

**Kenosha County
Administrative Proposal Form**

1. Proposal Overview

Division: Highway

Department: Public Works and Development
Services

Proposal Summary (attach explanation and required documents):

Resolution to Approve an Inter-Governmental Agreement, Acquire Right of Way, Accept TEA Grant Funding and Approve Budget Modifications Related to the Infrastructure Improvements on Highway H Near the Kroger Distribution Facility

Dept./Division Head Signature:

Clement Aboguna

Date:

9/28/20

2. Department Head Review

Comments:

Recommendation: Approval ☒ Non-Approval ☐

Department Head Signature:

RAC

Date:

9-22-20

3. Finance Division Review

Comments:

Recommendation: Approval ☒ Non-Approval ☐

Finance Signature:

Jim K... J.W. T...

Date:

9/22/20

4. County Executive Review

Comments:

Action: Approval ☒ Non-Approval ☐

Executive Signature:

[Signature]

Date:

9/30/20

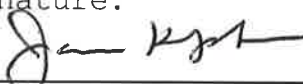
Kenosha



County

BOARD OF SUPERVISORS

RESOLUTION NO. _____

Subject: A Resolution Approving an Intergovernmental Agreement (IGA) with the Village of Pleasant Prairie, the Acquisition of Right of Way and the Funding and Construction of Transportation Improvements to Provide Access to the Kroger Fulfillment Center on Kenosha County Trunk Highway H	
Original <input checked="" type="checkbox"/> Corrected <input type="checkbox"/> 2 nd Correction <input type="checkbox"/> Resubmitted <input type="checkbox"/>	
Date Submitted: 10/5/20	Date Resubmitted: 10/19/20
Submitted by: Public Works - Highway Division	
Fiscal Note Attached Yes	Legal Note Attached <input type="checkbox"/>
Prepared by: James Kupfer	Signature: 

WHEREAS, the Kroger Fulfillment Network is opening a grocery warehouse fulfillment center at 9091 88th Avenue (Kenosha County Trunk Highway (CTH) H) in the Village of Pleasant Prairie which will create new jobs and aid in the successful development of a significant local economic opportunity, and

WHEREAS, Kenosha County and the Village of Pleasant Prairie have developed an IGA which must be approved by the Kenosha County Board prior to the acquisition of certain parcels of land for right-of-way (ROW) or any work being done by Kenosha County staff relative to this project as shown in Exhibit A, and

WHEREAS, the IGA specifies that Kenosha County will be responsible for acquiring all land as well as coordinating, administering and managing the construction of the project, and

WHEREAS, the total cost of this project is estimated to be \$1,902,630 as shown in detail on the attached spreadsheet (Exhibit B), and

A Resolution Approving an Intergovernmental Agreement (IGA) with the Village of Pleasant Prairie, the Acquisition of Right of Way and the Funding and Construction of Transportation Improvements to Provide Access to the Kroger Fulfillment Center on Kenosha County Trunk Highway H

October 5, 2020

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WHEREAS, the land acquisition process includes Kenosha County acquiring certain parcels of land for right-of-way (ROW) as shown in the attached Plat Plan (Exhibit C), and

WHEREAS, all Plat Plans and the resultant acquisition of ROW require the approval of the Kenosha County Board of Supervisors, and

WHEREAS, the Wisconsin Department of Transportation has approved funding of \$951,315 for this project through a Transportation Economic Assistance (TEA) Grant which provides financial assistance to municipalities to develop transportation facilities enabling industrial development to occur as shown in Exhibit D, and

WHEREAS, the requirements of this grant program call for matching funds from other sources, in this case Kenosha County (\$760,315) and direct payments to either project contractors or to Kenosha County by the Kroger Fulfillment Network (totaling \$191,000), and

WHEREAS, the Kenosha County amount of \$760,315 will come from the repurposing of existing Highway capital funds from projects that have been completed or will be completed under budget and no additional bonding is needed to complete this project,

NOW, THEREFORE BE IT RESOLVED THAT, the Kenosha County Board of Supervisors approves the IGA between the County and the Village of Pleasant Prairie as specified in Exhibit A, and

THEREFORE BE IT FURTHER RESOLVED THAT, the Kenosha County Board of Supervisors approves the attached Plat Plan and acquisition of the ROW as specified in Exhibit C, and

THEREFORE BE IT FURTHER RESOLVED THAT, the Kenosha County Board of Supervisors approves the receipt of funds from the TEA Grant as specified in Exhibit D, and

THEREFORE BE IT FURTHER RESOLVED THAT, the Kenosha County Board of Supervisors authorizes the Highway Division to prepare and execute any documents related to the project and to receive and expend funds to complete the project as per the budget modification which is attached and incorporated by reference.

A Resolution Approving an Intergovernmental Agreement (IGA) with the Village of Pleasant Prairie, the Acquisition of Right of Way and the Funding and Construction of Transportation Improvements to Provide Access to the Kroger Fulfillment Center on Kenosha County Trunk Highway H

October 5, 2020

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Respectfully Submitted:

Public Works Committee:

Aye Nay Abstain Excused

Bill Grady, Chairperson

John Franco, Vice Chairperson

Laura Belsky

Andy Berg

Gabe Nudo

Sharon Pomaville

Zach Rodriguez

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A Resolution Approving an Intergovernmental Agreement (IGA) with the Village of Pleasant Prairie, the Acquisition of Right of Way and the Funding and Construction of Transportation Improvements to Provide Access to the Kroger Fulfillment Center on Kenosha County Trunk Highway H

October 5, 2020

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FINANCE/ADMINISTRATION COMMITTEE

	Aye	Nay	Abstain	Excused
<hr/> Supervisor Terry W. Rose, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<hr/> Supervisor Jeffrey Gentz, Vice-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<hr/> Supervisor Ron Frederick	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<hr/> Supervisor Ed Kubicki	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<hr/> Supervisor John Franco	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<hr/> Supervisor Monica Yuhas	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<hr/> Supervisor Jeff Wamboldt	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

KENOSHA COUNTY EXPENSE/REVENUE BUDGET MODIFICATION FORM

DEPT/DIVISION: DPW - Highway

DOCUMENT #

G/L DATE

BATCH #

ENTRY DATE

PURPOSE OF BUDGET MODIFICATION (REQUIRED):

Highway Infrastructure Improvements on County Trunk Highway H Near the Kroger Distribution Center

(1) ACCOUNT DESCRIPTION EXPENSES	(2)		BUDGET CHANGE REQUESTED		(5) ADOPTED BUDGET	(6) CURRENT BUDGET	(7) ACTUAL EXPENSES	AFTER TRANSFER	
	Fund/ Div Sub-Div	Main	sub- sidiary	(3) EXPENSE INCREASE (+)	(4) EXPENSE DECREASE (-)			(8) REVISED BUDGET	(9) EXPENSE BAL AVAIL
Highway Construction Projects - Expense	711	582260		1,902,630		22,166,977	29,631,760	31,534,390	22,304,366
	700								
	7090								
	EXPENSE TOTALS			1,902,630	0	0	0	0	0

REVENUES	(2)		sub- sidiary	REVENUE DECREASE (+)	REVENUE INCREASE (-)	ADOPTED BUDGET	CURRENT BUDGET	REVISED BUDGET
	Fund/ Div Sub-Div	Main						
Highway Construction Projects Revenue	711				1,142,315	6,310,553	13,775,336	14,917,651
	700							
	7090							
Repurpose Funds from Highway Construction Projects - Hwy K Park & Ride, Hwy H Signal, Park Paving, Trails Projects	711	582260				22,166,977	29,631,760	30,774,075
	700							
	7090				760,315			
REVENUE TOTALS				0	1,902,630	0	0	0

29,631,760
1,902,630
(760,315)

COLUMN TOTALS (EXP TOTAL + REV TOTAL)

1,902,630 1,902,630

Please fill in all columns:

SEE BACK OF FORM FOR REQUIRED LEVELS OF APPROVAL FOR BUDGET MODIFICATION.

