statute, regulation, permit, easement, deed, contract, permission or otherwise. In all other respects, the Transferred Highway is given in its current condition, "as is, with all faults", except as specifically set forth in this agreement.

2. The County warrants that it has no notice or knowledge of any conditions of the Transferred Highway that would subject the City to liability, specifically including, but not limited to, adverse environmental conditions.

3. The County will install at its cost and expense traffic control signal lights at the intersection of CTH "H" and 65th Street, and shall maintain them at its cost and expense until such time as the Transferred Highway is transferred, after which time all costs and expenses, including but not limited to maintenance, shall be the responsibility of the City.

B. Transfer of CTH "H" and Duties and Obligations of the City of Kenosha.

1. Conditioned on the receipt of all applicable approvals from the state of Wisconsin, the City of Kenosha will accept the transfer of ownership, control, authority and jurisdiction the Transferred Highway, from the County of Kenosha effective five years after the County's installation of the traffic control signal lights at the intersection of CTH "H" and 65th Street, as determined above. Such Transferred Highway will be accepted on an "as is, with all faults" basis, except as specifically set forth in this agreement. The City will accept all appurtenant rights, legal interests and responsibilities transferred by the County.

2. The City will perform all necessary maintenance and roadway improvements on the Transferred Highway, including the specifically included traffic signals, in the future. The City will hereafter be the legal authority to issue right of way permits and otherwise control and approve the location and relocation of utilities and other installations, structures or facilities within the right of way of the Transferred Highway. It is the intent of the County and the City that the County is transferring to the City all rights that the County has with respect to relocation of utilities that are existing in the right of way at the time of entry into this Intergovernmental Agreement Jurisdictional Transfer of Roadway.

III. Obey All Laws; Savings Clause.

The County and the City each agree to abide by all applicable state, federal and local laws and regulations in connection to all acts related to this agreement. If any part of this agreement is deemed to be void or unenforceable by a court of competent jurisdiction, such part shall be deemed to be severable from the remaining terms of the agreement and shall not affect the validity of the balance of this agreement, if such interpretation can reasonably give effect to the main purpose and intent of the parties.

IV. Duplicate Originals; Amendments in Writing.

Duplicate originals shall be signed and an original shall be delivered to each party. Any amendments to this agreement shall be in writing and signed with same formality as the original agreement.

Dated at Kenosha, Wisconsin this ____ day of _____, 2019.

JIM KREUSER, Kenosha County Executive

MARY T. KUBICKI, Kenosha County Clerk

CLEMENT ABONGWA, Kenosha County Highway Commissioner

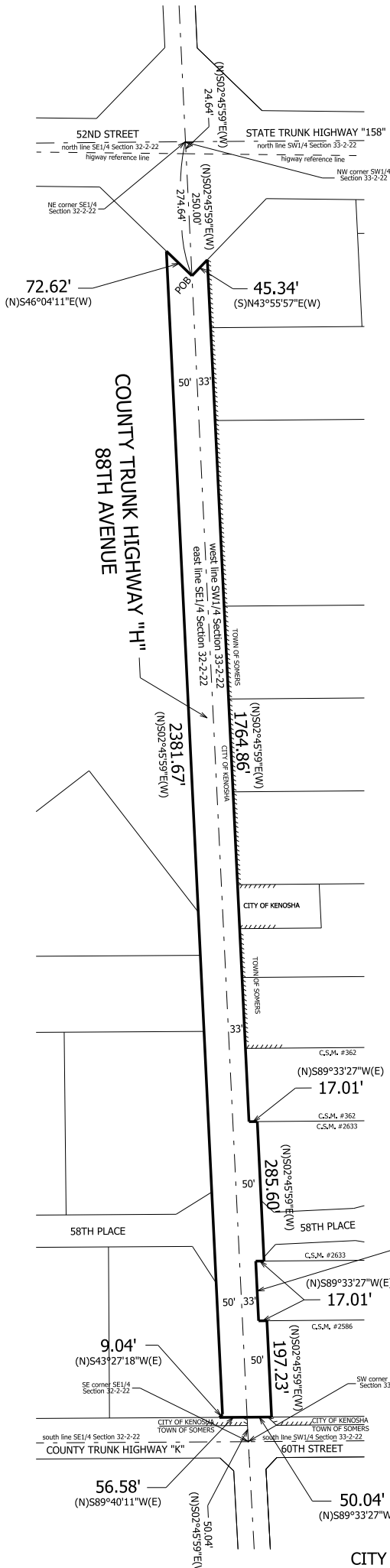
Dated at Kenosha, Wisconsin this ____ day of _____, 2019.

