

**AN INTERGOVERNMENTAL COOPERATION
AGREEMENT**

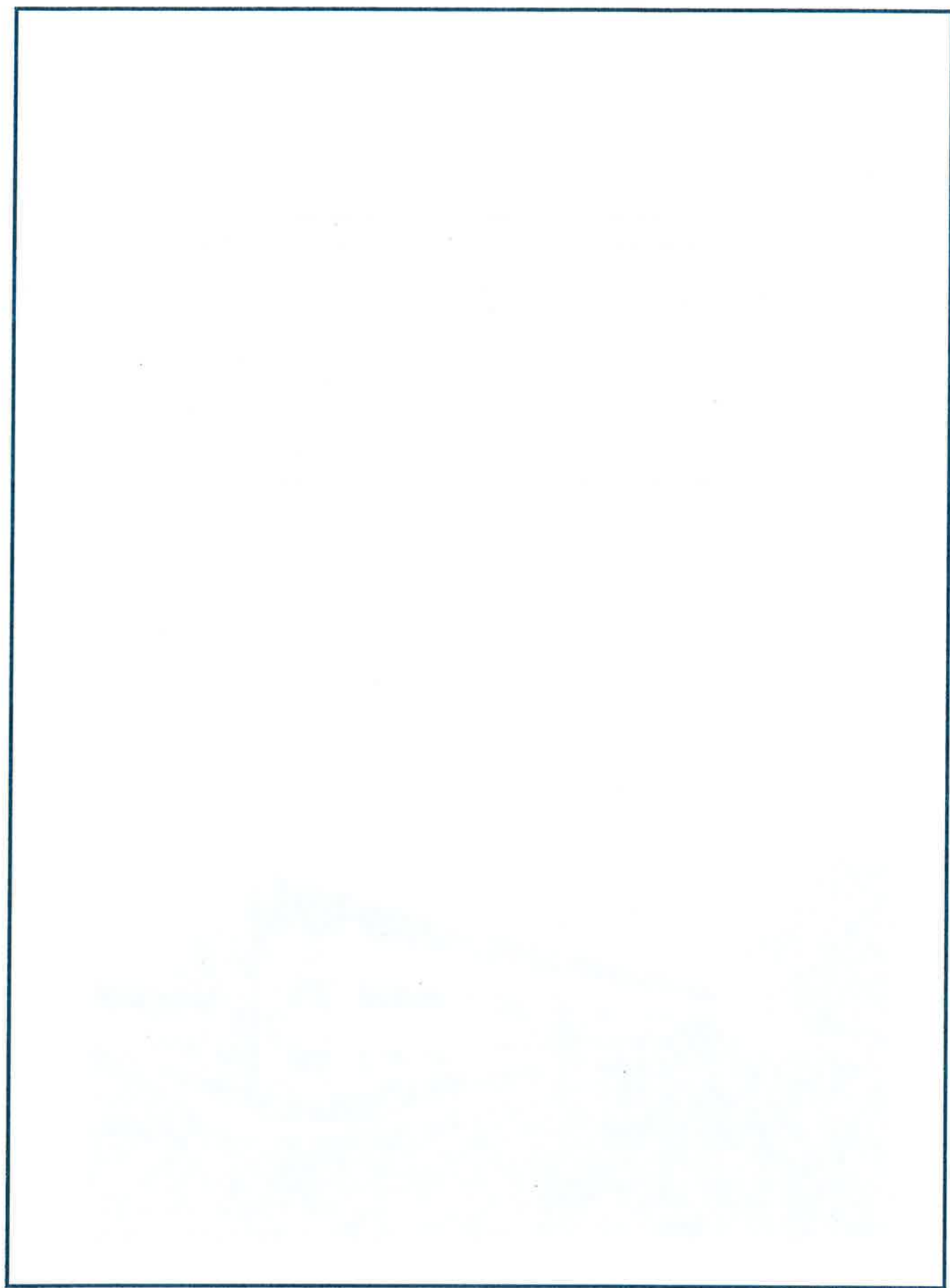
BY AND BETWEEN

THE COUNTY OF KENOSHA, WISCONSIN

AND

THE CITY OF KENOSHA, WISCONSIN





An Intergovernmental Cooperation Agreement
Between the County and City of Kenosha, Wisconsin
February 24, 2010

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KENOSHA COUNTY
OFFICE OF THE CORPORATION COUNSEL

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I. Agreement 1

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THIS AGREEMENT IS ENTERED INTO BY AND BETWEEN KENOSHA COUNTY, WISCONSIN, A QUASI MUNICIPAL CORPORATION CREATED PURSUANT TO WISCONSIN STATUTES § 2.01(30) AND AUTHORIZED TO ENTER INTO CONTRACTS PURSUANT TO WISCONSIN STATUTES § 59.01 AND WITH ITS PRINCIPAL PLACE OF BUSINESS LOCATED AT 1010 - 56TH STREET, KENOSHA, WISCONSIN 53140, HEREINAFTER REFERRED TO AS "COUNTY" AND THE CITY OF KENOSHA, WISCONSIN, A MUNICIPAL CORPORATION CHARTERED UNDER THE LAWS OF THE STATE OF WISCONSIN WITH ITS PRINCIPAL PLACE OF BUSINESS LOCATED AT 625 - 52ND STREET, KENOSHA, WISCONSIN, 53140 AND HEREINAFTER REFERRED TO AS "CITY."

PREAMBLE

WHEREAS the COUNTY is the owner of the Kenosha Public Safety Building [KPSB], and whereas the COUNTY has leased space in the Kenosha Public Safety Building to both the CITY and to KENOSHA JOINT SERVICES [KJS], and whereas these leases have now expired, and

WHEREAS: there is currently a need to expand the space needed by the current occupants of the KPSB, and

WHEREAS: the KENOSHA JOINT SERVICES operation was created by the CITY and COUNTY and is a state-wide model of joint municipal cooperation and consolidation of services that could be performed by civilian employees at a lower cost to both Parties, and which services include communications, 911 emergency fire, police and emergency medical service dispatch, law enforcement records management and custody of crime scene evidence, identification services, public counter service, property room operations, law enforcement vehicle maintenance, and

WHEREAS: the KENOSHA JOINT SERVICES operation is an integral and essential part of both the COUNTY's and CITY's charge to maintain law enforcement and public safety within their respective jurisdictions, and

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WHEREAS: the CITY and COUNTY have proposed different approaches to allocating the costs of KENOSHA JOINT SERVICES and have agreed to resolve their differences on a non-precedential basis by having a Fiscal Review Analysis completed with respect to how the Parties could split the costs for operating KENOSHA JOINT SERVICES, and

WHEREAS: a Fiscal Review Analysis provided by Maximus for the purpose of determining the dollar value of services provided by the KJSB to CITY and COUNTY residents has been completed, and whereas this review has examined all services performed by KENOSHA JOINT SERVICES and furthermore has reviewed services or costs incurred by the CITY or COUNTY that would normally be within KENOSHA JOINT SERVICES as originally contemplated, but are incurred exclusively by the CITY or COUNTY for the benefit of the KENOSHA JOINT SERVICES operation. And whereas, the analysis has measured each service provided by KENOSHA JOINT SERVICES as a service unit, and has determined the cost to provide each unit of service, in accord with the fiscal services proposal used to procure the Maximus contract as mutually agreed to and issued by the CITY and the COUNTY, and

WHEREAS: the Parties rely upon all the laws of the State of Wisconsin for authority to enter into an Intergovernmental Cooperation Agreement [IGA], particularly Section 66.0301 of the Wisconsin Statutes, and

WHEREAS: it is in the interest of both the CITY and COUNTY, their respective employees and their respective citizens that an addition to the KPSB be constructed to meet the needs of the current occupants, and further that the COUNTY, the CITY and the KJSB enter into new leases and that an Intergovernmental Cooperation Agreement be executed between the CITY and the COUNTY to address cost sharing and to establish new protocols for the operation of KENOSHA JOINT SERVICES, and

WHEREAS: It is the intent of the CITY and COUNTY to enter into such an IGA relative to the current intergovernmental service sharing arrangement known as KENOSHA JOINT SERVICES; and, whereas, furthermore, this Agreement is intended to define the legal basis for the relationship, basic terms and conditions, scope of service and operational requirements of KENOSHA JOINT SERVICES, governance, KENOSHA JOINT SERVICES organizational structure, liability issues, a cost

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allocation formula and amendments to this formula, dispute resolution, contract monitoring, auditing and accountability issues, and contract amendments, and

WHEREAS: the CITY and COUNTY have met and agreed to general guidelines for resolving outstanding issues pertaining to allocation of construction and remodeling costs and operations of and cost sharing for KENOSHA JOINT SERVICES as described in this Agreement and which understandings form the basis for the Agreement hereinafter set forth.

NOW THEREFORE WITNESSETH:

IN CONSIDERATION OF THE PROMISES AND THE 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:

1.01 DEFINITIONS

1.01-1 DEFINITIONS:

Words in this Agreement, unless technical in nature or otherwise defined are generally given their common, ordinary, dictionary meaning. Words in this Agreement appearing in UPPER CASE are words defined in either this Agreement or Leases referred to herein.

For purposes of this Agreement, the exhibits attached hereto and so incorporated or referenced [unless otherwise defined therein], and other documents necessary for the administration of this Agreement, the following definitions are agreed upon:

(1) ALLOCABLE SHARE

(a) CITY of Kenosha Police Department (CITY KPD) ALLOCABLE SHARE – KPSB Addition and Remodeling

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The CITY KPD ALLOCABLE SHARE for the KPSB addition PROJECT shall equal a percentage share of all construction costs [including common areas] that is determined by applying a factor, which factor is a fraction, the numerator of which is the total SQUARE FOOTAGE of the new addition of the KPSB reserved for use by the CITY KPD by the building plans. The denominator is the total SQUARE FOOTAGE of the new addition of the KPSB. This fraction shall be multiplied by the total cost of the KPSB addition, to equal the CITY KPD ALLOCABLE SHARE of costs of the KPSB ADDITION PROJECT.