PREPARED BY: James Kupfer FINANCE DIRECTOR: James Kupfer DATE: 9/29/20

DIVISION HEAD: Clement Springer DATE: 9/28/20

DEPARTMENT HEAD: R. K. S. COUNTY EXECUTIVE: DATE: 9/29/20

EXHIBIT A

MEMORANDUM OF UNDERSTANDING
AND INTERGOVERNMENTAL COOPERATION AGREEMENT
BETWEEN ~~THE VILLAGE OF PLEASANT PRAIRIE,~~
~~KROGER FULFILLMENT NETWORK, (A SUBSIDIARY~~
(AN AFFILIATE OF RALPH'S GROCERY COMPANY),
KENOSHA COUNTY AND VILLAGE OF PLEASANT PRAIRIE
REGARDING THE
TRANSPORTATION ECONOMIC ASSISTANCE
GRANT REPORTING REQUIREMENTS AND
JOB GUARANTEE FINANCIAL OBLIGATIONS

DRAFT
For internal
discussion
purposes only

This is a Memorandum of Understanding and Intergovernmental Cooperation Agreement (the "Agreement") entered into pursuant to Wisconsin Statutes section 66.0301 and other applicable laws by and between the Company--Kroger Fulfillment Network, LLC, ~~a subsidiary~~ an affiliate of Ralph's Grocery Company, with ~~parent company~~ offices located at 1014 Vine Street, Cincinnati, Ohio 45202 Attn.: Rita L. Williams, Director, Economic Development (hereinafter referred to as the "**Company**"), Kenosha County, a Wisconsin municipal corporation, with offices located at 1010 56th Street, Kenosha, WI 53140, Attn. James Kreuser, Kenosha County Executive (hereinafter referred to as "**Kenosha County**"), and the Village of Pleasant Prairie, a Wisconsin municipal corporation with offices located at 9915 39th Avenue, Pleasant Prairie, Wisconsin 53158, Attn.: Nathan Thiel, Village Administrator (hereinafter referred to as the "**Village**").

WHEREAS, the Village Board of Trustees adopted Village Board Resolution **#20-14** authorizing the submission of a Wisconsin Department of Transportation ("WI DOT") Transportation Economic Assistance ("TEA") Grant to seek financial assistance for County Trunk Highway (CTH) H public roadway redesign and reconstruction and driveway construction project for the Kroger Fulfillment Network, a new economic development project in the Village (the "Project");

WHEREAS, the Kenosha County Board adopted Kenosha County Board Resolution **#4** authorizing the submission of a Wisconsin Department of Transportation ("WI DOT") Transportation Economic Assistance ("TEA") Grant to seek financial assistance for the CTH H public roadway redesign and reconstruction and driveway construction project for the Kroger Fulfillment Network, a new economic development project in the Village;

WHEREAS, Kenosha County, at the request of and with the assistance of the Village, agreed to serve as the WI DOT applicant for the TEA grant on behalf of the Company and the Village, in order to financially enable the construction of transportation related improvements needed for the Kroger Fulfillment Network grocery center to be located at 9091 88th Avenue on the property legally described as Lot 2 of Certified Survey Map #2822, located in a part of the Northwest One Quarter and the Southwest One Quarter of U.S. Public Land Survey Section 16, Township 1 North, Range 22 East of the Fourth Principal Meridian, lying and being in the Village

~~1~~ of Pleasant Prairie, Kenosha County Wisconsin also known as tax parcel number 924-122-163-0312 (the "Company Property"); and

WHEREAS, as a part of the WI DOT TEA Grant application, Kenosha County has further agreed to execute a TEA Grant Guarantee, which requires a repayment provision to reimburse WI DOT for up to the full TEA Grant amount, if employment within the Kroger Fulfillment Network economic development project fails to meet the stated goal of 230 new jobs created by the three-year reporting date and 230 jobs maintained by the seven-year reporting date (the "Jobs Requirement") for Kroger Fulfillment Network to be located at the Company Property at 9091 88th Avenue (CTH H); and

WHEREAS, at three (3) years and at seven (7) years after the State-Municipal Agreement (referred to as the "SMA") is executed, Kenosha County is obligated to report to the WI DOT the total number of full time employed jobs that were created and/or retained by Kroger Fulfillment Network for WI DOT TEA Grants of \$100,000 or more, as in this case, the Company's reporting will be accompanied by an attestation report created and signed by an independent Certified Public Accountant licensed or certified under CH. 442, Wis. Stats, expressing an opinion by signature, to the accuracy of the job numbers (the "Reporting Requirement"); and

WHEREAS, the ~~job-reporting-requirement~~Reporting Requirement shall be satisfied by the ~~Kroger Fulfillment Network Company~~, who will in turn pass on the information to both Kenosha County and the Village, and Kenosha County will in turn provide the information to the WI DOT. The WI DOT will then evaluate the job benefits that have been obtained in order to determine if reimbursement of either the full grant amount (**\$951,315.00**) or a reduced amount, based on a prorated share related to the ~~number of jobs that have materialized~~Jobs Requirement as a result of the economic development project, as appropriate, or other remedy under s. Trans 510.08(3), Wis. Adm. Code (the "Repayment Amount"); and

WHEREAS, the total Project cost is estimated at \$1,902,630.00 and the full TEA Grant amount requested based upon the ~~230 jobs created and maintained~~Jobs Requirement for the Kroger Fulfillment Network, of which partial or total reimbursement may be required, is **\$951,315.00**.

NOW, THEREFORE, in consideration of the mutual benefits accruing to all parties by the Project and the WI DOT TEA Grant, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company, Kenosha County and Village agree as follows:

1. Incorporation of Recitals and TEA Grant Exhibits.

The foregoing recitals are agreed upon by the parties, and are incorporated herein by reference. The Kroger Fulfillment Network TEA Grant Application for the Project is attached hereto and incorporated herein by reference as Exhibit A. The

TEA Grant Jobs Guarantee for the Project is attached hereto and incorporated herein by reference as Exhibit B. A summary of the Company paid work is attached hereto and incorporated herein by reference as Exhibit C.

~~-2-~~

2. Reimbursement of any WI DOT repayment costs.

~~The~~In the event the Company fails to meet either the Reporting Requirement or the Job Requirement, and WI DOT requires any payment from Kenosha County or the Village of some or all of the Repayment Amount, the Company agrees, within thirty (30) days following written request by the Village, to reimburse Kenosha County and the Village for any ~~costs associated with the reimbursement of the Repayment Amount reimbursed to WI DOT under the~~ TEA repayment provision, or TEA Job Guarantee (as directed by Kenosha County or the Village), without any Kenosha County or Village compensation to the Company. The Company reimbursement of any repayment costs shall be a donation to Kenosha County and to the Village. The Company agrees to be responsible for all costs and expenses incurred by Kenosha County and the Village in connection with the TEA Grant repayment provision. Any amounts to be reimbursed to Kenosha County and to the Village by the Company shall be paid, as applicable, the earlier of thirty (30) days following written request by the Village or Kenosha County for such reimbursement.