JOHN M. ANTARAMIAN, Mayor for the City of Kenosha

DEBRA SALAS, Kenosha City Clerk/Treasurer

EXHIBIT "A"

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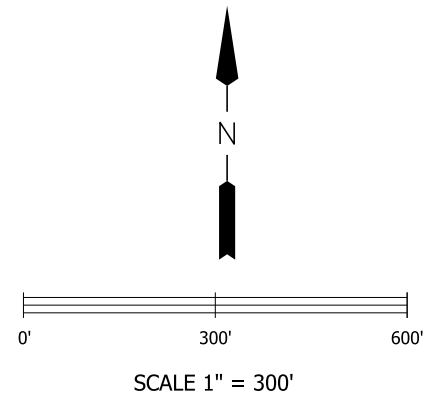


Legal Description for Jurisdictional Transfer of County Trunk Highway "H" (88th Avenue) from the south line of State Trunk Highway "158" (52nd Street) to the north line of County Trunk Highway "K" (60th Street).....

Part of the Southeast Quarter of Section 32 and Southwest Quarter of Section 33, both in Town 2 North, Range 22 East of the Fourth Principal Meridian, lying and being in the City of Kenosha, Kenosha County, Wisconsin and being more particularly described as follows:

Beginning at a point on the west line of the Southwest Quarter of Section 33, said point being S02°45'59"E 274.64 feet from the northwest corner thereof; thence N43°55'57"E 45.34 feet and to the east line of the County Trunk Highway "H" (88th Avenue); thence S02°45'59"E along and upon said east line, 1764.86 feet; thence N89°33'27"E along and upon said east line, 17.01 feet; thence S02°45'59"E along and upon said east line, 285.60 feet; thence S89°33'27"W along and upon said east line, 17.01 feet; thence S02°45'59"E along and upon said east line, 122.23 feet; thence N89°33'27"E along and upon said east line, 17.01 feet; thence S02°45'59"E along and upon said east line, 197.23 feet; thence S89°33'27"W parallel to the south line of the aforesaid Southwest Quarter of Section 33, 50.04 feet and to the west line of the said Quarter Section, which line is also the west line of the aforesaid Southeast Quarter of Section 32; thence S89°40'11"W parallel to the south line of said Quarter Section, 56.58 feet and to the west right of way line of the aforesaid 88th Avenue; thence N43°27'18"E along and upon said west line, 9.04 feet; thence N02°45'59"W along and upon said west line, 2381.67 feet; thence S46°04'11"E along and upon said west line, 72.62 feet and to the point of beginning. Containing 4.679 acres, more or less.

Plat Showing
RIGHT OF WAY OF
COUNTY TRUNK HIGHWAY "H"
88TH AVENUE
BETWEEN
STATE TRUNK HIGHWAY "158"
52ND STREET
AND
COUNTY TRUNK HIGHWAY "H"
60TH STREET
SW1/4 of Section 33-2-22
and
SE1/4 of Section 32-2-22
CITY OF KENOSHA
KENOSHA COUNTY, WISCONSIN