The CITY KPD ALLOCABLE SHARE for the remodeling of the old KPSB shall be equal to the sum of addend 1 plus addend 2 as defined herein: Addend 1 shall equal the remodeling costs as calculated by the Architect and/or Construction Manager that can practically and reasonably be identified as directly allocable to the remodeling of the old KPSB reserved for use by the CITY KPD. Addend 2 shall equal the total costs as determined by the Architect and/or Construction Manager related to remodeling of the old KPSB that cannot be specifically identified and allocated directly to either the CITY KPD, KENOSHA JOINT SERVICES, or the COUNTY multiplied by a factor, which factor is a fraction, the numerator of which is equal to the total SQUARE FOOTAGE of the old KPSB reserved for use by the CITY KPD including changes to CITY KPD SQUARE FOOTAGE resulting from the remodeling, the denominator of which is equal to the total SQUARE FOOTAGE of the old KPSB. [Example, see Exhibit 3]

**(b) KENOSHA JOINT SERVICES [KJS] ALLOCABLE SHARE and
CITY portion thereof – KPSB Addition and Remodeling**

The KENOSHA JOINT SERVICES ALLOCABLE SHARE for the KPSB addition PROJECT shall equal a percentage share of all construction costs [including common areas] that is determined by applying a factor, which factor is a fraction, the numerator of which is the total SQUARE FOOTAGE of the new addition of the

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KPSB reserved for use by KENOSHA JOINT SERVICES by the building plans. The denominator is the total SQUARE FOOTAGE of the new addition of the KPSB. This fraction shall be multiplied by the total cost of the KPSB addition, to equal KENOSHA JOINT SERVICES ALLOCABLE SHARE of costs of the KPSB ADDITION PROJECT.

The KENOSHA JOINT SERVICES ALLOCABLE SHARE for the remodeling of the old KPSB shall be equal to the sum of addend 1 plus addend 2 as defined herein: Addend 1 shall equal the remodeling costs as calculated by the Architect and/or Construction Manager that can practically and reasonably be identified as directly allocable to the remodeling of the old KPSB reserved for use by KENOSHA JOINT SERVICES. Addend 2 shall equal the total costs as determined by the Architect and/or Construction Manager related to remodeling of the old KPSB that cannot be specifically identified and allocated directly to either the CITY KPD, KENOSHA JOINT SERVICES, or the COUNTY multiplied by a factor, which factor is a fraction, the numerator of which is equal to the total SQUARE FOOTAGE of the old KPSB reserved for use by KENOSHA JOINT SERVICES including changes to KENOSHA JOINT SERVICES SQUARE FOOTAGE resulting from the remodeling, the denominator of which is equal to the total SQUARE FOOTAGE of the old KPSB.

The CITY allocation of KENOSHA JOINT SERVICES costs for the PROJECT shall be allocated to the CITY using the Maximus Cost Allocation Formula, as defined in Exhibit 3 which is attached and incorporated by reference.

(c) COUNTY ALLOCABLE SHARE - KPSB ADDITION AND REMODELING

The COUNTY ALLOCABLE SHARE shall be equal to all other costs not allocated to KENOSHA JOINT SERVICES or the CITY-KPD through this Agreement. This includes all other SQUARE FOOTAGE and costs allocated, but not limited to, the Sheriff, the Jail, Emergency Management, Information Technology, any

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“roughed- in” space intended for future COUNTY use or for leasing to a third party, and any other space not specifically allocated to either CITY KPD or JOINT SERVICES. The COUNTY allocation of KJS costs for the PROJECT shall be allocated to the COUNTY using the Maximus Cost Allocation Formula, as defined in Exhibit 3 which is attached and incorporated by reference.

(2) ARCHITECT

The architect for this PROJECT is Zimmerman Architectural Studio, 204-West Highland Avenue, Suite 400, Milwaukee, WI 53203.

(3) CAPITAL IMPROVEMENTS

CAPITAL IMPROVEMENTS are capital costs that improve or extend the useful life of the facility, as defined in generally accepted accounting principals. CAPITAL IMPROVEMENTS include, but are not limited to, ALTERATIONS, REMODELING, IMPROVEMENTS AND STRUCTURAL CHANGES.

(4) CONSTRUCTION MANAGER

The Construction Manager for this PROJECT is Riley Construction Company Inc., 5614-52nd Street, Kenosha, WI. 53144.

(5) CONSTRUCTION NOTES

CONSTRUCTION NOTES are debt service obligations (including bonds) directly related to the initial costs of the Safety Building Addition and Remodeling PROJECT. CONSTRUCTION NOTES are to be distinguished from other debt issued subsequent to completion of construction and related to future CAPITAL IMPROVEMENTS.

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1 (6) DEBT SERVICE

2
3 DEBT SERVICE includes principal and interest payments on
4 bonding secured by the COUNTY and CITY over a period of not
5 more than 25 years and as provided for herein.
6

7
8 (7) KENOSHA JOINT SERVICES [KJS]

9
10 KENOSHA JOINT SERVICES [KJS] [also referred to as KENOSHA
11 JOINT SERVICES [KJS] and a/k/a and f/k/a KENOSHA COUNTY
12 AND CITY KENOSHA JOINT SERVICES and a/k/a and f/k/a
13 KENOSHA CITY AND COUNTY JOINT SERVICES [KCCJS] and
14 now re-named as KENOSHA JOINT SERVICES and, where
15 appropriate as referring to its board of directors, as the
16 KENOSHA JOINT SERVICES BOARD [KJSB]]: an entity
17 established by the CITY and COUNTY of Kenosha for the purpose
18 of jointly providing communications, 911 emergency fire, police
19 and emergency medical service dispatch, law enforcement
20 records management and custody of crime scene evidence,
21 identification services, public counter service, property room
22 operations, law enforcement vehicle maintenance and such other
23 areas that may be agreed upon from time to time by the CITY and
24 the COUNTY.
25

26 (8) MAXIMUS COST ALLOCATION

27
28 The cost allocation approach to be used to allocate costs and or
29 budget contributions within this Agreement between the CITY
30 and COUNTY. This allocation method is illustrated in Exhibit 3
31 and described in Exhibit 7 which is attached to this contract, and
32 incorporated by reference.
33

34
35 (9) MODIFIED FULL COST ACCOUNTING

36
37 Cost accounting method used to identify all costs [both capital
38 and operating in nature] necessary for the efficient and secure
39 operation of KENOSHA JOINT SERVICES. These costs shall be

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included in the KENOSHA JOINT SERVICES budget in accordance with this Agreement, unless otherwise specifically excluded. Costs are in accordance with generally accepted governmental accounting principals with the exception that depreciation may not be charged by the COUNTY to either the CITY KPD or KJS. Nothing in this Agreement or a subsequent Agreement, however, shall preclude the Parties from mutually agreeing to pay for major IMPROVEMENTS and purchases over time.

Indirect costs incurred by the COUNTY allocable to the KPSB identified within their indirect cost plan as vetted by an independent third party in accordance with accepted governmental accounting standards (currently Maximus but subject to change at the discretion of the COUNTY), and indirect costs incurred by the CITY to manage the KPSB identified within their indirect cost plan as vetted by an independent third party in accordance with accepted governmental accounting standards (currently Sequoia but subject to change at the discretion of the CITY) shall be included as costs in accordance with this definition and shall be included in the annual KENOSHA JOINT SERVICES budget. Other indirect costs may be included if mutually agreed.

(10) SAFETY BUILDING ADDITION AND REMODELING PROJECT a/k/a the PROJECT

The CAPITAL IMPROVEMENT PROJECT undertaken for the purpose of building an addition to and remodeling the existing Kenosha Public Safety Building [KPSB] to include improvements for the benefit of the COUNTY, KENOSHA JOINT SERVICES and the CITY KPD, as described by the architectural drawings attached to the lease and incorporated into the IGA by reference. The SAFETY BUILDING ADDITION AND REMODELING PROJECT as defined herein does not apply to subsequent capital projects or improvements made to the KPSB or Addition after completion of the construction contemplated in this Agreement.

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(11) SQUARE FOOTAGE

SQUARE FOOTAGE is gross floor area. This is generally measured from the centers of joint wall partitions. In the alternative gross floor area is measured from the center[s] of interior joint wall partitions to the interior surface of the outside wall. For the purposes of this agreement, **SQUARE FOOTAGE** will be determined and defined by the ARCHITECT and/or the CONSTRUCTION MANAGER.

1.01-2 AMBIGUITIES AND INTERPRETATIONS; CONFLICT IN LANGUAGE

Any provisions, clause or word contained in this Agreement or any document incorporated by reference that is subject to more than one reasonable interpretation as to the intent of the Parties may be considered ambiguous. In the case of such an ambiguity, resort may be made to recognized rules of contract interpretation to determine the intent of the Parties. If any provisions of this Agreement are in conflict, the Parties shall meet to resolve the conflict.

1.01-3 INCORPORATIONS OF DOCUMENTS AND EXHIBITS

In case of a conflict between this Agreement and a document or exhibit incorporated by reference, the Parties shall meet to resolve such conflict.

I. Agreement No. 1

CONSTRUCTION ADDITION, REMODELING AND
SUBSEQUENT LEASE OF
THE KENOSHA PUBLIC SAFETY BUILDING

2.01 TERM

2.01-1 TERM OF THE AGREEMENT AND SUBSEQUENT LEASE

Except as may hereinafter be set forth with respect to provisions within this IGA that may extend beyond its term, the term and effective date of this Agreement 1 as it pertains solely to the construction and payment of the SAFETY BUILDING ADDITION AND REMODELING PROJECT shall be for 25 years starting 12:01AM following the date of execution of this Agreement and ending at 11:59PM 12/31/2034.