The Company agrees to perform all reporting requirements required by Kenosha County or the Village in relation to the WI DOT TEA Grant. These reporting requirements will obligate the Company to submit all documentation to Kenosha County and the Village, and Kenosha County shall in turn submit the documentation to the WI DOT. Included in the documentation submittal requirements are the reports at both three (3) years and at seven (7) years after the State and Municipal Agreement (SMA) is executed with the WI DOT, for the 230 full time employed jobs, defined to be consistent with Ch. Trans. 510, Wis. Adm. Code, that were created and retained, which is accompanied by an attestation report created and signed by an independent Certified Public Accountant licensed or certified under Ch. 442, Wis. Stats, expressing an opinion by signature, to the accuracy of the job numbers. In the event that the Company fails to meet the Jobs Requirement, Kenosha County and the Village shall provide the Company with the opportunity to submit information and arguments in opposition to any proposed forfeiture and the Company may request an informal meeting with the WI DOT.

3. Project Work.

The Project is an improvement to County Trunk Highway (CTH) H, and therefore Kenosha County has sole authority for all work of the Project, including design, construction, inspection, means, methods, and associated public bidding, contracting and administration; provided that the Project shall be conducted as described in the WI DOT TEA Grant application, and within the time limitations required by such Grant, and pursuant to applicable laws. Kenosha County is solely

responsible for all costs and expenses of the Project except as described otherwise in this Agreement. Neither Company nor Village are empowered by this Agreement to oversee, inspect or otherwise raise claims concerning Kenosha County's performance of the work of the Project.

4. Company Financial Contribution.

Prior to or at the time of the execution of this Agreement by the Village ~~or~~ and Kenosha County, the Company shall contribute \$191,000.00 in value to the cost of Project (the "Contribution"). Such Contribution shall allocated as follows: \$ _____ credited to the Company for the design, engineering and other work paid for by the Company, as further set forth in Exhibit C, and \$ _____ to be paid to Kenosha County.

~~-3-~~

5. Financial Guarantee.

Prior to or upon the execution of this Agreement, the Company shall file with the Village the cash or a letter of credit setting forth terms and conditions in a form approved by the Village Attorney and the Kenosha County Corporation Counsel, in the amount of \$951,315 (the "Deposit") as a guarantee that the Company will perform all terms of the reimbursement required by Section 2 of this Agreement.

If at any time:

- A. The Company is in default of Section 2 of this Agreement, or
- B. The letter of credit or cash deposit on file with the Village is dated to expire sixty (60) days prior to the expiration of the same if the same has not been extended, renewed or replaced, or
- C. The Company fails to maintain a cash deposit or letter of credit in an amount approved by Village and Kenosha County, and in a form approved by the Village Attorney and Kenosha County Corporation Counsel, to pay the obligations of Section 2 of this Agreement,

the Company shall be deemed in violation of this agreement and the Village Board or Kenosha County, acting jointly or severally, shall have the authority to draw upon the letter of credit or cash deposit to pay the Repayment Amount. Following WI DOT determining the Repayment Amount, Kenosha County and the Village shall use the Deposit to pay the amount demanded by WI DOT, and shall return any remaining funds to the Company.

The lending institution providing the irrevocable letter of credit or financial institution holding the cash deposit shall pay to the Village or Kenosha County all sums available for payment under the irrevocable letter of credit or cash deposit

upon demand, subject to the terms and conditions of the irrevocable letter of credit or cash deposit, and upon its failure to do so, in whole or in part, the Village shall be empowered in addition to its other remedies, without notice or hearing, to impose a special charge pursuant to Section 66.0627, Wisconsin Statutes, for the amount of said guarantee upon the Company Property payable with the next succeeding tax roll.

6. Company's Representation to Kenosha County.

The Company represents and warrants to Kenosha County that the Company has all legal rights and authority to enter into this Agreement and the person signing this Agreement on behalf of the Company has all legal rights, title and authority to bind the Company in all respects to each and every provision of this Agreement.

7. Company's Representation to the Village.

The Company represents and warrants to the Village that the Company has all legal rights and authority to enter into this Agreement and the person signing this Agreement on behalf of the Company has all legal rights, title and authority to bind the Company Owner in all respects to each and every provision of this Agreement.

~~4~~

8. Notice of Breach and Curative Activity.

(a) In the event that one of the parties (Company, Kenosha County or Village) to this Memorandum of Understanding (the "Performing Party") believes that the other party has failed to perform its obligations under this Agreement (the "Nonperforming Party"), the Performing Party shall promptly notify the Nonperforming Party in writing (the "Default Notice") of the specific nature of the alleged failure.

(b) The Nonperforming Party shall have thirty (30) days after receipt of a Default Notice to cure the alleged failure to perform; provided, however, that if the failure is incapable of cure within said thirty (30) days, and as soon as reasonably practicable within said thirty (30) day period the Nonperforming Party has commenced such cure and is diligently pursuing such cure, the time for such cure shall be extended for a reasonable period of time under the circumstances to allow the Nonperforming Party to complete its curative activity.

(c) In the event such failure is not cured as provided in Paragraph 8.b. above, the parties may take any and all action allowed by law or this Agreement against the Nonperforming Party, provided, however, that Kenosha County and/or the Village may not seek specific performance or otherwise seek to require the Company to create or maintain operations or employment levels. In the event the Company, as a

Nonperforming Party has breached any term or provision of this Agreement, Kenosha County and/or the Village shall be entitled to collect from the Nonperforming Party their actual attorneys' fees, court costs and other expenses incurred in enforcing their rights against the Nonperforming Party under this Agreement.

9. Notices.

Except as otherwise specifically provided in this Memorandum of Understanding Agreement, all notices given in connection with this Agreement shall be in writing, shall specifically refer to this Agreement by title and date, shall be addressed to the receiving party, and shall be delivered by personal delivery, by overnight courier with evidence of receipt, or by certified or registered mail, with postage prepaid and return receipt requested.

Any notice addressed to the Village shall be addressed to:

Village of Pleasant Prairie
Attn: Nathan Thiel
Title: Village Administrator
9915 39th Avenue
Pleasant Prairie, WI 53158

Any notice addressed to the Company shall be addressed to:

Kroger Fulfillment Network
Attn: Rita L. Williams
Title: Director, Economic Development
1014 Vine Street
Cincinnati, Ohio 45202

Any notice addressed to Kenosha County be addressed to:

Kenosha County
Attn: James Kreuser
Kenosha County Executive
1010 56th Street
Kenosha, WI 53140

Any notice given in accordance with this paragraph shall be effective upon delivery, if personally delivered or if delivered by overnight courier, or three (3) days after depositing the same in the United States mail.

10. Public Records and Proprietary or Confidential Information.

The attached Public Records Responsibilities Contract Terms attached hereto as Exhibit C are incorporated herein by reference.

11. Miscellaneous.

The laws of the State of Wisconsin shall govern all issues relating to this Agreement. Exclusive jurisdiction and venue for any actions arising out of, or relating to, this Agreement shall be in Kenosha County, Wisconsin. This Agreement is not intended to benefit or to be enforceable by any person other than the Company, Kenosha County, and the Village and their respective successors and assigns. This Agreement may be amended only in a writing signed by all parties. No rule of strict construction shall apply to any party to this Agreement. In the event that any part of this Agreement is determined to be invalid by a court of competent jurisdiction, such part shall be severed from the Agreement and the balance of this Agreement shall survive. This Agreement may be recorded by any party.