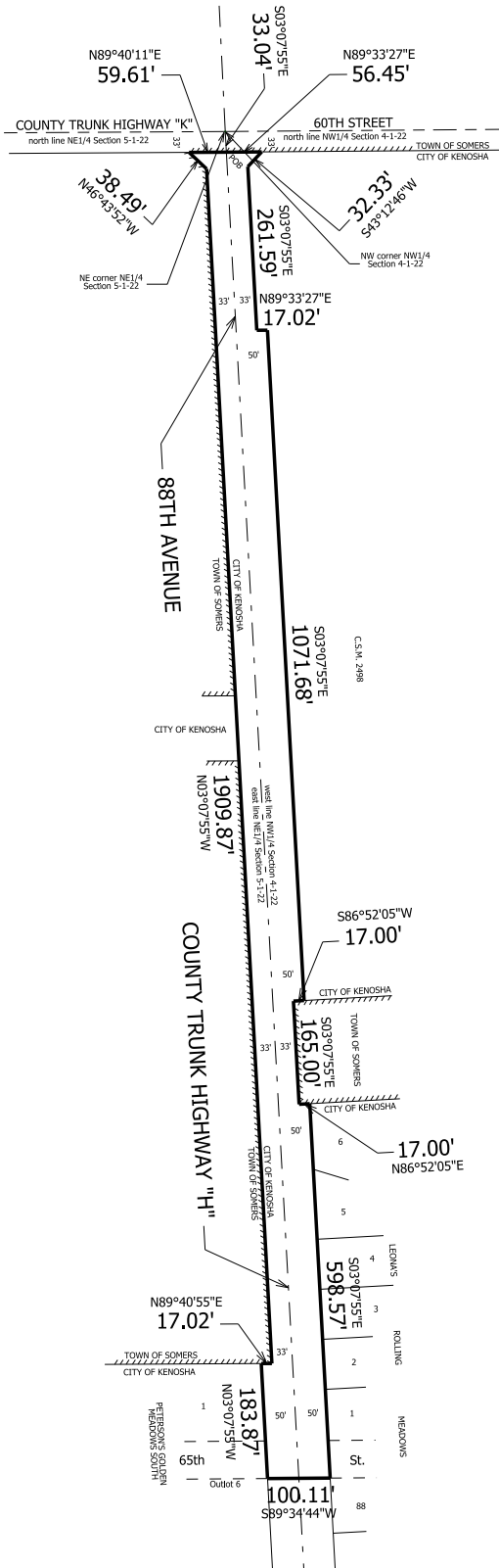
Bearings shown hereon
refer to Wisconsin
Plane Coordinate System
South Zone.

DENOTES PRESENT CORPORATE LIMITS
CITY OF KENOSHA

DENOTES AREA TO BE ATTACHED TO THE
CITY OF KENOSHA

EXHIBIT "A"

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Legal Description for Jurisdictional Transfer of that part of County Trunk Highway "H" (88th Avenue) from the south right of way line of 60th Street to the south right of way line 65th Street.....

Part of the Northwest Quarter of Section 4 and the Northeast Quarter of Section 5, both in Town 1 North, Range 22 East of the Fourth Principal Meridian, lying and being in the City of Kenosha, Kenosha County, Wisconsin and being more particularly described as follows:

Commencing at the northwest corner of the Northwest Quarter of said Section 4; thence S03°07'55"E along and upon the west line of said Quarter Section, 33.04 feet and to the point of beginning; thence N89°33'27"E parallel to the north line of said Quarter Section, 56.45 feet and to the east right of way line of the aforesaid 88th Avenue; thence continue S43°12'46"W along and upon said east line, 32.33 feet; thence continue S03°07'55"E along and upon said east line, 261.59 feet; thence continue N89°33'27"E along and upon said east line, 17.02 feet; thence S03°07'55"E along and upon said east line, 1071.68 feet; thence S86°52'05"W along and upon said east line, 17.00 feet; thence S03°07'55"W along and upon said east line, 165.00 feet; thence N86°52'05"E along and upon said east line, 17.00 feet; thence S03°07'55"E along and upon said east line, 598.57 feet and to the southeast corner of 65th Street and 88th Avenue; thence S89°34'44"W 100.11 feet and to the southwest corner of 65th Street and 88th Avenue; thence N03°07'55"W parallel to the east line of the aforesaid Northeast Quarter of Section 5, which line is on the west right of line of the aforesaid 88th Avenue, 183.87 feet; thence N89°40'55"E along and upon said west line, 17.02 feet; thence N03°07'55"W along and upon said west line, 1909.87 feet; thence N46°43'52"W along and upon said west line 38.49 feet; thence N89°40'11"E parallel to the north line of the aforesaid Northeast Quarter of Section 5, 59.61 feet and to the point of beginning. Containing 3.950, more or less.

Plat Showing

JURISDICTIONAL TRANSFER OF
COUNTY TRUNK HIGHWAY "H"
88TH AVENUE
FROM
COUNTY TRUNK HIGHWAY "K"
SOUTH R/W LINE OF 60TH STREET
TO
SOUTH R/W LINE OF 65TH STREET
in NW1/4 of Section 4-1-22
and
in NE1/4 of Section 5-1-22
CITY OF KENOSHA
KENOSHA COUNTY, WISCONSIN



SCALE 1" = 300'

Bearings shown hereon
refer to Wisconsin
Plane Coordinate System
South Zone.

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DENOTES PRESENT CORPORATE LIMITS
CITY OF KENOSHA

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DENOTES AREA TO BE ATTACHED TO THE
CITY OF KENOSHA