It is the intent of the Parties that upon substantial completion of construction of the SAFETY BUILDING ADDITION AND REMODELING PROJECT the CITY KPD and KJS will lease space at the KPSB. In addition to their ALLOCABLE SHARE of construction and remodeling costs, there will be a rental rate for the CITY KPD and KJS use of the KPSB which will be included as part of their lease Agreements, which will be executed contemporaneously herewith, the form of which is attached as Exhibit 4.

2.01-2 TIME IS OF THE ESSENCE

In fulfilling the terms and conditions of this Agreement, TIME IS OF THE ESSENCE.

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2.01-3 TERMINATION

In the event that the Parties mutually agree to terms and conditions, including but not limited to any CITY monetary obligation to reimburse the COUNTY for its share of construction and other costs allowed by the Agreement, allowing for the termination of this Agreement No. 1 prior to the expiration of the term of this Agreement No. 1, no breach or violation of any of the terms of this Agreement No. 1 by either Party shall operate to void or terminate or provide grounds for termination of this Agreement No. 1, it being the intent of the Parties that the provisions of this Agreement No. 1 shall be subject to the Dispute Resolution provisions of § 4.01 of the Agreement to cure any breaches, and that damages may be awarded to redress any harm occasioned by a breach.

2.01-4 CONSTRUCTION AND REMODELING OF KPSB

(1) Construction of Addition and Remodeling

The COUNTY shall be responsible for remodeling and construction of an addition to the KPSB generally located at 1000-55th Street, Kenosha, WI. for use by the Kenosha COUNTY Sheriff's Department [KSD] and Kenosha COUNTY's Division of Information Technology and the Kenosha COUNTY Division of Emergency Management. This addition shall also provide sufficient space to be allocated to the CITY for use by the CITY KPD and sufficient space to be allocated to KENOSHA JOINT SERVICES to house expanded KENOSHA JOINT SERVICES operations. The space and SQUARE FOOTAGE to be allocated to each entity is set forth in Exhibit 2 of the Lease, which is incorporated herein as if fully set forth.

Unless agreed upon by both Parties the KPSB and addition thereto shall only be used for law enforcement activities and operations, KENOSHA JOINT SERVICES operations, Emergency Management and Information Technology.

(2) Projected Cost

The estimated cost for construction and remodeling of the PROJECT is set forth in Exhibit 5 which is incorporated herein as if fully set forth.

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The CITY and COUNTY understand that both Parties have submitted an estimate of approximately \$15 million to the State of Wisconsin for possible Federal funding through the American Recovery and Reinvestment Act (2009) for PROJECTS that may be available for economic stimulus purposes for construction and remodeling. The CITY and COUNTY understand that such funding as well as other potential grants obtained by either Party would have a material favorable impact upon this Agreement. Such funding or grants will be applied directly to the cost of construction and remodeling, thereby reducing the costs of both the CITY and the COUNTY.

2.01-5 FINANCING OF CONSTRUCTION OF ADDITION TO KPSB AND COST ALLOCATION

(1) Ownership and Reliance

The KPSB and addition will remain the property of the COUNTY; it is agreed that the COUNTY will be solely responsible to third Parties for the construction and remodeling costs.

(2) COUNTY and CITY Bonding

The COUNTY shall issue the debt not to exceed \$16 million dollars on the SAFETY BUILDING ADDITION AND REMODELING PROJECT using taxable or tax exempt 20-year bonds. It is contemplated that the COUNTY will issue the debt in multiple phases. The CITY shall issue and the COUNTY shall accept general obligation bonds or notes which may include anticipation notes to the COUNTY for its ALLOCABLE SHARE (for CITY KPD and CITY share of KENOSHA JOINT SERVICES) of the principal on the debt issued by the COUNTY to construct the SAFETY BUILDING ADDITION AND REMODELING PROJECT, said bonds to bear interest as agreed to herein.

The interest rate paid by the CITY to the COUNTY shall not exceed the interest rate of the first General Obligation (GO) bond issued by the COUNTY for the SAFETY BUILDING ADDITION AND REMODELING PROJECT. The interest rate paid by the CITY to the COUNTY on any financing or refinancing obligations shall not exceed the initial interest rate described in the previous sentence. Furthermore, the interest rate

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1 paid by the CITY to the COUNTY shall not exceed the interest rate of a
2 GO bond issued by the CITY of similar size and maturity structure
3 issued within 6 months of the COUNTY'S first bond issue for the
4 SAFETY BUILDING ADDITION AND REMODELING PROJECT.

5
6 The number of obligations payable by the CITY to the COUNTY for the
7 SAFETY BUILDING AND REMODELING PROJECT may be less than the
8 number of borrowings incurred by the COUNTY for the SAFETY
9 BUILDING AND REMODELING PROJECT provided the total DEBT
10 SERVICE to be paid by the CITY equals the CITY'S ALLOCABLE SHARE
11 of the SAFETY BUILDING AND REMODELING PROJECT as defined
12 herein, including the CITY KPD and the CITY'S share of KENOSHA
13 JOINT SERVICES.

14
15 The CITY'S share of the cost of issuing the COUNTY'S debt shall be
16 limited to the issuance costs incurred by the CITY with respect to an
17 issue of similar size and maturity structure issued by the CITY within
18 6 months of the COUNTY'S first bond issue for the SAFETY BUILDING
19 ADDITION AND REMODELING PROJECT , said issuance cost s to be
20 adjusted on a pro rata basis to be equivalent to the principal amount of
21 the obligation issued by the CITY to the COUNTY for the SAFETY
22 BUILDING ADDITION AND REMODELING PROJECT had the CITY issued
23 the bond to a third party.

24
25 **(3) Annual Payment**

26
27 CITY will pay its DEBT SERVICE to the COUNTY in annual installments
28 based upon the DEBT SERVICE schedule due not later than Dec. 31 of
29 each year beginning in 2010.

30
31 **(4) Financing / Bonding Contingency**

32
33 This Agreement is contingent upon the ability of the COUNTY to obtain
34 an initial General Obligation bond for a period not to exceed 20 years
35 at a rate not higher than 8% True Interest Cost.
36
37
38
39

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2.01-6 DUTY TO CO-OPERATE

(1) CITY Planning Participation

As the COUNTY and the CITY entered into a partnership to build the PSB suitable for law enforcement purposes for the CITY KPD and the COUNTY's Sheriff's Department, which KPSB would be owned by the COUNTY, and as the COUNTY and the CITY are entering into this agreement to add to and remodel the KPSB, the CITY hereby has the right to participate in the design and planning of the new addition and of the remodeling of the KPSB. In the event that the COUNTY and the CITY experience a disagreement as a result of the exercise of this right, the disagreement shall be submitted to the Mayor of the CITY of Kenosha and the COUNTY Executive of the COUNTY of Kenosha for resolution, said resolution to be binding on the COUNTY and the CITY. In the event that the Mayor and the COUNTY Executive do not meet in a timely manner or cannot reach a resolution, the disagreement shall be submitted to the KJSB, whose decision shall be final and shall be binding on the COUNTY and the CITY.

(2) CITY Contribution Cap

The CITY's financial obligation under this Agreement No. 1 related to the PROJECT is limited to six million dollar (\$6,000,000) principal.

(3) COUNTY and CITY Cooperation

Neither the CITY nor COUNTY shall obstruct improvements necessary relative to the safety, security, or integrity of the building.

(4) Requested Changes

Subject to the provision of 2.01-6(2), the Parties agree that the full costs of any changes to the PROJECT which are requested by the CITY and approved by the COUNTY will be billed or credited by the COUNTY to the CITY. Any changes to the PROJECT which are requested by KENOSHA JOINT SERVICES and approved by the COUNTY will be billed or credited by the COUNTY to the KJSB. Changes requested by the COUNTY will be billed or credited to the COUNTY.

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2.01-7 INSURANCE AND RISK MANAGEMENT

(1) Builder's Risk Insurance

**Builder's Risk Insurance will be provided by the Construction Manager.
A copy of the policy and endorsements will be provided to the CITY by
the COUNTY.**

II. Agreement 2 KENOSHA JOINT SERVICES OPERATIONS

3.01 KENOSHA JOINT SERVICES OPERATIONS

3.01-1 INITIAL TERM OF THE AGREEMENT AND SUBSEQUENT LEASE

Except as may hereinafter be set forth with respect to provisions within this Agreement that may extend beyond its term, the initial term and effective date of this Agreement 2 as it pertains solely to Agreement 2 - KENOSHA JOINT SERVICES OPERATIONS, shall commence at 12:01AM following the date of execution of this Agreement and ending at 11:59PM 12/31/2034.

It is the intent of the Parties that upon completion of construction of the SAFETY BUILDING ADDITION AND REMODELING PROJECT the KENOSHA JOINT SERVICES BOARD will lease space [including parking space] at the Kenosha Public Safety Building for an initial period of time commencing on January 1, 2010 concluding at 11:59PM 12/31/2034. A rental rate for KENOSHA JOINT SERVICES use of the KPSB will be included as part of their Lease Agreement [Exhibit 4].

3.01-2 SUBSEQUENT TERM FOR AGREEMENT 2

At the expiration of the initial term of this Agreement 2 and subsequent lease, Agreement 2 and the aforementioned Lease shall remain in effect for an additional period of two years commencing at 12:01AM 1/1/2035 and ending at 11:59 PM 12/31/2036. Provided, however, that unless terminated by either Party by written notice as provided for herein and delivered no more than 730 days nor less than 365 days prior to the expiration of the initial term nor less than 365 days prior to the expiration of any subsequent term, Agreement 2 and the aforementioned Lease will, however, automatically renew on each annual anniversary of Agreement 2 and the aforementioned Lease for an additional two year period.