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12. Amendment, Termination, Expiration and Withdrawal.

The parties recognize that each relies upon the others in the performance of the obligations of this Agreement, and the financial risks and benefits for each party arise at separate times. As a result, the parties agree that no party may withdraw from the Agreement, absent the unanimous written agreement of all parties. Further, this Agreement cannot be amended or terminated absent the unanimous written agreement of all parties. Absent unanimous written agreement otherwise, this Agreement shall expire only upon full satisfaction of all obligations described in the Agreement.

IN WITNESS THEREOF, the Company, Kenosha County and the Village have caused this Memorandum of Understanding and Intergovernmental Cooperation ~~Agreement~~ Agreement to be signed and dated as of this ____ day of _____, 2020.

[Signature Page of Company]

Kroger Fulfillment Network, LLC

a Subsidiary of Ralph's Grocery Company

By: _____

Name: Rita L. Williams

Title: Director, Economic Development

STATE OF _____)

) SS:

COUNTY OF _____)

Personally came before me this ____ day of _____, 2020, in _____, _____, Rita L. Williams, to me known to be the Director, Economic Development of Kroger Fulfillment Network LLC and acknowledged to me to be the same.

Printed name: _____

Notary Public: _____ Co, State of _____

My Commission expires: _____

[Signature Page of Kenosha County]

KENOSHA COUNTY
A Wisconsin MUNICIPAL CORPORATION

By: _____

Name: James Kreuser

Title: Kenosha County Executive

STATE OF _____)

) SS:

COUNTY OF _____)

Personally came before me this ____ day of _____, 2020, in _____, WI, James Kreuser, known as the Kenosha County Executive and acknowledged to me to be the same.

Printed name: _____

Notary Public: _____ Co, State of

My Commission expires: _____

[Signature Page of Village of Pleasant Prairie]

**VILLAGE OF PLEASANT PRAIRIE
A Wisconsin MUNICIPAL CORPORATION**

By:
John P. Steinbrink, Village President

ATTEST:

By: Jane C. Snell, Village Clerk

STATE OF WISCONSIN)
) SS:
COUNTY OF KENOSHA)

Personally came before me this ____ day of _____, 2020, in Pleasant Prairie, WI, John P. Steinbrink, Village President, and Jane C. Snell, Village Clerk, of the Village of Pleasant Prairie, to me known to be such Village President and Clerk of the Village of Pleasant Prairie and acknowledged to me to be the same.

Printed name: _____

Notary Public: Kenosha Co., State of Wisconsin

My Commission expires: _____

Drafted by:
Jean Werbie-Harris, Community Development Director
Village of Pleasant Prairie
9915 39th Avenue
Pleasant Prairie, WI 53158

Eric J. Larson, Village Attorney
Municipal Law & Litigation Group, S.C.
730 N. Grand Avenue
Waukesha, WI 53186

Exhibit B
IGA - Pleasant Prairie / MOU - Kroger
Distribution Center Infrastructure Improvements

* Cost Split

* Kenosha County Highway Budget	\$760,315
* TEA Grant - State of Wisconsin	\$951,315
* Kroger Payments to Contractors or Kenosha County	\$191,000
* Total Project Cost	<hr/> \$1,902,630

* Kenosha County will oversee and administer the development of the transportation improvement.

* The IGA / MOU includes a Jobs Guarantee with WisDOT.

* Kenosha County will have jurisdictional responsibility for the transportation improvement.

* All parties will comply with applicable Federal, State and local regulations.

* Project Components

- * Design
- * Real estate
- * Utility improvements
- * Construction engineering
- * Construction of turn lanes
- * Construction of acceleration / deceleration lanes
- * Construction of driveway accesses
- * Contingency

RELOCATION ORDER

lpa1708 08/2011 (Replaces LPA3006)

EXHIBIT C

Project 3724-04-70	Road name CTH H (88 th Ave) Improvements, Village of Pleasant Prairie	Highway County Road	County Kenosha
Right of way plat date	Plat sheet number(s) 4.01 – 4.08	Previously approved Relocation Order date N/A	

Description of termini of project:

BEGIN RELOCATION ORDER:

From 15.69 feet West of and 323.16 feet North of the Southwest Quarter Corner of Section 16, Town 1 North, Range 22 East.

END RELOCATION ORDER:

From 107.00 feet East of and 2208.84 feet South of the Northwest Quarter Corner of Section 16, Town 1 North, Range 22 East

To properly establish, lay out, widen, enlarge, extend, construct, reconstruct, improve, or maintain a portion of the highway designated above, it is necessary to relocate or change and acquire certain lands or interests in lands as shown on the right of way plat for the above project.

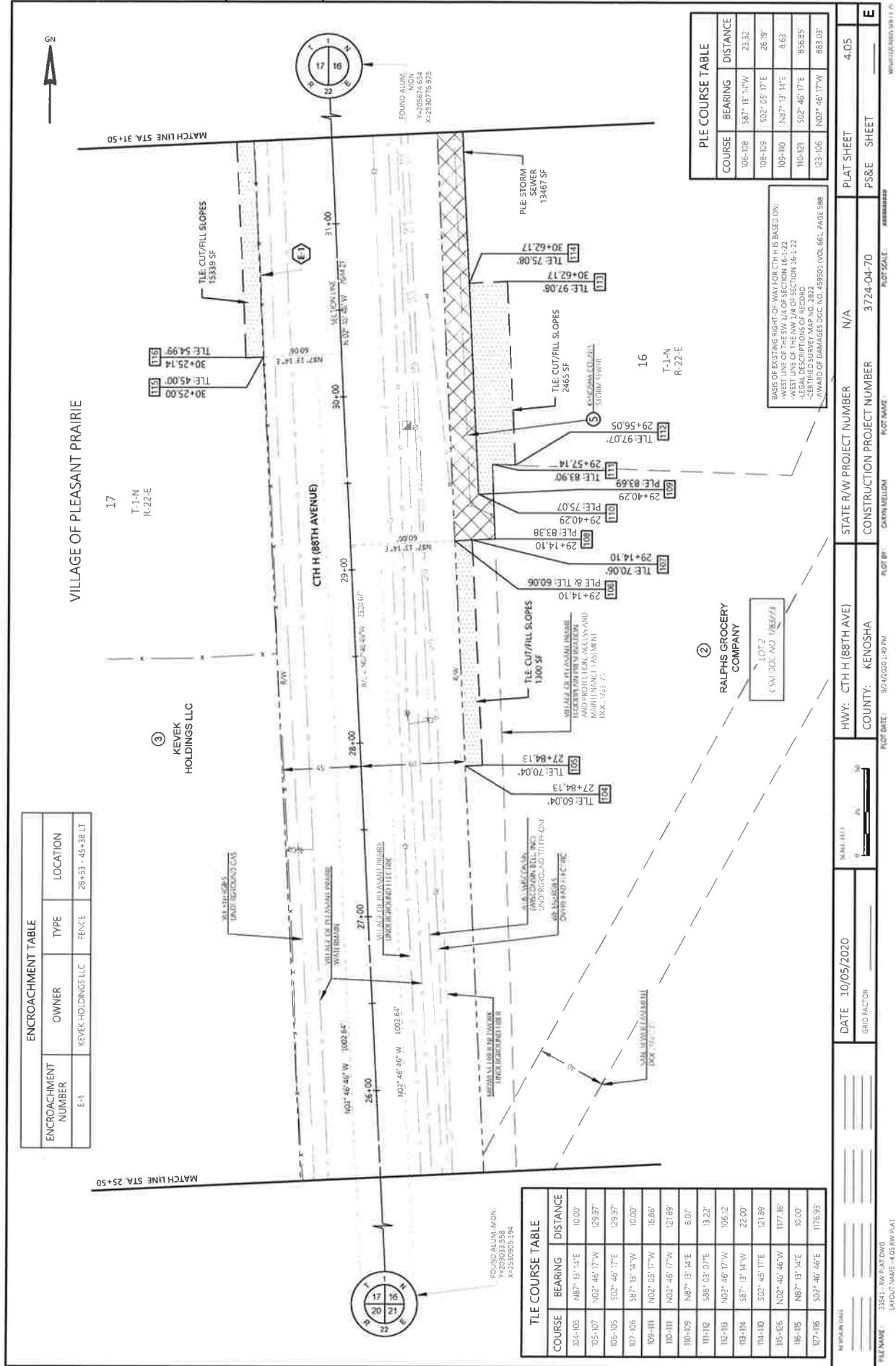
To effect this change, pursuant to authority granted under Section 61.34 (3 & 3m), Wisconsin Statutes, the Village of Pleasant Prairie orders that:

1. The said road is laid out and established to the lines and widths as shown on the plat.
2. The required lands or interests in lands as shown on the plat shall be acquired by: Village of Pleasant Prairie
3. This order supersedes and amends any previous order issued by the: Village of Pleasant Prairie

Name and Title

Date

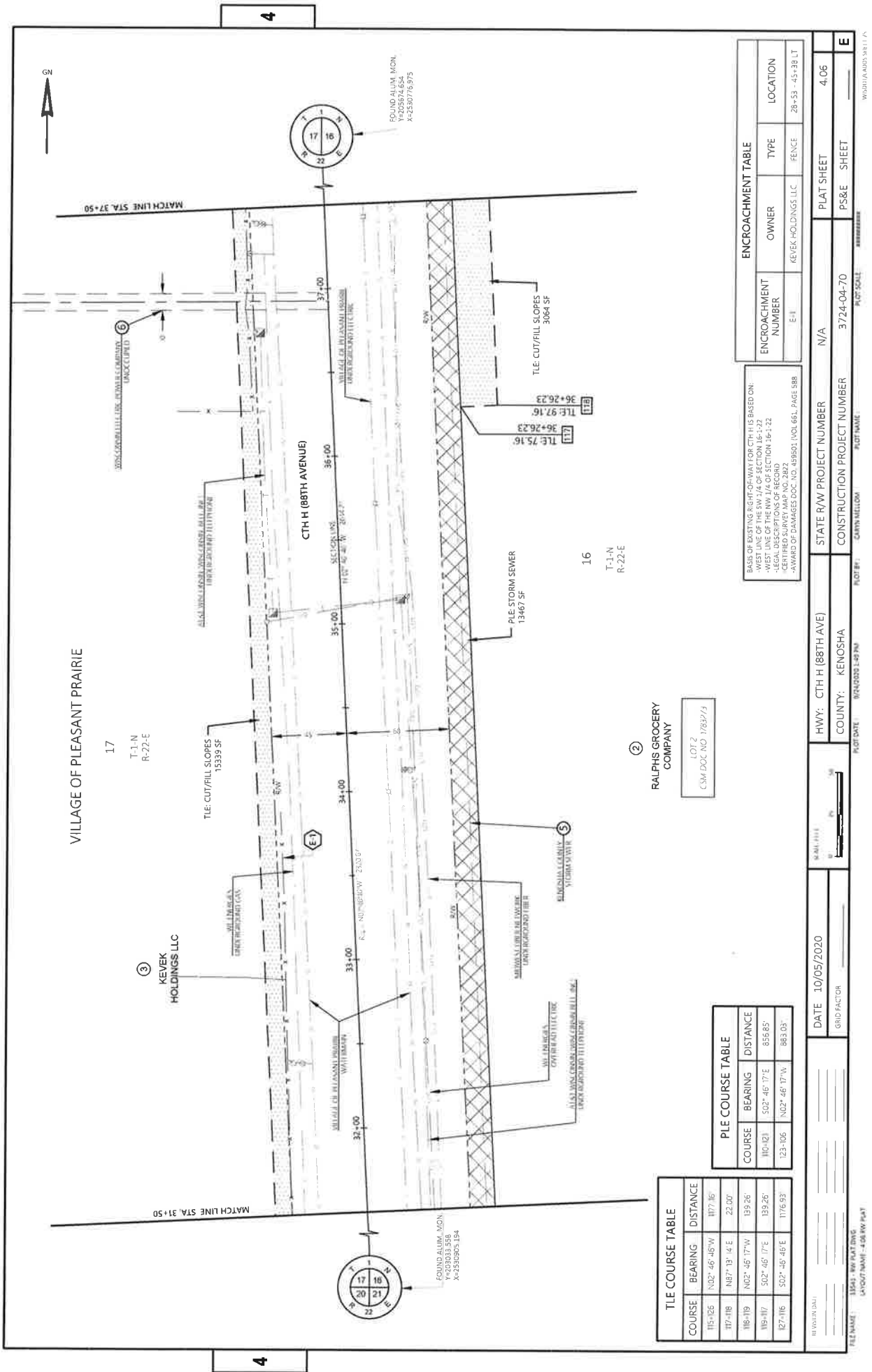
ENCROACHMENT TABLE			
ENCROACHMENT NUMBER	OWNER	TYPE	LOCATION
E-1	KEVEK HOLDINGS LLC	FENCE	28+53 - 45+38 LT