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It is the intent of the Parties that upon execution of the
aforementioned leases the existing Lease Agreements between the
COUNTY and the KJSB be terminated.

3.01-3 TIME IS OF THE ESSENCE

In fulfilling the terms and conditions of this Agreement, TIME IS OF
THE ESSENCE.

3.01-4 TERMINATION

In the event that the Parties mutually agree to terms and conditions
allowing for the termination of this Agreement No. 2 prior to the
expiration of either the initial or any subsequent term of this
Agreement No. 2, no breach or violation of any of the terms of this
Agreement No. 2 by either Party shall operate to void or terminate or
provide grounds for termination of this Agreement No. 2, it being the
intent of the Parties that the provisions of this Agreement No. 2 shall
be subject to the Dispute Resolution provisions of § 4.01 of this
Agreement to cure any breaches, and that damages may be awarded
to redress any harm occasioned by a breach.

3.01-5 CREATION OF KENOSHA JOINT SERVICES AND SERVICES TO BE PROVIDED

The Parties agree to reaffirm their establishment of an
intergovernmental cooperative agency entitled and re-named as
KENOSHA JOINT SERVICES and a Board of Directors (KENOSHA
JOINT SERVICES BOARD) for the purpose of providing for oversight
of the operations of KENOSHA JOINT SERVICES; furthermore, that
this Intergovernmental Cooperation Agreement is intended to renew
and effectuate the creation of the KENOSHA JOINT SERVICES
BOARD as a non-taxing body in accordance with the enabling
legislation provided for in Wisconsin Statutes § 66.0301. Said
renewal may be formalized pursuant to Chapter 181 of the
Wisconsin Statutes by the joint incorporation by the COUNTY and
the CITY of a non-stock corporation to carry out the mission
described herein, provided however that, in the opinion of bond
counsel to the COUNTY and the CITY, such incorporation will not

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adversely affect the tax exempt status of an existing or future bond issues of either the COUNTY , the CITY or KENOSHA JOINT SERVICES. In the event that now-existing or any future law makes the operation of KENOSHA JOINT SERVICES as a non-stock corporation no longer legally feasible, the remaining provisions of this Agreement 2 will continue.

The mission of the KJSB shall be to provide communications, 911 emergency fire, police and emergency medical service dispatch, law enforcement records management and custody of crime scene evidence, identification services, public counter service, property room operations, law enforcement vehicle maintenance and such other areas that may be agreed upon from time to time by the CITY and the COUNTY in consideration of each Party contributing to the funding of KENOSHA JOINT SERVICES in accordance with the formulas agreed to herein. It is acknowledged that each Party will receive cost savings as a result of this cooperative Agreement. Services may also be provided under separate Agreements to other municipalities seeking the services provided by KENOSHA JOINT SERVICES.

3.01-6 KENOSHA JOINT SERVICES BOARD MEMBERSHIP AND TERMS

The KENOSHA JOINT SERVICES BOARD as a board created pursuant to Wisconsin Statutes § 66.0301, shall consist of seven (7) members with COUNTY members being comprised of two (2) members being appointed by the COUNTY Board Chairperson for a three year term who shall be COUNTY Board Supervisors serving at the pleasure of the COUNTY Board Chairperson and the third COUNTY representative to be the COUNTY Executive or his designee and three (3) members appointed by the Mayor of the CITY for a three year term, one of whom shall be an Alderperson of the CITY of Kenosha and all of whom shall be confirmed by the Common Council; both the COUNTY Executive and the Mayor, if appointed, may designate an alternate member to represent them, which alternate need not be confirmed by the COUNTY Board or Common Council. The seventh member shall be a resident of Kenosha COUNTY and shall be appointed by both the Mayor and COUNTY Executive for a three year term with said term to be extended until such time as a successor is appointed and confirmed. The seventh

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member agreed to by the COUNTY Executive and Mayor shall require approval and confirmation of both the COUNTY Board and the Common Council. Board members who are also elected officials shall serve only so long as they remain an elected official. Except as provided for herein, designated alternates will not be allowed.

All seven members of the KJSB, including any member filling a vacancy for part of a term, shall serve for their remaining term and until their successor is appointed and qualified but not more than 90 days after their term has expired.

3.01-7 BOARD VACANCY

Vacancies on the KJSB shall be filled for the unexpired term of the member who has vacated their position with COUNTY vacancies to be appointed as set forth above; CITY vacancies shall be appointed by the Mayor and confirmed as heretofore set forth and the seventh position vacancy to be appointed and confirmed as heretofore set forth.

3.01-8 CHAIRPERSON

The KJSB shall elect a Chairperson from their membership for a three year term.

3.01-9 REMOVAL

With the exception of the seventh member who is confirmed by both the CITY and COUNTY, any other member of the JSB may be removed without cause by the official who appointed said member, regardless of whether that member was confirmed. The seventh member may be removed without cause by mutual action of both the Kenosha COUNTY Board and CITY of Kenosha Common Council. Removals shall be effective immediately regardless of whether a successor has been appointed and qualified.

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3.01-10 MEETINGS

Meetings of the KENOSHA JOINT SERVICES BOARD shall be held not less frequently than once every three months and otherwise at the call of the Chairperson. Notice of a meeting of the Board shall be in compliance with the Wisconsin Open Meetings Law.

3.01-11 QUORUM

A majority of the members of the Board of Directors shall constitute a quorum for the transaction of any business at a meeting of the KENOSHA JOINT SERVICES BOARD.

3.01-12 OFFICIAL ACTION

Except as expressly hereinafter provided in this Agreement, an act of the majority of the members present shall be the act of the KENOSHA JOINT SERVICES BOARD.

3.01-13 VOTING REQUIREMENTS

The affirmative vote of a majority of the members present of the Board of Directors is required on all issues brought before the Board of Directors, except that the annual budget shall be adopted in accordance with the provisions of § 3.01-17(1) and the affirmative vote of five members of the Board shall be required for any budget modification wherein monies are transferred from one line item to another.

3.01-14 COMPENSATION

No compensation shall be paid to members of the KENOSHA JOINT SERVICES BOARD for their services, but they may be reimbursed for actual and necessary expenses incurred if so authorized by the KJSB, and if funds are contained within the approved budget.

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3.01-15 EMPLOYEES

Except as hereinafter provided, all employees of KENOSHA JOINT SERVICES shall be employees of KENOSHA JOINT SERVICES for all purposes, and in no event shall any such employees be or be deemed or construed to be an employee of either the COUNTY or the CITY.

The KJS employees may participate in COUNTY and CITY employee benefits as permitted by the COUNTY and CITY.

Employees of KJS may upon Resolutions adopted by each Party be considered as employees of either Party and subsequently loaned to KJS upon the conditions outlined in the Resolutions in order to qualify for health insurance or other benefits. In such case KJS shall pay the employer of such employees for all actual costs as defined in the aforementioned Resolutions.

3.01-16 OWNERSHIP OF ASSETS

The KENOSHA JOINT SERVICES created by this Agreement shall be the legal owner of assets contributed to or acquired by KENOSHA JOINT SERVICES, and where applicable such assets shall be titled in the name of KENOSHA JOINT SERVICES. KENOSHA JOINT SERVICES shall not be the owner of real estate, buildings and fixtures used by it unless any of such property is conveyed to and titled in the name of the KENOSHA JOINT SERVICES. All assets contributed to or acquired by KENOSHA JOINT SERVICES shall be owned and held by KENOSHA JOINT SERVICES subject to the provisions for division of assets on termination of this Agreement as set forth in § 3.01-27 of this Agreement.

3.01-17 POWERS AND DUTIES OF THE KENOSHA JOINT SERVICES BOARD

The KJSB shall have those powers authorized pursuant to Wisconsin Statutes § 66.0301 and be delegated responsibility for addressing the day to day operational and planning issues brought before them and shall act as an oversight policy-making board

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1 responsible for making budgetary recommendations to both the
2 COUNTY and the CITY. The KJSB shall have the power to contract,
3 as permitted under Wisconsin Statutes § 66.0301 (3) and to finance
4 PROJECTS and purchases as permitted under Wisconsin Statutes §
5 66.0301 (4) including the issuance of revenue bonds, and to sue
6 without prior authorization of the COUNTY and CITY and to be sued
7 and to settle any litigation or claim within the limits of any applicable
8 insurance policy and adopted budget and any statutory liability
9 limitations applicable to the COUNTY and the CITY as joint partners
10 in the creation of the KJSB. It is the intent of the Parties that
11 statutory liability limitations be interpreted as if the COUNTY and
12 CITY were a single entity.

13
14 The KENOSHA JOINT SERVICES BOARD shall have the authority to
15 contract, approve Collective Bargaining Agreements, settle claims
16 and grievances, obtain insurance, and approve an annual budget
17 that will be recommended to both the COUNTY and CITY, which
18 budget shall be funded in accordance with the provisions of this
19 Agreement.

20
21 The KENOSHA JOINT SERVICES BOARD shall have the authority to
22 hire a director. The job description for the Director position of KJS
23 shall be developed jointly between the CITY and COUNTY of
24 Kenosha Human Resources Directors and approved by the KJSB.
25 The Director position of KJS shall be selected by the joint effort of
26 the CITY and COUNTY of Kenosha Human Resources Directors
27 working together to oversee the recruitment and interview process,
28 and to rank the recommended top candidates for the position. The
29 top five ranking candidates will be presented to the KJSB for their
30 selection. The selection of the Director by the KJSB will be subject to
31 confirmation by both the CITY of Kenosha Common Council and the
32 Kenosha COUNTY Board of Supervisors.

33
34 The KJSB shall develop and approve all policies pertaining to KJS,
35 including but not limited to personnel policies, and shall adopt its
36 own by-laws.