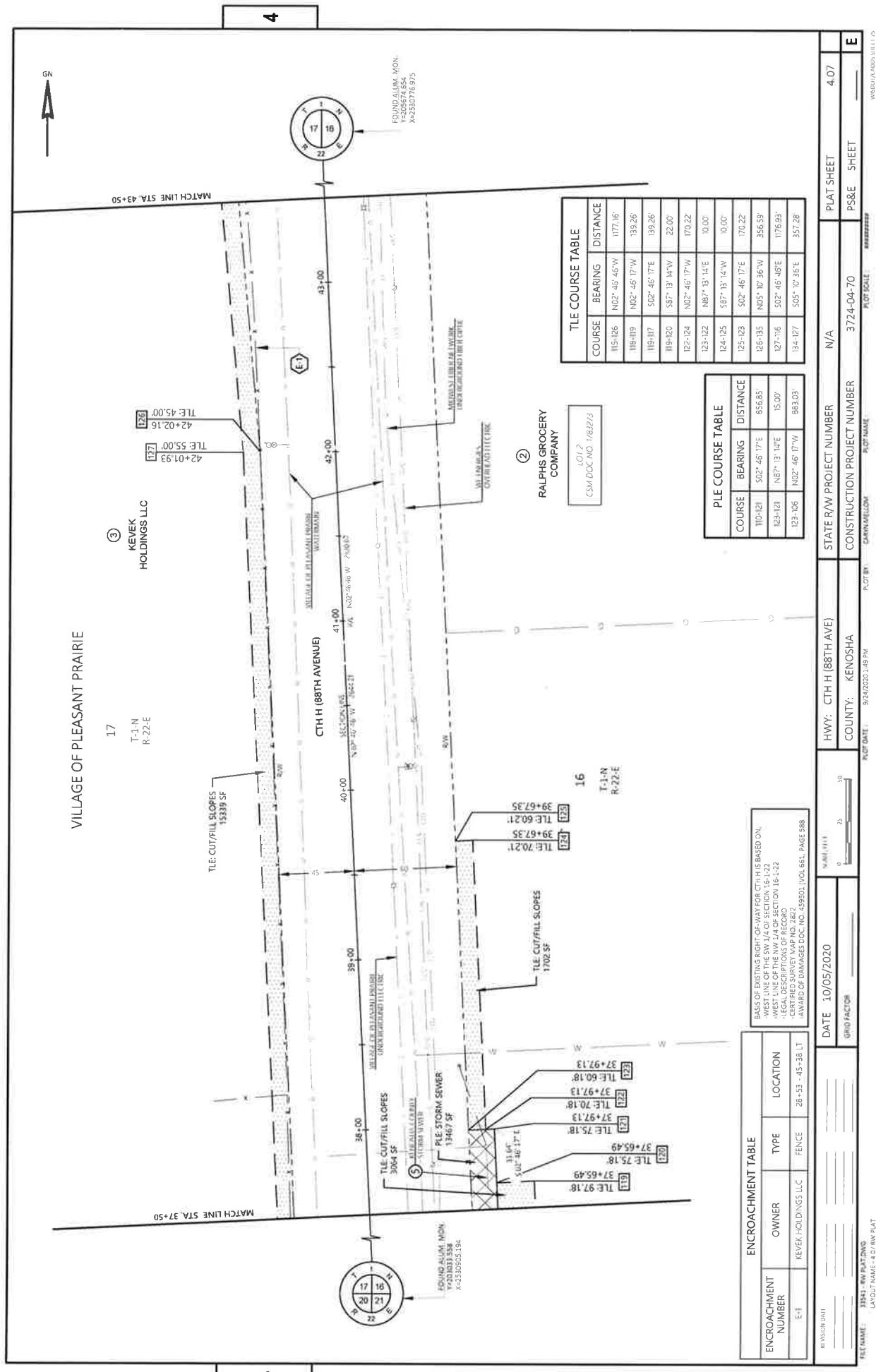


TLE COURSE TABLE	
COURSE	BEARING
104-105	N87° 13' 14"E
105-107	N02° 46' 17"W
106-105	S02° 46' 17"E
107-106	S87° 13' 14"W
109-111	N02° 05' 17"W
110-111	N02° 46' 17"W
111-112	N87° 13' 14"E
112-113	S88° 03' 07"E
113-114	N02° 46' 17"W
114-110	S02° 46' 17"E
115-116	N02° 46' 46"W
116-115	N87° 13' 14"E
117-116	S02° 46' 46"E

PLE COURSE TABLE	
COURSE	BEARING
106-108	S87° 13' 14"W
108-109	S02° 05' 17"E
109-110	N87° 13' 14"E
110-121	S02° 46' 17"E
123-106	N02° 46' 17"W

DATE: 10/05/2020	GRID FACTOR: _____	DATE: 10/05/2020	GRID FACTOR: _____
PROJECT NAME: 33501 - SW 1/4 DWS	PROJECT NAME: 33501 - SW 1/4 DWS	PROJECT NAME: 33501 - SW 1/4 DWS	PROJECT NAME: 33501 - SW 1/4 DWS
PROJECT NUMBER: 3724-04-70	PROJECT NUMBER: 3724-04-70	PROJECT NUMBER: 3724-04-70	PROJECT NUMBER: 3724-04-70
CONSTRUCTION PROJECT NUMBER: _____	CONSTRUCTION PROJECT NUMBER: _____	CONSTRUCTION PROJECT NUMBER: _____	CONSTRUCTION PROJECT NUMBER: _____
STATE R/W PROJECT NUMBER: N/A	STATE R/W PROJECT NUMBER: N/A	STATE R/W PROJECT NUMBER: N/A	STATE R/W PROJECT NUMBER: N/A
HWY: CTH H (88TH AVE)	HWY: CTH H (88TH AVE)	HWY: CTH H (88TH AVE)	HWY: CTH H (88TH AVE)
COUNTY: KENOSHA	COUNTY: KENOSHA	COUNTY: KENOSHA	COUNTY: KENOSHA
PLAT SHEET: 4.05	PLAT SHEET: 4.05	PLAT SHEET: 4.05	PLAT SHEET: 4.05
PS&E SHEET: _____	PS&E SHEET: _____	PS&E SHEET: _____	PS&E SHEET: _____





③
KEVEK
HOLDINGS LLC

②
RALPHS GROCERY
COMPANY

TLE COURSE TABLE

COURSE	BEARING	DISTANCE
115-126	N02°40'46"W	1177.16'
118-119	N02°46'17"W	139.26'
119-117	S02°46'17"E	139.26'
119-120	S87°13'14"W	22.00'
122-124	N02°46'17"W	170.22'
123-122	N87°13'14"E	10.00'
124-125	S87°13'14"W	10.00'
125-123	S02°46'17"E	170.22'
126-135	N05°10'36"W	356.59'
127-116	S02°46'48"E	1176.93'
134-127	S05°10'36"E	357.28'

PLE COURSE TABLE

COURSE	BEARING	DISTANCE
110-121	S02°46'17"E	856.85'
123-121	N87°13'14"E	15.00'
123-126	N02°46'17"W	983.03'

BASE OF EXISTING RIGHT-OF-WAY FOR CTH H IS BASED ON:
 -WEST LINE OF THE SW 1/4 OF SECTION 16-1-22
 -WEST LINE OF THE NW 1/4 OF SECTION 16-1-22
 -LEGISLATION OF RECORD
 -CITY RECORDS
 -AWARD OF DAMAGES DOC. NO. 459901 (VOL. 661, PAGE 588)

ENCROACHMENT TABLE

ENCROACHMENT NUMBER	OWNER	TYPE	LOCATION
E-1	KEVEK HOLDINGS LLC	FENCE	28'-53' - 45'-38' LT

DATE	10/05/2020	HWY: CTH H (88TH AVE)	STATE R/W PROJECT NUMBER	N/A	PLAT SHEET	4.07
DATE	10/05/2020	COUNTY: KENOSHA	CONSTRUCTION PROJECT NUMBER	3724-04-70	PS&E SHEET	E
DATE	10/05/2020	PLOT BY: CARYN MCELLOM	PLOT NAME	3724-04-70	PLOT SCALE	AS SHOWN
DATE	10/05/2020	PLOT DATE: 9/24/2020 1:49 PM	PLOT BY: CARYN MCELLOM	PLOT NAME	PLOT SCALE	AS SHOWN



ENCROACHMENT TABLE			
ENCROACHMENT NUMBER	OWNER	TYPE	LOCATION
E-1	KEVEK HOLDINGS LLC	FENCE	28+53 - 45+38 LT

VILLAGE OF PLEASANT PRAIRIE

17

T-1-N
R-22-E

③
KEVEK
HOLDINGS LLC

END RELOCATION ORDER
STA 50+00.00
Y = 206118.467
X = 2530755.474

4

4

CTH H (88TH AVENUE)



TEA GRANT APPLICATION
 Wisconsin Department of Transportation
 DT1283 4/2014



Under the State of Wisconsin's
 Transportation Facilities
 Economic Assistance and
 Development Program (TEA)

1. APPLICANT(S)

Community Name Kenosha County	
Street Address/PO Box 19600 75 th Street, Suite 122-1	(Area Code) Telephone Number 262-220-0805
City, State, ZIP Code Bristol, WI 53104	(Area Code) FAX Number 262-857-1885
Community Contact Person Clement Abongwa	Title Director of Highways/Highway Commissioner
Email Address of Contact Person Clement.Abongwa@kenoshacounty.org	
Business Name Kroger Fulfillment Network	
Business Street Address/PO Box 1014 Vine Street	(Area Code) Telephone Number 5137621425
City, State, ZIP Code Cincinnati, OH 45202	(Area Code) FAX Number
Business Contact Person Rita L. Williams	Title Director, Economic Development
Email Address of Contact Person incentives.credits@kroger.com	

2. CERTIFICATION

To the best of my knowledge and belief, the information submitted is true and correct and the document has been duly authorized for submittal by the governing agency.

X *Clement Abongwa*

(City/Village/Town Officer Authorized to Sign Application)

Director of Highways/Highway Commissioner

Division of Highways-Public Works Department

(Title)

5/30/20

(Date - m/d/yy)

Please submit your application in quadruplicate in stapled format (not spiral bound, no binders).

PART I: SCREENING INFORMATION

3. ELIGIBILITY CRITERIA (Check only those that apply.):

- ☒ A. The new business development will definitely occur within 3 years if the transportation improvement is completed.
- ☒ B. The new business development is not primarily retail, an eating or drinking establishment, a recreation or entertainment facility, or hotel/motel.
- ☒ C. The new business development does not primarily involve transfer of business from other parts of the state.
- ☒ D. Applicant(s) will comply with all federal and state laws and local ordinances as they relate to the development and use of the transportation facility development.
- ☒ E. Community acknowledges its willingness to sign a Job Guarantee with WisDOT. The actual Guarantee can be signed later. A copy of a Job Guarantee with the language we currently use is attached. The Community may elect to adopt a like guarantee with the business(es).
- ☒ F. (If applicable) The road improvement will be under local government jurisdiction, will be open to the public, and all municipalities concur in the project where more than one jurisdiction is involved.
- ☐ G. (If applicable) The rail improvement will either be under the jurisdiction of a public authority, or businesses or persons other than the TEA application business(es) may use the improvement.

4. ELIGIBILITY DOCUMENTATION

From the community(ies): A written statement on letterhead signed by a municipal official detailing why it is not able to fund 100% of the proposed transportation improvement and what alternate sources of funding have been explored.

Note: General Obligation (G.O.) borrowing capacity and remaining G.O. capacity should be given, as should details on any Tax Incremental Financing involved.

From the business(es): A written statement on company letterhead signed by a company official indicating that it is electing to expand in Wisconsin partially because the TEA eligible improvements are promised and that it either:

- (a) Explored expansion alternatives in other states, detailing their alternatives; or,
- (b) Will not expand in Wisconsin at all without the proposed transportation improvements.

PART II: EVALUATION DATA – FROM THE COMMUNITY**5. DESCRIPTION OF THE TRANSPORTATION IMPROVEMENT**

The proposed roadway improvement project will reconstruct CTH H (88th Avenue) from approximately 0.2 miles north of 93rd Place to Bain Station Road. The 0.8 mile long project will provide single northbound and southbound lanes but will add dedicated turn lanes to the proposed Kroger Fulfillment Network Center, which will be located along the east side of CTH H. On-road bicycle lanes will also be provided and the existing roadway drainage system will be improved.

6. JUSTIFICATION FOR THE PROPOSED TRANSPORTATION IMPROVEMENT

The proposed Kroger Fulfillment Network Center will dramatically increase traffic along CTH H. The proposed facility will employ approximately 700 employees. Due to the nature of the business, approximately 288 delivery vans and 29 semi-type delivery trucks will cycle in and out of the site seven (7) days per week. A Traffic Impact Analysis (TIA) was completed to study the operational impacts of the roadway caused by the increased traffic from the facility. The TIA recommended dedicated northbound and southbound turn lanes be installed to ensure the roadway continues to function in a safe and efficient manner.

7. A COST ESTIMATE OF THE TRANSPORTATION IMPROVEMENT

(please attach), including amount of materials and unit prices. Eligible cost items are: design engineering, environmental testing and remediation, real estate (purchase price of that portion under the right-of-way only), relocation of residence and business (if applicable), construction, reconstruction (if applicable), utility relocation (if applicable), and construction engineering & contingencies (15%).

Note: Connecting railroad costs should also be included on rail spur projects.

The estimated cost for the CTH H (88th Avenue) Reconstruction project is \$1.9M (see attached detailed cost estimate)

8. A PROPOSED TYPICAL CROSS-SECTION for a road transportation improvement AND/OR a TRACK LAYOUT DRAWING for a rail transportation improvement (please attach).

See attached 30% plan.

9. AN 8 1/2" × 11" SITE PLAN, preferably color coded, plotting: planned business expansion; proposed transportation improvements; and, area network of roads and rail lines, out to the closest major highway.

See attached 30% plan.

10. COST OF RELATED TEA INELIGIBLE INFRASTRUCTURE

(i.e., sanitary sewer, water, electric, gas extensions to the new plant).

\$0

11. FUNDING SOURCES: Include amount requested from TEA, the matching funds, and in-kind services:

SOURCE	AMOUNT	FORM (Cash, Land, Services)

12. SCHEDULE FOR TRANSPORTATION IMPROVEMENT AND BUSINESS DEVELOPMENT

(i.e., commence month/year and complete month/year for both)

CTH H (88th Avenue) Reconstruction: Commence 6/2021 - Complete 9/2021

Kroger Fulfillment Network Center: Commence 5/2020 - Complete 4/2022

PART III: EVALUATION DATA – FROM THE BUSINESS(ES)**13. DESCRIPTION OF THE BUSINESS IMPROVEMENT:**

		ESTIMATED COST
A. Land (Acreage or sq. ft.)	58 Acres	\$7,400,000.00
B. Building(s) (Type & sq. ft.)	350,000 SF	\$71,000,000.00
C. Machinery & equipment (Type)	Warehouse Equipment	\$9,000,000.00
D. Other capital costs	Land Improvement, Capitalized Interest	\$25,000,000.00
E. Total Capital Investment		\$112,400,000.00

14. A MAP, SITE PLAN, OR SCHEMATIC of the proposed business expansion identifying expansion phases (if appropriate); the nearby transportation improvement requested; and, truck, auto, and rail (if appropriate) access points to the new plant.

See Attached.

15. AN OPERATIONAL EXPLANATION of WHY the proposed TRANSPORTATION IMPROVEMENTS are NEEDED by the business.

Kroger Logistics is requesting approval to construct a 350,000 SF Kroger Fulfillment Network Center in Pleasant Prairie as part of the Kroger/Ocado partnership to facilitate Home Delivery within the Chicago/Milwaukee catchment area (including but not limited to: Wisconsin (Milwaukee, Green Bay), Illinois (Chicago), Indiana (South Bend). The building, in concept, is broken up in three sections. An ambient section, cooled to 72-74 Fahrenheit, encompassing dry grocery and inbound operations along with Maintenance, Tote Wash and Bagging Assemblies. A chilled section, cooled to 34 Fahrenheit, encompassing perishable product, inbound and outbound activities, a manual service counter and a 28,000 SF freezer. A 30,000 SF Office extension encompassing operational activities, dispatch offices and breakrooms, locker rooms and other program related requirements.