37
38 Except as limited by this Agreement or amendments hereto, the
39 KJSB shall have all the powers and duties authorized under the
40 Wisconsin Statutes. Such powers and duties shall include, but not
41 be limited to the following:

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(1) Annual Budget.

The KJSB shall adopt by the affirmative vote of four members an annual budget for KENOSHA JOINT SERVICES operations and capital improvement expenses. For the purposes of this paragraph, the term "operating expenses" shall include the usual and ordinary cost of operation of KENOSHA JOINT SERVICES, the operation and routine maintenance of buildings used by KENOSHA JOINT SERVICES and the repair and the renewal of KENOSHA JOINT SERVICES'S physical assets including expenses and ordinary additions to its assets.

(2) Contracting Authority.

Upon receiving the COUNTY and CITY contribution to the KJS capital and operating budget, KJS shall be authorized to contract and make all expenditures deemed necessary by the KJSB for operating and capital expenses not in excess of the approved budget. Action by the COUNTY and CITY in connection with approval of their respective contribution to the KJS budget shall be completed by December 20th of each year.

(3) Annual and Quarterly Reports.

An annual financial report shall be presented to the COUNTY and the CITY as set forth in § 3.01-19 of this Agreement. In addition the Director of JS shall report quarterly to the COUNTY Judiciary and Law Enforcement Committee and to the CITY Public Safety and Welfare Committee.

(4) Monitoring.

The KJSB shall monitor the condition of the capital assets owned and controlled by KENOSHA JOINT SERVICES , and shall annually furnish estimated dates and costs of replacement or reconstruction for each item over a five (5) year period to the COUNTY and CITY.

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(5) Transfer of Assets.

The KJSB may sell, exchange, convey or transfer assets of the department, for fair and equitable consideration, as determined to be necessary from time to time;

(6) Maintenance of Physical Assets.

The KJSB may authorize financing, repair, maintenance and renewal of the physical assets which are owned by KENOSHA JOINT SERVICES;

(7) Fees for Services.

The KJSB shall recommend fees for services where permitted by law, and to charge and collect such fees.

3.01-18 BUDGET, REPORTING AND FINANCIAL RESPONSIBILITIES

(1) Annual Budget and Report

The KJSB shall approve an annual budget to cover the income, operating expenses and capital expenditures for KENOSHA JOINT SERVICES for the following calendar year by September 15th of each year. If either the COUNTY or the CITY requests to see a preliminary draft of the KJS budget for planning purposes by June 30th of any year, KJSB shall provide a preliminary draft of such budget by July 15th.

The annual budget shall be in a format prescribed by Wisconsin Statutes 65.90 with respect to municipal budgets and shall, in addition, contain an explanation of the KJSB's reasons for recommending any total annual capital expenditure. The budget shall include funding in accord with the terms and conditions of this Agreement. When required by law, a public hearing shall be held by the JSB.

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No expenditures shall be made or contracted for by the KJSB or any KENOSHA JOINT SERVICES employee with respect to any proposed item of operating expense or capital expenditure not contained in the budget until the COUNTY and CITY have adopted their respective annual budgets and appropriated their respective contribution to the funding of KJS. No item of operating expenses or capital expenditure not provided for in the budget shall be made or contracted for by any member or officer of the KJSB or by any KENOSHA JOINT SERVICES employee.

Payments by the COUNTY and CITY to KJSB shall be made on the first of each month, with the exception that two monthly payments will be made on January 1 of each year and no monthly payment will be made in December. The aforementioned due dates and schedule may be changed by mutual Agreement of the Parties.

(2) Disputed Amounts

No Party to this Agreement shall unduly withhold payments or fail to make disbursements as required in the budget approved by the CITY and the COUNTY. In the event the COUNTY and/or the CITY fail to approve the budget as adopted by KJSB for their operating and capital expenditures, KJS shall operate at, and the CITY and the COUNTY shall fund, in a minimum amount equal to the prior calendar year's level of expenditures, plus any cost increases resulting from contractual obligations incurred in prior years (including Collective Bargaining Agreements), newly created Federal and/or State mandates, and clear and present public safety needs.

As soon as practical but not later than January 5 following the start of a new budget year, if the CITY and/or COUNTY have not yet approved a mutually agreeable operating budget for KJS, the CITY Mayor, President of the Common Council and the Chairman of the CITY's Finance Committee along with the COUNTY Executive, Chairman of the COUNTY Board and the Chairman of the COUNTY's Finance Committee shall meet to attempt to resolve outstanding issues. If the Parties have not reached resolution on the outstanding budget issues prior to January 31 of that budget year, each issue will be resolved by a coin flip. Coin to be flipped by either side and alternated on each issue. On an even year the CITY shall make the call first requiring the COUNTY to flip the coin and on an odd year

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1 the reverse. The COUNTY and CITY agree to be bound by the results
2 of the above actions; the KJSB shall amend its budget accordingly.
3 Any failure to pay by either party following the above actions shall be
4 subject to the dispute resolution provision of this agreement.

5
6 **(3) KENOSHA JOINT SERVICES to Budget Full Costs**

7
8 The KENOSHA JOINT SERVICES BOARD shall annually budget and
9 fund all costs necessary for the safe and effective operation of
10 KENOSHA JOINT SERVICES, including but not limited to: personnel
11 costs, professional and consulting services, supplies, equipment,
12 capital outlay, insurance, communications costs, and fixed charges.

13
14 **(4) Allocation of Annual Costs of KJSB**

15
16 The MAXIMUS COST ALLOCATION method as set forth in Exhibit 3
17 shall be used to allocate KENOSHA JOINT SERVICES annual costs
18 between the CITY and COUNTY as defined herein. Relative to the
19 cost sharing formula, the CITY and COUNTY have conducted an
20 analysis of the percentage of benefit the CITY and the COUNTY
21 receives on a cost basis from KENOSHA JOINT SERVICES (the
22 Maximus report). This analysis shall serve as the basis for the
23 allocation of costs as agreed to herein.

24
25 The CITY and COUNTY are in Agreement that the difference between
26 the percentage benefit actually received by the CITY (about 68%) and
27 actually paid by the CITY (about 71%), as identified in the Maximus
28 report, shall be phased in over a period of not more than 6 years,
29 starting in 2009, with the phase in amount for budget year 2009 to be
30 \$75,000. For the balance of the 6-year phase in period, the costs
31 shall be allocated and phased in as follows: for the budget years
32 2010, 2011, 2012, and 2013, the phase in amount shall equal the
33 amount of DEBT SERVICE paid by the CITY to the COUNTY for the
34 PROJECT. In year 2014 the formula adjustment shall equal the
35 amount as determined in the Maximus formula and as defined in
36 Exhibit 3, and shall not be limited by the amount of DEBT SERVICE
37 paid by the CITY to the COUNTY.

38
39 The MODIFIED FULL COST ACCOUNTING approach shall be used
40 when allocating costs to the KENOSHA JOINT SERVICES budget
41 using the Maximus formula. All costs using the MODIFIED FULL

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1 **COST ACCOUNTING** approach shall be applied to the Maximus
2 formula, unless specifically excluded in the IGA.

3
4 Payment of **EXCESS LIABILITY** settlements and judgments
5 authorized or imposed upon KJS or its officials or employees or
6 agents or upon the KJSB for any cause of action occurring after the
7 commencement of this Agreement and pertaining to any KJS activity
8 authorized by this Agreement [including, but not limited to 911
9 responsibilities] shall be split in accordance with the Maximus
10 formula between the COUNTY and the CITY. Any **EXCESS LIABILITY**
11 payment of a settlement or judgment of such a cause of action that
12 occurred prior to the execution of this Agreement shall be split
13 between the COUNTY and the CITY on a 50-50 basis.

14
15 **(5) Fiscal and Operational Review**

16
17 Parties to this Agreement shall abide by the estimates provided by
18 Maximus in the October, 2008 report [Exhibit 7 and as exemplified in
19 Exhibit 3] as agreed to herein. Furthermore the Parties agree that
20 these estimates shall serve as a basis for calculating the funding
21 formulas identified herein until such time as amended in accordance
22 with terms and conditions of this Agreement.

23
24 **(6) Future Modification of Formula**

25
26 An update to the fiscal study referred to herein may be performed
27 every 5th year as of the anniversary of this Agreement upon the
28 unilateral request of either Party and upon the same conditions
29 pertaining to the original review relative to who is to perform the
30 review, cost sharing, purpose and methodology of the review as
31 described in the original Maximus RFP and reports which are
32 attached hereto as Exhibit 7 and incorporated herein as if fully set
33 forth (or as otherwise mutually agreed to). The cost of the review
34 shall be paid through the **KENOSHA JOINT SERVICES** budget.
35 Implementation of the recommendations of the update shall be
36 prospective and shall require mutual consent of both Parties.

37
38 It is the intent of the Parties that other municipalities be encouraged
39 to participate in the services rendered by **KENOSHA JOINT**
40 **SERVICES**. It is furthermore agreed that neither Party will act in an
41 unreasonable manner so as to deter such participation. Other

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municipalities seeking to avail themselves of the services offered by KENOSHA JOINT SERVICES shall be required to pass and forward to the KJSB a supporting resolution and a petition to avail their municipality of such services. The petition shall set forth the terms and conditions that are being proposed. The KJSB shall consider such terms and conditions and may negotiate with each municipality on such terms and conditions, including, but not limited to, effective dates, level of services, cost sharing and the phase-in of start-up costs. When an agreement is reached in principle by the KJSB, it shall be forwarded by the KJSB to both the COUNTY and the CITY for approval. No Agreement between KENOSHA JOINT SERVICES and any other municipality shall be effective unless approved by the Kenosha COUNTY Board of Supervisors and the CITY of Kenosha Common Council.

(7) Application of Grants

The CITY and COUNTY understand that both Parties have submitted an estimate of approximately \$15 million to the State of Wisconsin for possible Federal funding through the American Recovery and Reinvestment Act (2009). Both the CITY and COUNTY will continue to monitor future available State and Federal grant programs that may be available for functions performed by KJS. The CITY and COUNTY understand that such funding would have a material favorable impact upon this Agreement. Such funding will be applied directly to the cost of operations and/or capital expenditures, thereby reducing the costs of both the CITY and the COUNTY. The previous sentences notwithstanding, should either the CITY or the COUNTY apply for a grant for services performed directly by the CITY or COUNTY, said Grant will not be subject to the sharing provisions of this section.

3.01-19 FINANCIAL RECORDS, ACCESS AND AUDIT

Financial records of the KJSB shall comply with generally accepted accounting principles as established by the Governmental Accounting Standards Board or its successor, and as such rules are amended from time to time.

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It is agreed that for accounting and auditing purposes, the fiscal year shall be a Calendar Year. Prior to the close of each Calendar Year the KJSB shall, at their expense, engage a firm of independent Certified Public Accountants ("CPA Firm") for the purpose of conducting an annual review. Either the Kenosha COUNTY Executive or COUNTY Board of Supervisors Finance Committee or the Mayor of the CITY of Kenosha or the CITY of Kenosha Common Council Finance Committee may require a full audit of KJS with the costs of such audit to be paid for by the requesting Party.

The review contemplated under this section shall be completed and delivered to the KJSB by April 30th of each year. Within fifteen (15) days of the completion of the review, the KENOSHA JOINT SERVICES BOARD shall forward copies of the review and any Management Letters, opinions and/or verifications/certifications of the CPA Firm described herein to the CITY and COUNTY. When such review is initiated, the Parties shall fully cooperate, including providing access to all pertinent books and records to the CPA Firm that has been so retained. The Parties shall have a right to access the working papers of the CPA firm conducting the review called for under this section.

3.01-20 AUTHORITY TO SUE, INSURANCE, LITIGATION AWARDS, RESERVES AND SETTLEMENT AUTHORITY

(1) Authority to Sue and be Sued

KJS is intended to be created as an independent quasi-municipal entity that can sue and be sued and as such to be entitled to the benefits of Wisconsin Statutes § 893.80 and any immunity, notice of claim, or liability limit provided or allowed for by law and any defense, including but not limited to exhaustion of remedies.

(2) Procurement of Insurance

KJS shall procure and maintain during the term of this Agreement sufficient insurance to cover all aspects of its operations including, but not limited to, worker's compensation, auto liability, board of directors liability, employee theft and dishonesty, renter's contents, professional liability, commercial general liability, including but not

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limited to, civil rights violations, anti-trust violations, discrimination, libel and slander, false imprisonment, malicious prosecution, abuse of process and assault and battery, and negligent dispatching and insurance for fire and other perils on the structures, other than the PSB, occupied by KJS. Said coverage for commercial general liability may provide for a deductible not to exceed \$100,000. The COUNTY and CITY shall be named as additional insureds on all of the aforementioned policies whenever possible and shall be provided proof of insurance certificates and notice of cancellation not less than 30 days prior to effective date of termination.

(3) Litigation Awards

As indicated in 3.01-20(1), the Parties believe that as an independent quasi-municipal entity, KJS is entitled to the benefits of Wisconsin Statutes section 893.80. In the event that KJS is deemed by any court of competent jurisdiction to not be entitled to benefit of Wisconsin Statutes section 893.80, the Parties reaffirm their intent articulated under sections 3.01-17 and 5.01-4 of the Agreement.

(4) Reserves

KJS shall accrue and maintain a total reserve in an amount that is no less than the commercial general liability deductible as described in § 3.01-20 (2) to enable KJS to cover the deductible.

(5) General Settlement Authority

(a) Definitions

1 **"AWARD"** means payment of funds for any liability damage, costs and fees as determined by mutual settlement or order by a court of law.

2 **"EXCEED INSURANCE COVERAGE"** means to either exceed all available reserves as required in Section 3.01-20(4), exceed the insurance limits, or is not covered by insurance

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1 3 "EXCESS LIABILITY" means funds payable for any
2 liability damage that EXCEEDS INSURANCE
3 COVERAGE.
4

5
6 (b) Retention of Legal Counsel
7

8 In the event of litigation against KJS, the KJSB, its members,
9 employees and/or agents, by third parties, the KJSB may
10 retain legal counsel of its choosing. The cost of such legal
11 counsel shall be paid for as part of the overall claim/award and
12 in accordance with sections 3.01-20(5)(c) and 3.01-20(5)(d) as
13 described herein.
14

15 (c) Awards That Do Not Exceed Coverage
16

17 In the event that an AWARD against KJS, the KJSB, its
18 members, employees and/or agents acting in good faith in
19 their official capacities and in the course of their employment
20 does not EXCEED INSURANCE COVERAGE, the KJSB has the
21 exclusive authority to make all decisions relating to
22 settlements, compromises, and appeals. The CITY and the
23 COUNTY agree to be bound by the decision of the KJSB as it
24 may relate to these decisions.
25

26 (d) Awards That Do Exceed Coverage
27

28 In the event that an AWARD against KJS, the KJSB, its
29 members, employees and/or agents acting in good faith in
30 their official capacities and in the course of their employment
31 may reasonably EXCEED INSURANCE COVERAGE the CITY
32 and COUNTY will fund the EXCESS LIABILITY in accordance
33 with the Maximus formula. The KJSB shall, prior to submitting
34 to a claimant any offers to settle said claims in which there is
35 EXCESS LIABILITY, or prior to accepting settlement offers
36 submitted by a claimant to the KJSB in which there is
37 EXCESS LIABILITY, obtain written approval from the CITY of
38 Kenosha Common Council and Kenosha COUNTY Board of
39 Supervisors. KJS shall notify the Parties to this Agreement of
40 any claim where there is a potential for EXCESS LIABILITY to

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which the Parties may be exposed as soon as practically possible.

3.01-21 JOINT SERVICES EMPLOYEES AND COUNTY / CITY SUPPORT SERVICES

(1) SUPPORT SERVICES

The KJSB may receive support services, such as, but not limited to, purchasing, personnel, financial and data processing consulting, from the COUNTY and/or CITY with the costs of such services to be reimbursed by the KJS pursuant to a formula agreed to by both the COUNTY and the CITY and the KJSB. For example, legal services may be provided to KJSB where no conflict of interest is present by either the COUNTY or the CITY at an hourly rate to be determined by dividing the legal department's budget by the number of attorneys in the department divided by 2080.

Reimbursable support services provided by the CITY or the COUNTY shall be approved in the KENOSHA JOINT SERVICES budget and be agreed to in a memorandum of understanding between KJS and the party providing the service.

3.01-22 EMERGENCIES

Emergency situations, other than those involving routine protective services operations regarding an imminent threat to life or property shall be reported immediately to the COUNTY Executive and Mayor and shall be followed up by a written report.

3.01-23 PUBLIC RECORDS AND OPEN MEETING LAW

KJS shall comply with the Wisconsin Public Records Law. For purposes of complying with the Wisconsin Public Records Law, the KJSB shall be a repository of records only and shall NOT be deemed the custodian of any records of a law enforcement, fire or rescue agency unless so delegated such responsibility by such agency. All other records created or maintained by KJS or by a provider retained as an independent contractor, including the raw data used to create

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the record are public records that must be made available to the public upon request and in the format in which they were created.

The KJSB shall also comply with the State of Wisconsin Open Meetings laws as they pertain to KJS.

3.01-24 CONFIDENTIALITY

The KJSB shall insure that confidential matters brought to their attention and pertaining, without limitation due to enumeration, to citizens, employees or law enforcement strategies, remain confidential as long as the matter remains confidential or privileged as allowed by law. At such time as this Agreement is terminated and/or leased equipment is removed or replaced, the KJSB shall, insofar as allowed by law, be required to permanently erase or remove any hard drive or other device where data that is printed, copied, scanned or faxed is stored unencrypted or in any format that could be retrieved. Prior to removing said equipment, the KJSB shall sign and maintain a written certification of removal guaranteeing such removal.

3.01-25 ETHICS COMPLIANCE

The KJSB and its employees shall be bound by all laws, ordinances, regulations and policy of both the COUNTY and the CITY pertaining to ethics and conflicts of interests. In case of a conflict between COUNTY and CITY ethics or conflict of interest provisions or requirements, the higher standard shall apply.

3.01-26 LIABILITY ON DISSOLUTION AND DISTRIBUTION OF ASSETS

In the event KJS is dissolved, any outstanding actual or potential litigation or claims shall be split per the provisions of this Agreement between the CITY and the COUNTY, and any assets of KJS shall be appraised and the COUNTY and CITY shall mutually agree on the distribution of those assets between them.

III. DISPUTE RESOLUTION PROVISIONS PERTAINING TO AGREEMENTS 1 AND 2

4.01 DISPUTE RESOLUTION AND DAMAGES

4.01-1 DUTY TO MITIGATE DAMAGES

In the event of a breach of this Agreement, each Party has a responsibility to mitigate damages.

4.01-2 PRE-ARBITRATION PROCEDURE

All claims, disputes (including those arising from the fiscal reports referred to herein), or other matters arising out of or related to this Agreement, or the breach thereof shall be subject to mediation as a condition precedent to the institution of binding arbitration by any Party to this Agreement. However, prior to filing a written demand for mediation, the Party making such demand shall submit to the other affected Parties a statement of the claim, dispute or other matter in question. The Parties shall meet promptly after such statement is filed and shall endeavor in good faith to resolve any such claim, dispute or other matter in question amicably. If such meeting does not resolve the claim, dispute or other matter in question, a demand for mediation shall be filed in writing with the other affected Party.