The new building and partnership with Ocado Solutions, will serve the Chicago/Milwaukee catchment region with a targeted Go-Live date of Q1 2022. Pleasant Prairie was identified as the sixth market for the partnership due to its ability to reach the Chicago and Milwaukee markets, while leveraging the logistics infrastructure.

16. The EXPECTED DAILY INITIAL and PROJECTED VOLUME of AUTOS and TRUCK/TRAILERS entering and exiting the new facility.

- Approximately 700 employees working 10-hour staggered shifts each day
- Approximately 288 delivery vans with staggered departure/arrival times each day
- Approximately 29 heavy vehicles with staggered departure/arrival times each day

17. NUMBER OF JOBS AND AVERAGE WAGE, not including fringe benefits, for each type of job created or retained by this business development.

Major Standard Industrial Classification Code (SIC) = 493110 (or NAICS code)

JOB CATEGORY	NUMBER OF JOBS	AVERAGE WAGE
Site Leaders, Maintenance Managers, HR Managers, Quality Assurance, Operations Managers SIC Code =	20	\$94,869

Light Truck or Delivery Service Drivers SIC Code =	64	\$35,818
Supervisors, Team Managers SIC Code =	18	\$29,390
Laborers, Freight, Movers, Pickers, Packers, Support SIC Code =	128	\$30,000

18. OF THE JOBS LISTED IN #17, how many are due to:
(Total should equal the number of jobs reported in #17.)

NEW FACILITY	EXPANSION	ANOTHER STATE	RETENTION
230			

19. BACKGROUND information ON the COMPANY(IES) AND the nature of its BUSINESS.

(A company brochure might be appropriate here.)

Please see information for the Kroger Co. (Kroger Fulfillment Network) at <https://www.thekrogerco.com/>; and for Question 22. below please see <http://ir.kroger.com/sec-filings> for the FINANCIAL INFORMATION.

The Kroger Co. (Kroger Fulfillment Network) in partnership with Ocado Solutions will expand and enhance its delivery logistics business with the construction of a robotically operated fulfillment center. Ocado's technology platform integrated into Kroger's grocery business and supply chain infrastructure advances the quality and speed of online grocery orders in Wisconsin. This strategic alliance combines the specialized capabilities of each company to create an innovative operation that will redefine customer's food and grocery experiences.

20. What is the PRINCIPAL GEOGRAPHIC MARKET AREA for the GOODS or SERVICES produced by the business(es)?

Home Delivery within the Chicago/Milwaukee catchment area (including but not limited to: Wisconsin (Milwaukee, Green Bay), Illinois (Chicago), Indiana (South Bend).

21. Who (what firms) are the MAJOR COMPETITORS of the business(es)? WHERE are they LOCATED (city and state)?
Please list ALL Wisconsin competitors and their locations.

Major eCommerce grocery competitors nationwide include Amazon and Walmart. Wisconsin food and grocery home delivery services include Blue Apron Local Delivery, Braise Local Food Local Delivery, Brewers Organics Local Delivery, Bring It! Errands & Delivery Local Delivery, Groceries On The Go Local Delivery, Hy-Vee Local Delivery, Irv & Shelly's Fresh Picks Local Delivery, and WeGoShop.com.

22. FINANCIAL INFORMATION necessary TO ASSESS FINANCIAL SOUNDNESS of the new business development and the likelihood of continued operations/employment:

A. For an existing business:

- 1) THREE YEARS OF at least compilation-quality PROFIT AND LOSS STATEMENTS AND BALANCE SHEETS. (There are three levels of rigor for accounting reports. They are, in descending order of reliability: audit, review, and compilation quality. Although audit quality reports are clearly more definitive in determining financial soundness, an applicant may submit reviews or compilations if audited reports are not available. Submission of these reports may, however, limit our ability to determine the financial soundness of the businesses associated with the application.)
- 2) Evidence of the availability of financing to complete the proposed business development;
- 3) IF SOLE PROPRIETORSHIPS OR FAMILY-OWNED BUSINESSES are involved, PERSONAL FINANCIAL STATEMENTS are required.

B. IF the project involves A BUSINESS STARTUP, OR a business that has been marginally profitable OR has shown declining sales or profitability:

- 1) A business plan;
- 2) Resumes of key management personnel;
- 3) A minimum of three years of financial pro formas prepared or compiled by an independent CPA with all assumptions stated;
- 4) Basis for sales forecasts; and
- 5) Projection of monthly cash flow for the first year of operations.

23. DATA FOR calculating PROJECT BENEFIT/COST RATIO (rail projects only):

A. Typical loadings in tons/carload and the annual volume of materials railed to and from the new plant.

- B. Typical loadings in pounds/truckload and the annual volume of raw materials that would have to be trucked to and from the new plant (assume the ridiculous here) if the rail spur is not built.
- C. Estimated annual railroad and truck freight rates for the volume in A and B above.
- D. Additional costs, not reflected in freight rates for: transloading, cross-docking, storage, loss and damage, etc., if the rail spur is not built (again, assume the ridiculous here)



TEA JOB GUARANTEE

Wisconsin Department of Transportation
DT1286 3/2017



The **Kenosha County** ("Applicant") agrees to authorize the inclusion of, and be bound by, this repayment provision in the separate State-Municipal Agreement (SMA) that will be executed between it and the Wisconsin Department of Transportation (WisDOT) as part of WisDOT's approval of Applicant's request for assistance under the Transportation Facilities Economic Assistance and Development (TEA) program.

The **Kenosha County** agrees, in this repayment provision, to reimburse WisDOT for up to the full grant amount if employment within the economic development project (**Kroger Fulfillment Network**) fails to meet the following goals:

From a baseline employment of 0 jobs:

- (1) Creation of 230 new jobs within three years after the SMA is executed; and, retention of said 230 new jobs seven years after the SMA is executed
- (2) In addition to said new jobs, retention of 230 jobs three years, and seven years, after the SMA is executed

Total number of jobs to be retained at both the three-year and seven-year reporting dates: 230

For purposes of this provision, a job is defined to be consistent with Ch. Trans. 510, Wis. Adm. Code. It will include all new non-retail jobs and exclude jobs obtained through geographic job transfers within Wisconsin except those that would be lost to the state. Eligible jobs include full time equivalents (FTE's).

At three years and again at seven years after the SMA is executed, the **Kenosha County** will report to WisDOT the number of FTE jobs that were created and/or retained. For TEA grants of \$100,000 or more, the reports will be accompanied by an attestation report created and signed by an independent Certified Public Accountant licensed or certified under ch. 442, Wis. Stats., expressing an opinion on the number of eligible jobs; the director or principal officer of the **Kenosha County** will also attest, including by signature, to the accuracy of the job numbers.

If the job guarantee is not satisfied, WisDOT will evaluate the job benefits that have been obtained in order to determine if reimbursement of either the full grant amount or a reduced amount, based on a prorated share related to the number of jobs that have materialized as a result of the economic development project, is appropriate, or other remedy under s. Trans 510.08(3), Wis. Adm. Code.

The full grant amount involved here, of which partial or total reimbursement may be required, is \$951,315.00.

X

(Signature of WisDOT Secretary)

Dave Ross
Secretary,
Wisconsin Department of Transportation

(Date – m/d/yy)

X

(Signature of the Applicant's Authorized Representative)

Clement Abongwa - Director of Highway
(Print Name and Title of Representative)

19600 75th Street, Suite 122-1
(Street, P.O. Box)

Bristol, WI 53104
(City, State, ZIP Code)

5/30/20
(Date – m/d/yy)