4.01-3 TIME LIMITS FOR MEDIATION

The demand for mediation shall be made within ninety (90) days after the claim, dispute or other matter in question is or could have been discovered. In no event shall the demand for mediation be made after the date when the institution of legal or equitable proceedings based upon such claim, dispute or other matter in question would be barred by the applicable statute of limitations or statute of repose. To

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the extent allowed for by law, a demand for mediation will stay any applicable statute of limitation or statute of repose.

4.01-4 SELECTION OF MEDIATOR AND MEDIATION RULES

First consideration for the selection of a mediator shall be given to retired Circuit Court Judges who were elected to the bench from outside of Kenosha COUNTY. If such a selection is not feasible any mediation conducted pursuant to this section shall be conducted by a mediator acceptable to both the COUNTY and the CITY. If the Parties cannot agree on a mediator, mediation will have been deemed to have failed and the Parties will proceed to binding arbitration. Mediation shall be completed withing sixty (60) days of the demand to mediate unless otherwise mutually agreed to by the Kenosha COUNTY Executive and the Mayor for the CITY of Kenosha. The costs of mediation shall be evenly split between the Parties.

4.01-5 BINDING ARBITRATION

If a demand for mediation has been made under this section of this Agreement but such mediation has either not occurred or has not resolved the claim(s) subject to such mediation before the applicable statute of limitations for such claim(s) has run, a Party to this Agreement may submit the matter for binding arbitration subject to the rules of evidence and procedure of the Wisconsin Statutes then in effect, unless otherwise modified by this Agreement or the Parties mutually agree otherwise.

If the COUNTY Executive of the COUNTY of Kenosha and the and Mayor of the CITY of Kenosha cannot agree on an Arbitrator, the Arbitrator shall be selected by a random drawing from a state-wide pool of retired Appellate or Circuit Court Judges or current or retired faculty of the Marquette University or University of Wisconsin Law Schools or otherwise mutually agreed to by the Parties. The aforementioned pool shall consist of ten names with each Party submitting the names of five retired Circuit Court Judges and/or faculty members who have agreed to be considered. On an even number year the CITY shall draw the name from the pool of Arbitrators submitted by each side and on an odd year the COUNTY

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shall draw. The Arbitrator so selected shall have qualifications and experience in the area of dispute. No Arbitrator so selected shall have any conflict of interest.

The Arbitration hearing shall be held in Kenosha COUNTY at a site selected by the Arbitrator and said hearing shall be open to the public and all documents and records submitted at such hearing shall be subject to the Wisconsin Public Records Law. The substantive law of the State of Wisconsin, including the rules of evidence and discovery and sanctions, and the provisions of Chapter 788 of the Wisconsin Statutes, where applicable, shall be applied. Any damages, relief or method of enforcement not precluded by the terms of this Agreement may be granted. A written decision shall be submitted within sixty (60) days of the conclusion of the hearing.

The decision of the Arbitrator may be enforced in a Court of law.

4.01-6 CONSENT TO JURISDICTION AND SERVICE OF PROCESS

No Party to this Agreement shall contest jurisdiction or venue for any dispute or claim arising under this Agreement.

It is agreed that any of the authorized agents listed herein for each Party may accept service of process and that a copy of such process shall be provided to each Party's legal counsel as noted herein.

4.01-7 REMEDIES

In addition to any legal and equitable remedies available to the Parties in any arbitration hearing, including the remedies of specific performance and injunctive relief, a Party suffering from a breach of this Agreement shall be entitled to actual damages.

4.01-8 FEES AND COSTS

The costs of Arbitration, such as the cost of the Arbitrator and Court Reporter, shall be evenly split between the Parties. In the event of a

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dispute arising under this Agreement, all other costs, such as filing fees, attorney and witness fees and consultant costs, incurred by the Parties in presenting their case shall be the responsibility of each Party respectively.

IV. GENERAL PROVISIONS PERTAINING TO AGREEMENTS 1 AND 2

5.01 GENERAL PROVISIONS

5.01-1 LAWS OF WISCONSIN

This Agreement shall be construed, enforced and governed in all respects, in accordance with the laws and statutes of the United States of America and the State of Wisconsin and as they may be amended from time to time.

5.01-2 ADVICE OF COUNSEL

By execution of this Agreement each Party certifies that they have had the benefit of the advice of legal counsel or the opportunity to consult with legal counsel prior to execution.

5.01-3 JOINT DRAFT

This Agreement has been the subject of mutual negotiations between the Parties and their respective counsel. This Agreement has been and shall be construed to have been jointly drafted by the Parties in order to preclude the application of any rule of construction against a Party's interest as the sole drafter of this Agreement.

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5.01-4 NO WAIVER OF MUNICIPAL OR STATUTORY IMMUNITY, RIGHT TO NOTICE OF CLAIM, LIABILITY LIMITS OR EXHAUSTION OF ADMINISTRATIVE REMEDIES

No provision of this Agreement shall be interpreted to mean or suggest that the Parties have waived any of their rights under Wis. Stats. § 893.80 or any immunity, notice of claim, or liability limit provided or allowed for by law nor any defense, including but not limited to exhaustion of remedies.

5.01-5 COMPLIANCE – FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS

The Parties agree to comply with all Federal and State Laws and Regulations and standards, including but not limited to non-discrimination, the State Open Meetings and Public Records laws and all applicable local Ordinances and regulations as may be required from time to time, including but not limited to those ordinances and directives relating to ethics and conflicts of interest. This provision is not intended to create any third-Party cause of action in any person or Party.

5.01-6 GOOD FAITH AND FAIR DEALING

The Parties to this Agreement agree that this Agreement imposes upon them a duty of good faith and fair dealing. In addition, the Parties will act expeditiously and with due diligence with respect to resolving any obligations under this Agreement.

5.01-7 NOTHING TO IMPAIR

Neither Party shall act so as to impair the obligations of this Agreement without the written consent of the other Party.

5.01-8 ASSURANCE AND DUTY TO FUND

The Parties agree to execute, acknowledge and deliver such other instruments as required or as reasonably may be required and

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requested and to fund and pay accordingly to effectuate the intent, terms and conditions of this Agreement.

5.01-9 FORCE MAJEURE

In the event that any Party hereto is delayed or hindered in or prevented from the performance of any act required under this Agreement by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, governmental moratorium or other governmental action or inaction by any governmental entity other than the Parties to this Agreement (including failure, refusal or delay in issuing permits, approvals and/or authorizations) injunction or court order, riots, insurrection, war, fire, earthquake, flood or other natural disaster or other reason of a like nature not the fault of the Party delaying in performing work or doing acts required under this Agreement (but excluding delays due to financial inability), then performance of such act, including any payment due, shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

5.01-10 NO WAIVER OF DEFAULT OR BREACH

No waiver of a breach of this Agreement or modification thereto or failure to enforce any provision contained herein or as subsequently modified shall be construed to be a waiver of any subsequent breach or failure to enforce the same or any other Agreement or condition contained in this Agreement or modification thereto.

5.01-11 EXPENSES

Each Party agrees to bear all the expenses it incurs in connection with the contract and the transactions that are contemplated except as otherwise provided in this Agreement.

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5.01-12 OWNERSHIP OF FINISHED PRODUCT

The original copies of all design and construction-related work-products developed for Kenosha COUNTY and paid for under the terms of this Agreement shall be the sole property of Kenosha COUNTY. The COUNTY will provide copies, including "as-built" plans, and share copyright ownership of the aforementioned to the CITY upon request.

5.01-13 ERRORS IN MATH

Any errors in mathematics shall be interpreted to reflect the true and accurate calculations.

5.01-14 ACCESS TO RECORDS, DISCOVERY AND INSPECTION

The Parties shall upon seventy - two (72) hours notice grant access to each other to all records and documents in their possession or custody or control which pertain to any provision of this Agreement. Either Party may at their expense require an audit of the other Party pertaining to any matter provided for in this Agreement.

5.01-15 AMENDMENT AND MODIFICATION OF THIS AGREEMENT

During the term of this Agreement, the conditions contained herein may be reviewed, modified and altered at any time on mutual written consent of the parties as authorized by action of the Kenosha COUNTY Board of Supervisors and the Common Council for the CITY of Kenosha. Minor revisions to this Agreement which do not affect the substantive provisions of this Agreement, including, but not limited to, formatting, grammar, punctuation and spelling may be made administratively.

5.01-16 CONTRACT ALL INCLUSIVE

The terms of this Agreement shall be exclusively binding upon all parties to this Agreement.

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This Agreement and its Exhibits incorporated herein by reference represents the entire integrated Agreement between the Parties and supersedes all other past Agreements and all other negotiations, representations, promises or Agreements, either written or oral, made during the course of negotiations leading to this Agreement.

It is further understood, however, that the terms of this Agreement are subject to the covenants and Agreements heretofore made in connection with the bonding of the SAFETY BUILDING AND REMODELING PROJECT.

5.01-17 APPROVAL, SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their successors, including successors to the members of the Kenosha Common Council, the Kenosha COUNTY Board of Supervisors and the KENOSHA JOINT SERVICES BOARD, approved assignees and transferees, voluntary or involuntary receivers and trustees, or any other subsequent owner or operator of the Party contracting with the COUNTY which acquires its equitable or legal ownership from or through said Party. All assignments and transfers must be approved by both Parties.

5.01-18 NO 3RD PARTY BENEFICIARY

This Agreement is personal to the Parties to this Agreement and to the KENOSHA JOINT SERVICES BOARD and is not intended for the benefit of any other third Party.

5.01-19 SEVERABILITY

If any court of competent jurisdiction determines that any provision of this Agreement is invalid or unenforceable, then such invalidity or un-enforceability shall have no effect on the other provisions hereof, which shall remain valid, binding and enforceable and in full force and effect. In the event of such a determination by such court, the Parties shall promptly meet to discuss how they might satisfy the terms of this Agreement by alternative means. The Parties shall use

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1 their best efforts to find, design and implement a means of
2 successfully effectuating the terms of this Agreement. If necessary,
3 the Parties shall negotiate appropriate amendments of this
4 Agreement to maintain, as closely as possible, the original terms,
5 intent and balance of benefits and burdens of this Agreement. In the
6 event the Parties are not able to reach Agreement in such situation,
7 the dispute resolution procedure as set forth in this Agreement shall
8 apply.

10
11 **5.01-20 CONTINGENCY OF APPROVALS**

12
13 This Agreement is contingent upon the Approval of the Kenosha
14 COUNTY Board of Supervisors and the Common Council of the CITY
15 of Kenosha and the override of any lawful executive veto.

16
17
18 **5.01-21 COMPLIANCE WITH PRE-CONDITIONS AND AUTHORIZATION TO EXECUTE**

19
20 Each Party represents and warrants that each has performed all acts
21 precedent to adoption of this Agreement, including, but not limited
22 to, matters of procedure and notice, and each has the full power and
23 authority to execute this Agreement and to perform its obligations in
24 accordance with the terms and conditions thereof, and that the
25 representative executing this Agreement on behalf of such Party is
26 duly and fully authorized to so execute and deliver this Agreement.

27
28 The CITY has authorized its officers to execute this Agreement by
29 the action of the Common Council taken at its regular and duly
30 noticed meeting as set forth in Exhibit 1.

31
32 The Board of Supervisors of Kenosha COUNTY has approved this
33 Agreement by Resolution at a duly noticed meeting of the Board of
34 Supervisors as set forth in Exhibit 1.

35
36
37 **5.01-22 SEPARATE COUNTERPARTS EXECUTION**

38
39 This Agreement may be executed in separate counterparts, each of
40 which shall be deemed an original and may be executed by facsimile

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1 with original signature pages to be provided to the other Party within
2 three (3) business days.

3
4
5 **5.01-23 HEADINGS**

6
7 Section headings and titles are intended only as aids.
8
9

10 **5.01-24 AUTHORIZED AGENTS**

11
12 In addition to those persons who are to receive notices under § 5.01-
13 25 of this Agreement, the authorized agents of the Parties for the
14 purpose of administering this Agreement in terms of day to day
15 operations and receiving any notice required under the terms of this
16 Agreement or accepting service of process are noted in the attached
17 Exhibit 2 which is incorporated herein as if fully set forth. the Parties
18 shall keep this list current during all pertinent times of the Agreement
19 and each Party shall notify the other within five business days of any
20 unilateral change in names, addresses, and telephone numbers.
21

22 **5.01-25 NOTICE**

23
24 In addition to the Authorized Agents noted in this Agreement, any
25 notice required to be given under the terms of this Agreement shall
26 be given in writing as required by the terms of this Agreement and
27 pertaining to the term or termination of the Agreement, financial
28 obligations set forth herein or dispute resolution to the following at
29 the aforementioned address:
30

31 **TO COUNTY of Kenosha:**

32
33 **The Kenosha County Executive**
34 **Kenosha County Administration Building**
35 **1010 - 56th Street**
36 **Kenosha, Wisconsin 53140**
37 **Phone: (262) 653-2600**
38 **FAX: (262) 653-2817**

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**The Kenosha County Clerk
Kenosha County Administration Building
1010 - 56th Street
Kenosha, Wisconsin 53140
Phone: (262) 653-2477
FAX: 262-653-2817**

**Kenosha County Finance Director
Kenosha County Administration Building
1010 - 56th Street
Kenosha, Wisconsin 53140
Phone: 262- 653-2700
FAX: 262-653-2491**

**In addition, all notices pertaining to matters involving claims, dispute resolution,
litigation or legal process, shall be copied to:**

**The Corporation Counsel's Office
1010 - 56th Street
Kenosha, Wisconsin 53140
Phone: (262) 653-7112
Fax: (262) 653-6684**

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TO CITY of Kenosha:

Office of the Mayor for the City of Kenosha

625 - 52nd Street

Kenosha, Wisconsin 53140

Phone: (262) 653-4000

Fax: (262) 653-4010

City Administrator for the City of Kenosha

625 - 52nd Street

Kenosha, Wisconsin 53140

Phone: (262) 653-4000

Fax: (262) 653-4010

City Clerk for the City of Kenosha

625 - 52nd Street

Kenosha, Wisconsin 53140

Phone (262) 653-4020

Fax: (262) 653-4023

City Finance Director for the City of Kenosha

625 - 52nd Street

Kenosha, Wisconsin 53140

Phone: (262) 653-4180

Fax: (262) 653-4190

In addition, all notices pertaining to matters involving claims, dispute resolution, litigation or legal process, shall be copied to:

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**The Office of the City Attorney
625 - 52nd Street
Kenosha, Wisconsin 53140
Phone: (262) 653-4170
Fax: (262) 653-4176**

TO KENOSHA JOINT SERVICES BOARD:

**Chairperson of the Kenosha Joint Services Board
Director of Kenosha Joint Services
1000 - 55th Street
Kenosha, Wisconsin 53140
Phone: (262) 605-5010
Fax: (262) 605-5075**

Notices from one Party to another shall be copied to the KENOSHA JOINT SERVICES BOARD and shall be given in writing, sent by either personal delivery, certified mail, return receipt requested, or overnight mail, e-mail or faxed.

If sent via personal delivery, the notice shall be effective on the date of delivery. If sent by certified mail, the notice shall be deemed effective five (5) days after such mailing, not counting the day such notice was sent. If sent by overnight mail, the notice shall be effective on the date of delivery. If sent by e-mail or fax, notice shall be effective at noon on the first day of business after the e-mail or fax was sent.

5.01-26 REQUIREMENT OF MUTUAL CONSENT

Unless specific authorization is given to both the Kenosha County Executive and to the Mayor of the City of Kenosha by provisions

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herein, when mutual consent or agreement is required in this Agreement, such consent or agreement requires affirmative action of both the Kenosha County Board and the City of Kenosha Common Council subject to executive vetoes.

5.01-27 DUPLICATE ORIGINALS

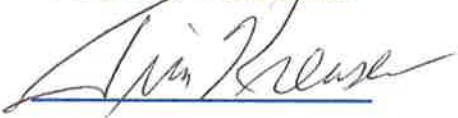
This Agreement may be executed in duplicate with each executed document to considered as an original.

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IN WITNESS WHEREOF, THE PARTIES HERETO ACCEPT THE TERMS OF THIS AGREEMENT
AND EXECUTE THIS AGREEMENT ON March 23 20 10 AT KENOSHA,
WISCONSIN.

Kenosha COUNTY, Wisconsin

By:



JIM KREUSER

KENOSHA COUNTY EXECUTIVE

STATE OF WISCONSIN}

}ss

COUNTY OF KENOSHA}

The undersigned, a notary public in and for said COUNTY, in the State aforesaid,
DO HEREBY CERTIFY that Jim Kreuser, personally known to me to be the same
person and COUNTY Executive whose name is subscribed to the foregoing
instrument, appeared before me this day in person as the Kenosha COUNTY
Executive and acknowledged that he signed and delivered said instrument
pursuant to authority duly given, as his free and voluntary act and as the free and
voluntary act and deed of said Kenosha COUNTY, for the uses and purposes
therein set forth.

GIVEN under my hand and official seal this 23rd day of MARCH,
20 10.



(SEAL)

Notary Public. My Commission expires 2/17/2013 [is permanent].

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CITY OF KENOSHA

BY: 

KEITH BOSMAN

MAYOR OF THE CITY OF KENOSHA

BY: 

MICHAEL HIGGINS

CITY CLERK OF THE CITY OF KENOSHA

STATE OF WISCONSIN}

}SS

COUNTY OF KENOSHA}

The undersigned, a notary public in and for said COUNTY, in the State aforesaid, DO HEREBY CERTIFY that KEITH BOSMAN AND MICHAEL HIGGINS, personally known to me to be the Mayor and CITY Clerk of the CITY of Kenosha respectively, a Wisconsin Municipal corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such Mayor and CITY Clerk of the CITY of Kenosha, signed and delivered said instrument pursuant to authority duly given, as their free and voluntary act and as the free and voluntary act and deed of said CITY, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 12th day of March, 2010.



(SEAL)

Notary Public: My Commission expires (is permanent)

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EXHIBIT NO.

- | | |
|----|--|
| 1 | Authorizing Resolution/Action |
| 2 | Authorized Agents |
| 3 | Example and MAXIMUS COST ALLOCATION Formula [The Parties agree that the numbers used in Exhibit 3, including those set forth in correspondence therein dated April 6, 2009 are for purposes of illustration and example] |
| 4a | COUNTY - CITY Lease Re: PSB |
| 4b | COUNTY - KJSB Lease Re: PSB |
| 5 | PROJECT costs [best estimate available at time of execution of this Agreement]. |
| 6 | SAFETY BUILDING ADDITION AND REMODELING PROJECT REPORT dated February 17, 2009 |
| 7 | Maximus RFP and reports |

This instrument was drafted by Frank Volpintesta, Corporation Counsel for Kenosha COUNTY, Wisconsin and Ed Antaramian, CITY Attorney for the CITY of Kenosha.

COUNTY negotiating members: Frank Volpintesta, David Geertsen, Al Swartz, Jennie Tunkieicz, Ray Arbet with consultation from James Olson, Bernard Vash and Dave Wagner of Ehlers and Associates.

CITY negotiating members: Ed Antaramian, Frank Pacetti, Carol Stancato with consultation from the CITY'S financial consultant, Piper Jaffray.

This Agreement and attached exhibits are posted at
<http://www.co.kenosha.wi.us/corpc/presentations.html>.

May 5, 2009

March 9, 2010 (1:41pm)

H:\8 Contract

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1